

**CODE**  
**OF CIVIL PROCEDURE**

*Pursuant to the Constitution of the Socialist Republic of Vietnam;  
The National Assembly promulgates the Civil Procedure Code.*

**PART ONE**

**GENERAL PROVISIONS**

**Chapter I**

**TASK AND EFFECT OF THE CIVIL PROCEDURE CODE**

**Article 1. Regulation scope and task of the Civil Procedure Code**

The Civil Procedure Code provides for the basic principles in civil proceedings; the order and procedures for initiating lawsuits at People’s Court (hereinafter referred to as Courts) to settle cases of civil, marriage and family, business, trade and labor (hereinafter referred to as civil lawsuits) and order and procedures to request the Court to settle matters regarding civil, marriage, family, business, trade, labor (hereinafter referred to as civil matters); order and procedures for settlement of civil lawsuits and civil matters (hereinafter referred to as civil cases) at Courts; procedures for recognition and enforcement in Vietnam civil judgments/decisions of foreign Courts, award of foreign arbitrators; enforcement of civil judgments; tasks, entitlements and responsibilities of proceeding authorities/officers; rights and obligations of participants in procedures, of individuals, of regulatory agencies, people’s armed units, economic organizations, political organizations, socio-political organizations, political – social – professional organizations, social organizations, social – professional organizations (hereinafter referred to as agencies and organizations) that are relevant to ensure that the resolution of civil cases is carried out quickly, accurately, truthfully and lawfully.

The Civil Procedure Code contributes to the protection of the justice, of human’s rights, civil rights, protection of socialist regime, of the interests of the State, legitimate rights and interests of agencies, organizations and individuals; educates people to strictly abide by law.

**Article 2. Regulated entities and effect of the Civil Procedure Code**

1. The Civil Procedure Code applies to all civil proceedings throughout the territory of the Socialist Republic of Vietnam, including mainland, offshore island, territorial waters and airspace.
2. The Civil Procedure Code applies to all civil proceedings conducted by consular offices of the Socialist Republic of Vietnam in foreign countries.
3. The Civil Procedure Code applies to the settlement of civil cases involving foreign element(s); where the international treaties to which the Socialist Republic of Vietnam is a signatory provide otherwise, the provisions of such international treaties shall apply.

4. For foreign individuals, agencies and organizations that enjoy diplomatic privileges and immunities or consular privileges and immunities under Vietnamese laws, international treaties to which the Socialist Republic of Vietnam is a signatory, the civil cases related to such individuals, agencies and/or organizations shall be settled through the diplomatic channel.

## **Chapter II**

### **BASIC PRINCIPLES**

#### **Article 3. Compliance with laws in civil procedures**

All civil procedural activities of presiding agencies, presiding officers, civil procedure-participants and of relevant individuals, agencies and organizations must comply with the provisions of this Code.

#### **Article 4. Right to request Courts to protect legitimate rights and interests**

1. Individuals, agencies and organizations defined by this Code shall have the right to institute civil lawsuits, request the resolution of civil matters at competent Courts in order to protect the justice, human's rights, civil rights, benefits of the State, legitimate rights and interests of their own or of others.

2. Courts must not refuse to settle a civil case for the reason that there is no applicable law provision for such case.

A civil case without applicable law provisions is a civil case falling within the governing scope of civil laws but there is no applicable law provision at the time such civil case arises and an agency/organization/individual requests the Court to settle.

The settlement of civil case specified in this clause shall comply with the principles prescribed in the Civil Code and this Code.

#### **Article 5. Involved parties' right to decision-making and self-determination**

1. The involved parties shall have the right to decide whether to initiate civil lawsuits, petition jurisdictional Courts to settle the civil cases. The Courts shall only accept for settlement of civil cases when they have received lawsuit petitions and/or written requests from an involved party and shall settle the civil cases only within the scope of such lawsuit petition or written request.

2. During the settlement of a civil case, the involved parties shall have a right to terminate or change their petitions or voluntarily reach agreement with one another, which is not contrary to law and social ethics.

#### **Article 6. Supply of evidences and proof in civil procedures**

1. The involved parties shall have the right and obligation to initiatively collect and supply evidence to Courts and prove that their petitions are well grounded and lawful.

Agencies, organizations and individuals initiating lawsuits or file their petitions to protect legitimate rights and interests of their own or of other persons shall have the right and obligation to collect and supply evidence and to prove the ground and the lawfulness like the involved parties.

2. The Courts shall assist the involved parties to collect evidence and shall only collect and verify the evidence in the cases prescribed by this Code.

### **Article 7. Responsibility of competent individuals, agencies and organizations to supply materials and evidences**

Agencies, organizations and individuals shall, within the scope of their tasks and powers, provide the involved parties, the Courts, the People's Procuracy with materials and evidences currently being under their possession or management sufficiently and timely at the petition of the involved parties, the Courts and the Procuracy according to regulations in this Code and shall take legal responsibility for the supply of such materials and evidences; in case they cannot do so, a written notification containing the explanation shall be made and sent to the involved parties, the Courts and the Procuracy.

### **Article 8. Equality in rights and obligations in civil procedures**

1. All people are equal before law regardless of their ethnics, religions, educational levels, occupations and social levels.

All agencies, organizations and individuals are equal in the implementation of rights and obligations in civil procedures.

2. The Courts have the responsibility to create equal conditions for agencies, organizations and individuals to exercise their rights and obligations in civil procedure

### **Article 9. Ensuring the involved parties' right to protect legitimate rights and interests**

1. The involved parties have the right to defend themselves or to ask lawyers or other persons who satisfy conditions specified in this Code to protect their legitimate rights and interests.

2. The Courts have the responsibility to ensure the conditions for the involved parties to exercise their right to defense.

3. The State has the responsibility to provide legal assistant for such entities according to law provisions enabling them to exercise the right to protect their legitimate rights and interests before the Courts.

4. No one shall limit the right to protect legitimate rights and interests of the involved parties in civil procedures.

### **Article 10. Mediation in civil procedures**

The Courts have the responsibility to conduct mediation and create favorable conditions for the involved parties to reach agreement with one another on the resolution of civil cases under the provisions of this Code.

### **Article 11. Participation of People's Jurors in adjudication of civil lawsuits**

1. The adjudication of first instance of civil lawsuits shall be attended by the People's Jurors as prescribed in this Code, except for adjudication under the simplified procedures.

2. Upon the vote for decisions on settlement of civil lawsuits, the People's Jurors are equal in powers to the Judges.

### **Article 12. Judges, People's Jurors are independent in adjudication of civil lawsuits and settlement of civil matters and only comply with law**

1. Upon trial over civil lawsuits, Judges and People's Jurors shall be independent and only comply with law.

2. All acts of hindering or interfering the adjudication of Judges and People's Jurors or the settlement of civil matters of Judges are strictly prohibited.

### **Article 13. Responsibilities of civil proceeding authorities and proceeding officers**

1. Proceeding authorities/officers must respect people and submit to people's supervision.

2. The Courts are responsible for the protection of the justice, human's rights, civil rights, socialist regime, benefits of the State, legitimate rights and interests of organizations and individuals.

The procuracies are responsible for the protection of the law, human's rights, civil rights, socialist regime, benefits of the State, legitimate rights and interests of organizations and individuals and contribute in the assurance that law is strictly and consistently complied with.

3. Proceeding authorities/officers must keep the State secrets and work secret according to law; preserve the nation's fine customs and practices, protect minors, keep professional secrets, business secrets, personal secrets of the involved parties at their legitimate petitions.

4. The proceeding authorities/officers shall take legal responsibility for the performance of their tasks and powers. If a proceeding officer commits a violation against law, depending on the nature and severity of the violation, he/she shall be disciplined or liable to criminal prosecution according to law provisions.

5. If a proceeding officer, during the performance of his/her tasks and powers, commits illegal acts that causes damages to an agency/organization/individual, then the direct management agency of such officer shall pay the compensation to the aggrieved party according to law provisions pertaining to compensation responsibility.

### **Article 14. Collective trials by Courts**

A Court shall conduct the collective trial over civil lawsuits and make decisions under the majority rule, except for adjudication according to simplified procedures.

### **Article 15. Prompt, equal and public trials by Courts**

1. The Court trials shall be conducted promptly and within the time prescribed in this Code and must ensure the equality.

2. The Court trials shall be public. In special cases that it is necessary to keep the State secrets, preserve the nation's fine customs and practices, protect minors or to keep professional secrets, business secrets, personal secrets of the involved parties at their legitimate claims, the Courts may conduct the trials behind closed doors.

### **Article 16. Ensuring impartiality and objectiveness in civil procedures**

1. Chief Justices, Judges, People's Jurors, ombudspersons, Court clerks, procurators chairpersons, prosecutors, inspectors, interpreters, expert-witnesses and members of Price Assessment Councils must not conduct or participate in civil procedures if there are good reasons to believe that they may not be impartial in performing their tasks and exercising their powers.

2. The assignment of proceeding officers must ensure the conditions for them to be impartial and objective when exercising their tasks and powers.

### **Article 17. Following the two-level adjudication regime**

1. The Courts shall follow the two-level adjudication regime.

The first-instance judgments or decisions of the Courts can be appealed against under the provisions of this Code.

First-instance judgments or decisions of the Courts which are not appealed against according to appellate procedures within the time limit provided for by this Code shall become legally effective. Where first-instance judgments or decisions are appealed against, the cases must undergo appellate trials. The appellate judgments or decisions shall be legally effective.

2. The Courts' first-instance judgments or decisions of the Courts which have already taken legal effect but have been detected with law violations or new details according to provisions of this Code shall be reviewed according to the cassation or reopening procedures.

#### **Article 18. Cassation of trials**

The Supreme People's Court shall conduct cassation of trials of all Courts; Collegial People's Courts shall conduct cassation of trials of People's Courts of central-affiliated cities and provinces (hereinafter referred to as People's Courts of provinces), People's Courts of districts, towns, provincial-affiliated cities and cities affiliated to central-affiliated cities (hereinafter referred to as People's Courts of districts) within their competence to ensure that law is applied strictly and consistently.

#### **Article 19. Assurance of the effect of Courts' judgments and decisions**

1. Legally effective judgments and decisions of Courts must be enforced and strictly observed by all agencies, organizations and individuals.

2. Within the scope of their respective tasks and powers, Courts and agencies or organizations which are assigned the tasks to enforce Courts' judgments or decisions must strictly enforce them and bear responsibility before law for the performance of such tasks.

3. Courts may request the enforcement authorities to notify them of the progress and the result of the enforcement of the Courts' judgments/decisions. The enforcement authorities directly in charge of the enforcement of the Courts' judgments/decisions shall respond the Courts' request.

#### **Article 20. Spoken and written language used in civil procedures**

Spoken and written language to be used in civil procedures shall be the Vietnamese.

Participants in civil procedures may use the voices and scripts of their ethnic groups; in this case interpreters are required.

Participants in civil procedures being people having hearing, speaking or visual disability may use the language of disabled people; in this case interpreters are required.

#### **Article 21. Supervising the law observance in civil procedures**

1. The Procuracies shall supervise the law observance in civil procedures and exercise the rights to petition, recommendation or appeal according to law provisions in order to ensure lawful and timely resolution of civil cases.

2. The Procuracies shall participate in first-instance meetings for civil matters; first-instance trials of lawsuits where evidence are collected by the Courts or where matters under dispute are public properties, public benefits, land use right, housing use right or involved parties are minors,

legally incapacitated persons or, persons with limited capacity of exercise, people with limited cognition or behavior control or cases specified in clause 2 Article 4 of this Code.

3. The procuracies shall participate in appellate, cassation and reopening trials/meetings.

4. The Supreme People's Procuracy shall preside over and cooperate with the Supreme People's Court in providing guidance on the implementation of this Article.

#### **Article 22. Courts' responsibility for forwarding documents and papers**

1. The Courts shall have the responsibility to delivery, forward and notify of their judgments, decisions, summons, invitations and other relevant documents to the participants in the civil procedures according to the provisions of this Code.

2. People's Committees of communes or relevant agencies, organizations and individuals shall forward the judgments, decisions, summons, invitations and other relevant documents of the Courts at the request of the Courts and shall notify the Courts of the result of such forwarding.

#### **Article 23. Participation of agencies, organizations and individuals in civil procedures**

Agencies, organizations and individuals shall have the right and obligation to participate in civil procedures according to the provisions of this Code, contributing to the lawful and prompt resolution of civil cases at courts.

#### **Article 24. Assurance of oral argument in adjudication**

1. The Courts shall ensure that the involved parties and people protecting legitimate rights and interests of the involved parties implement the right to get involve in oral argument in first-instance trials, appellate trials, cassation trials and reopening trials according to provisions of this Code.

2. The involved parties and the people protecting the legitimate rights and interests of the involved parties may collect and submit the evidences and relevant materials to the Courts since the Courts accepted civil lawsuits and shall notify to each other of the submitted materials and evidences; present, give question and answer, express opinions about evidences and present applicable provisions to defend their claims and their legitimate rights and interests or to reject others' claims according to provisions of this Code.

3. During the process of adjudication, every material and evidence shall be reviewed sufficiently, obviously, comprehensively and publicly, except for cases where materials and evidences must not be published prescribed in clause 2 Article 109 of this Code. The Courts shall direct the oral argument, make question about unclear matters and issue judgments/decisions on the basis of the argument result.

#### **Article 25. Assurance of the right to complaints and denunciations in civil procedures**

Agencies, organizations and individuals shall have the right to complain about, individuals shall have the right to denounce, illegal acts of proceeding authorities/officers or of any agencies, organizations and individuals in civil proceedings.

Competent agencies, organizations or individuals must accept, consider and settle promptly and lawfully complaints and denunciations; notify in writing the settlement results to the complainants and denouncers.

### **Chapter III**

## **COURT'S JURISDICTION**

### **Section 1. CIVIL CASES FALLING UNDER THE COURTS' JURISDICTION**

#### **Article 26. Civil disputes falling under the courts' jurisdiction**

1. Disputes over the Vietnamese nationality among individuals.
2. Disputes over property ownership and other rights over property.
3. Disputes over civil transactions, civil contracts.
4. Disputes over intellectual property rights, technology transfers, except for the cases prescribed in Clause 2, Article 30 of this Code.
5. Disputes over property inheritance.
6. Disputes over compensation for non-contractual damage.
7. Disputes over compensation due to the application of administrative preventive measures unbecomable to law regulations on competition, excluding compensation claims that have been settled in administrative lawsuits.
8. Disputes over the development and utilization of water resources and the waste discharge to water as prescribed in the Law on water resources.
9. Disputes over land according to legislation on land; disputes over the right to forest ownership/enjoyment according to regulations in the Law on forest protection and development.
10. Disputes relating to the professional press operation under law on press.
11. Disputes relating to petitions for declaration of notarized documents to be invalid.
12. Disputes relating to properties forfeited to enforce judgments in accordance with the law on enforcement of civil judgments.
13. Disputes over property auction results and payment of expenses for registration to buy property through auction in accordance with the law on enforcement of civil judgment.
14. Other civil disputes, except for cases within the jurisdiction of other agencies and organizations as prescribed by law.

#### **Article 27. Civil petitions falling under the courts' jurisdiction**

1. The petition for declaration or revocation of a decision on declaration of a legally incapacitated person, person with limited capacity of exercise or a person with limited cognition or behavior control.
2. The petition for announcement of the search of persons who are absent from their residential places and the management of their properties.
3. The petition for declaration or revocation of decision on declaration of a person's missing.
4. The petition for declaration or revocation of decision on declaration of a person's death.
5. The petition for recognition and enforcement in Vietnam or non-recognition of civil judgments or decisions, or decisions on properties in criminal or administrative judgments or decisions of foreign Courts or not to recognize civil judgments or decisions, or decisions on properties in

criminal or administrative judgments or decisions of foreign courts, which are not requested to be enforced in Vietnam.

6. The petition for declaration of notarized documents to be invalid.
7. The petition for recognition of the successful out-of-Court mediation.
8. The petition for recognition of property within Vietnam's territory to be ownerless and for recognition of the ownership of the persons managing such ownerless property within Vietnam's territory according to regulations in point e clause 2 Article 470 of this Code.
9. The petition for determination of property ownership and use rights, division of common properties for enforcement of judgments in accordance with regulations in the Law on enforcement of civil judgments.
10. Other civil petitions, except for cases within the jurisdiction of other agencies and organizations as prescribed by law.

#### **Article 28. Marriage and family-related disputes falling under the courts' jurisdiction**

1. Divorces, disputes over child rearing or property division upon divorces; post-divorce division.
2. Disputes over division of spousal common property during their marriage.
3. Disputes over change of post-divorce child custodian.
4. Disputes over determination of fathers or mothers for children; or determination of children for fathers or mothers.
5. Disputes over alimonies.
6. Disputes over childbirth using the childbirth assistance technique or surrogacy for humanitarian reasons.
7. Disputes over child custodian, division between couples living like husbands and wives without marriage registration or between spouses illegally cancel the marriage registration.
8. Other disputes relating to marriage and family, except for cases within the jurisdiction of other agencies and organizations as prescribed by law.

#### **Article 29. Marriage-and family-related petitions falling under the courts' jurisdiction**

1. The petitions for revocation of illegal marriages.
2. The petitions for recognition of voluntary divorces and agreements on child custody and property division upon divorces.
3. The petitions for recognition of agreements between the parents about the change of post-divorce custodian or recognition of change of post-divorce child custodian decided by agencies, organizations and individuals according to law regulations on marriage and family.
4. The petitions for restriction on rights of a father or mother towards a minor child or his/her right to see the child after divorce.
5. The petitions for termination of the adoption of children.
6. The petitions relating to the surrogacy according to law regulations on marriage and family.

7. The petitions for recognition of agreements of termination of the effect of the division of spousal common properties during their marriage to have been carried out according to the judgments/decisions of the Courts.
8. The petitions for declaration of nullification of the agreements on the property division between the husband and the wife according to legislation on marriage and family.
9. The petition for recognition and enforcement in Vietnam or for non-recognition of judgments or decisions on marriage and family of foreign Courts or other foreign competent agencies; or for non-recognition of judgments or decisions on marriage and family of foreign Courts or other competent foreign competent agencies which are not requested to be enforced in Vietnam.
10. The petition for determination of fathers or mothers for children; or determination of children for fathers or mothers according to legislation on marriage and family.
11. Other petitions relating to marriage and family, except for cases within the jurisdiction of other agencies and organizations as prescribed by law.

### **Article 30. Business and/or trade disputes falling under the courts' jurisdiction**

1. Disputes arising from business or trade activities among individuals and/or organizations with business registration, which are all for the purpose of profits.
2. Disputes over intellectual property rights or technology transfers among individuals or organizations, which are all for the purposes of profits.
3. Disputes between persons who are not members of a company but involve in transaction in transfer of capital holding and the company and/or its members.
4. Disputes between a company and its members; disputes between a limited liability company and its manager or between a joint-stock company and members of its Board of Directors, its Director or its General Director, or among members of a company regarding the establishment, operation, dissolution, merge, consolidation, total division, partial division, property transfer and/or organizational transformation of the company.
5. Other civil disputes relating to business or trade activities, except for cases within the jurisdiction of other agencies and organizations as prescribed by law.

### **Article 31. Business or trade petitions falling under the courts' jurisdiction**

1. The petitions for revocation of a resolution of the Shareholder general assembly, a resolution of the Member assembly according to legislation on enterprise.
2. The petitions related to the resolution of disputes by Vietnamese commercial arbitrators under law regulations on commercial arbitration.
3. The petitions for arrest of aircrafts, seagoing vessels according to law on Vietnamese civil aviation, Vietnamese maritime, except for cases where aircrafts/vessels must be arrested serving lawsuit settlement.
4. The petitions for recognition and enforcement in Vietnam of foreign courts' judgments or decisions on business or commercial matters, or non-recognition of foreign courts' judgments or decisions on business or commercial matters, which are not requested to be enforced in Vietnam.
5. The petitions for recognition and enforcement in Vietnam of foreign arbitrators' award on business or commercial matters.

6. Other petitions relating to business or trade activities, except for cases within the jurisdiction of other agencies and organizations as prescribed by law.

### **Article 32. Labor disputes falling under the courts' jurisdiction**

1. Individual labor disputes between employees and employers, which have been mediated through mediation procedures of labor mediators but the involved parties fail to comply with mediation results, or which cannot be mediated or are not mediated within the law- established time limit, except the following disputes which must not necessarily be mediated through mediation procedures:

a) Disputes over labor discipline in the form of dismissal or over cases of unilateral termination of labor contracts;

b) Disputes over damage compensation or over benefit policy upon termination of labor contracts;

c) Disputes between household servants and their employers;

d) Disputes over social insurance as prescribed in laws on social insurance, over health insurance as prescribed in laws on health insurance, over unemployment insurance as prescribed in laws on employment or over occupational accident insurance and occupational diseases as prescribed in laws on labor hygiene and safety;

dd) Disputes over damage compensation between laborers and enterprises or non-business organizations sending laborers to work overseas under contracts.

2. Collective labor disputes over rights between employee collectives and employers under the labor law which have been settled by chairpersons of the People's Committees of districts but the employee collectives or employers disagree with such decisions or which are not settled by chairpersons of the People's Committees of districts within the prescribed time limit.

3. Labor disputes include:

a) Disputes over vocational training and practice;

b) Disputes over labor outsourcing;

c) Disputes over rights relating to trade union, trade union expenditure;

d) Disputes over labor safety and labor hygiene.

4. Disputes over compensation for illegal strike.

5. Other labor disputes, except for cases within the jurisdiction of other agencies and organizations as prescribed by law.

### **Article 33. Labor petitions falling under the courts' jurisdiction**

1. Petitions for declaration of a labor contract/collective bargaining agreement to be invalid.

2. Petitions for consideration of legitimacy of a strike.

3. Petitions for recognition and enforcement in Vietnam of foreign courts' labor judgments or decisions, or for non-recognition of foreign courts' labor judgments or decisions which are not requested to be enforced in Vietnam.

4. Petitions for recognition and enforcement in Vietnam of labor award of foreign arbitrators.

5. Other petitions, except for cases within the jurisdiction of other agencies and organizations as prescribed by law.

#### **Article 34. Jurisdiction of Courts over particular decisions of agencies/organizations**

1. When resolving civil cases, the Courts may revoke particular decisions of agencies or organizations or competent persons of such agencies or organizations in particular cases which are obviously unlawful, infringing upon the rights and legitimate interests of involved parties in these civil cases.

2. Particular decisions specified in clause 1 of this Article are decisions on particular matters that have been issued and applied once to one or a number of particular entities. If the civil cases are related to such decisions, they must be considered in such the same civil cases by the courts.

3. When considering repealing decisions specified in clause 1 of this Article, the Courts shall invite agencies, organizations or competent persons that have issued such decisions to participate in the procedures in the capacity as person with relevant interests and duties.

Agencies, organizations, competent persons who have issued the decisions must participate in the procedures and present their opinions about the particular decisions repealed by the courts.

4. Competence of Courts in charge of civil cases subject to considering the repealing of particular decisions specified in clause 1 of this Article shall be determined according to corresponding provisions in the Law on administrative procedures about competence of People's Courts of districts/provinces.

### **Section 2. JURISDICTION OF COURTS OF DIFFERENT LEVELS**

#### **Section 35. Jurisdiction of People's Courts of districts**

1. People's Courts of districts shall have the jurisdiction to settle according to first-instance procedures the following disputes:

- a) Disputes over civil matters, marriage and family, prescribed in Articles 26 and 28 of this Code;
- b) Disputes over business/trade activities prescribed in clause 1 Article 30 of this Code;
- c) Labor disputes prescribed in Article 32 of this Code.

2. People's Courts shall have the jurisdiction to resolve the following petitions:

- a) Civil petitions prescribed in Clauses 1, 2, 3, 4, 6, 7, 8, 9 and 10 of Article 27 of this Code;
- b) Petitions relating to marriage and family prescribed in Clauses 1, 2, 3, 4, 5, 6, 7, 8, 10 and 11 of Article 29 of this Code;
- c) Petitions relating to business/trade activities prescribed in clause 1 and clause 6 Article 30 of this Code;
- d) Labor petitions prescribed in clause 1 and clause 5 Article 33 of this Code.

3. Disputes and petitions prescribed in Clauses 1 and 2 of this Article, which involve parties or properties in foreign countries or which must be judicially entrusted to representative agencies of the Socialist Republic of Vietnam overseas or to foreign courts/competent agencies, shall not fall under the jurisdiction of people's Courts of districts, except for cases specified in clause 4 of this Article.

4. People's Courts of districts where Vietnamese citizens reside shall be in charge of cancelling illegal marriage, settling divorce petitions and disputes pertaining to rights and obligations of spouses, parents and children, parents and children adoption and guardian relationship between Vietnamese citizens living in frontier areas and citizens of neighboring countries living near Vietnam according to provisions of this Code and other Vietnam's law provisions.

### **Section 36. Jurisdiction of Tribunals of People's Courts of districts**

1. The Civil tribunals of People's Courts of districts shall have the jurisdiction to resolve according to first-instance procedures cases relating to civil, business, trade and labor matters falling under the jurisdiction of the People's Courts of districts as provided for in Article 35 of this Code.

2. The family and juvenile tribunals of People's Courts of districts shall have the jurisdiction to resolve according to first-instance procedures for cases relating to marriage and family falling under the jurisdiction of the People's Courts of districts as provided for in Article 35 of this Code.

3. Regarding People's Courts without a tribunal, the Chief Justice shall take responsibility for conducting adjudication and assigning the Judge to take charge of the cases falling under the jurisdiction of People's Courts of districts.

### **Section 37. Jurisdiction of People's Courts of provinces**

1. People's Courts of provinces shall have the jurisdiction to settle according to first-instance procedures the following disputes:

a) Civil, marriage- and family-related, business, trade or labor disputes prescribed in Articles 26, 28, 30 and 32 of this Code, except for disputes falling under the jurisdiction of the district-level people's Courts as provided for in Clause 1 and Clause 4 Article 35 of this Code;

b) Civil, marriage-and family-related, business, trade or labor petitions prescribed in Articles 27, 29, 31 and 33 of this Code, except for petitions falling under the jurisdiction of the district-level people's Courts as prescribed in Clause 2 and Clause 4 Article 35 of this Code;

c) Disputes and petitions prescribed in Clause 3, Article 35 of this Code.

2. The People's Courts of provinces shall have the jurisdiction to resolve according to first-instance procedures the civil cases falling under the jurisdiction of the People's Courts of districts as provided for in Article 35 of this Code, which are taken up by the People's Courts of provinces for settlement when necessary or at the request of People's Courts of districts.

### **Section 38. Jurisdiction of Specialized tribunals of People's Courts of provinces**

1. Civil tribunals of People's Courts of provinces shall have the jurisdiction to:

a) Resolve according to first-instance procedures the civil disputes/petitions falling under the jurisdiction of People's Courts of provinces specified in Article 37 of this Code;

b) Resolve according to appellate procedures the cases where the civil judgments/decisions of People's Courts of districts that are not legally effective which are appealed against according to regulations in this Code.

2. Family and juvenile tribunals of People's Courts of provinces shall have the jurisdiction to:

- a) Resolve according to first-instance procedures the disputes/petitions relating to marriage and family falling under the jurisdiction of People's Courts of provinces specified in Article 37 of this Code;
- b) Resolve according to appellate procedures the cases where the judgments/decisions relating to marriage and family of People's Courts of districts that are not legally effective which are appealed against according to regulations in this Code.

3. Economic tribunals of People's Courts of provinces shall have the jurisdiction to:

- a) Resolve according to first-instance procedures the disputes/petitions relating to business and trade falling under the jurisdiction of People's Courts of provinces specified in Article 37 of this Code;
- b) Resolve according to appellate procedures the cases where the judgments/decisions relating to business and trade of People's Courts of districts that are not legally effective are appealed against according to regulations in this Code.

4. Labor tribunals of People's Courts of provinces shall have the jurisdiction to:

- a) Resolve according to first-instance procedures the labor disputes/petitions falling under the jurisdiction of People's Courts of provinces specified in Article 37 of this Code;
- b) Resolve according to appellate procedures the cases where the labor judgments/decisions of People's Courts of districts that are not legally effective which are appealed against according to regulations in this Code.

### **Article 39. Territorial jurisdiction of courts**

1. Territorial jurisdiction of Courts to settle civil lawsuits shall be determined as follows:

- a) The Courts of the localities where the defendants reside or work, applicable to defendants being individuals, or where the defendants are headquartered, applicable to defendants being agencies or organizations, shall have the jurisdiction to settle according to first-instance procedures for civil, marriage- and family-related, business, trade or labor disputes prescribed in Articles 26, 28, 30 and 32 of this Code;
- b) The involved parties shall have the right to agree with each other in writing to petition the Courts of the localities where the plaintiffs reside or work, applicable to plaintiffs being individuals, or where the plaintiffs are headquartered, applicable to plaintiffs being agencies or organizations, to settle civil, marriage and family-related, business, trade or labor disputes prescribed in Articles 26, 28, 30 and 32 of this Code;
- c) Disputes over real estates must be settled by Courts where such real estates are located.

2. Territorial jurisdiction of Courts to settle civil matters shall be determined as follows:

- a) The Courts of the areas where persons who are to be declared to be incapable of civil acts or having limited capacity of exercise or having limited cognition or behavior control reside or work shall have the jurisdiction to resolve such petitions;
- b) The Courts of the areas where persons absent from their residential places are to be announced for search or to be declared missing or dead reside for the last time, shall have the jurisdiction to settle petitions for announcement of the search for persons absent from their residential places and management of such persons' properties or petitions for declaring a person missing or dead;

c) The Courts of the areas where the persons petition to repeal the declaration of being incapable of civil acts or having limited capacity of exercise or having limited cognition or behavior control reside or work shall have the jurisdiction to repeal such declaration.

The Court which has issued a decision to declare a person missing or dead shall have the jurisdiction to resolve petitions to revoke its decision;

d) The Courts of the areas where the persons who are obliged to execute foreign courts' civil, marriage and family, business, trade, or labor judgments or decisions reside or work, applicable to judgment debtors being individuals, or where the judgment debtors are headquartered, applicable to judgment debtors being agencies or organizations, or where exists the property relating to the enforcement of such judgments or decisions of foreign courts, shall have the jurisdiction to resolve petitions for recognition and enforcement of foreign courts' civil, marriage and family, business, trade or labor judgments or decisions in Vietnam;

dd) The Courts of the areas where the petition senders reside or work, applicable to individuals, or where the petition senders are headquartered, applicable to agencies or organizations, shall have the jurisdiction to settle petitions for non-recognition of foreign courts' civil, marriage and family, business, trade or labor judgments or decisions, which are not requested to be enforced in Vietnam;

e) The Courts of the areas where the persons who are obliged to execute award of foreign arbitrators reside or work, applicable to judgment debtors being individuals, or where the judgment debtors are headquartered, applicable to judgment debtors being agencies or organizations, or where exists the property relating to the enforcement of foreign arbitrators' award, shall have the jurisdiction to resolve the petitions for recognition and enforcement in Vietnam the award of foreign arbitrators;

g) The Courts of the areas where illegal marriages are registered shall have the jurisdiction to resolve petitions to revoke such illegal marriages;

h) The Court of the area where one of the parties to a voluntary divorce, agreed child custody or property division resides or works shall have the jurisdiction to resolve the petition for recognition of the voluntary divorces and the agreement on child custody and property division upon divorces;

i) The Court of the area where one of the parties that petitions the Court to recognize their agreement on change of post-divorce child custodian resides or works shall have the jurisdiction to resolve that petition.

If the agencies, organizations and individuals petition for the change of post-divorce child custodian, the Court where the child resides shall have the jurisdiction to resolve that petition;

k) The Court of the area where one parent of a minor child resides or works shall have the jurisdiction to resolve a petition to restrict rights of the father or mother towards the minor child or his/her right to see the child after the divorce;

l) The Court of the area where an adoptive parent or adopted child resides or works shall have the jurisdiction to resolve a petition to terminate the child adoption;

m) The Courts of the area where notary organization which have performed notarization are located shall have the jurisdiction to settle the petitions for declaration of notarized documents to be invalid;

- n) The Courts of the localities where competent judgment-executing bodies are headquartered or where exist properties related to the judgment enforcement shall have the jurisdiction to settle petitions for determination of property ownership or use rights and for division of common properties for judgment enforcement and other petitions according to provisions of Law on enforcement of civil judgments;
- o) The territorial jurisdiction of Courts to settle petitions related to the settlement by Vietnamese commercial arbitrations of disputes shall comply with the law on commercial arbitration;
- p) The Courts of the localities where a property is located shall have the jurisdiction to resolve the petitions for recognition of such property to be ownerless in Vietnam's territory and the petition for recognition of the ownership of the person who currently use such ownerless property;
- q) The Courts of the locality where a surrogate mother resides or works shall have the jurisdiction to resolve petitions related to the surrogacy;
- r) The Courts of the locality where a person having a common property shall have the jurisdiction to resolve the petitions for recognition of the agreement on termination of effect of the division of common property during the marriage that is conducted according to the judgment/decision of the Courts;
- s) The Courts of the locality where the petitioner resides or works shall have the jurisdiction to resolve petitions for recognition of the successful medication at the Court;
- t) The Courts of the locality where the petitioner resides or works shall have the jurisdiction to resolve the petitions for declaration of nullification of the agreement on properties of spouses according to legislation on marriage and family; the petitions for determination of father and mother for a child according to legislation on marriage and family;
- u) The Courts of the locality where a headquarter of a enterprise is located shall have the jurisdiction to resolve the petitions for cancellation of the resolution of the Shareholder general assembly or a resolution of the Member assembly;
- v) The Courts of the locality where a labor contract/collective bargaining agreement is concluded shall have the jurisdiction to resolve the petitions for declaration of such labor contract/collective bargaining agreement to be invalid;
- x) The Courts of the locality where a strike occurs shall have the jurisdiction to resolve the petitions for determination of the lawfulness of the strike;
- y) The territorial jurisdiction of the Courts in resolving the petition for arrest of aircrafts/vessels shall comply with regulations in Article 421 of this Code.

3. If a civil lawsuits has been accepted by a Court and is being resolved according to regulations of this Code on the territorial jurisdiction of Courts but the residence, headquarter or transaction place of the involved parties is changed, such civil lawsuits shall be continuously resolved by that Court.

#### **Article 40. Jurisdiction of Courts selected by plaintiffs or petitioners**

1. The plaintiffs shall have the right to select Courts for resolution of civil, marriage and family-related, business, trade or labor disputes in the following cases:

- a) If the plaintiff does not know where the defendant resides or works or where his/her head-office is located, the plaintiff may petition the Courts of the area where the defendant last resides or works or where the head-office of the defendant is last located or where the defendant's properties are located to settle the case;
- b) If the dispute arises from the operation of a branch of an organization, the plaintiff may petition the Court of the area where the organization's head-office is located or where its branch is located to settle it;
- c) If the defendant does not have residence place, work place or head-office in Vietnam or the case is related to disputes over alimonies, the plaintiff may petition the Court of the area where he/she resides or works to settle the case;
- d) If the dispute is over compensation for non-contractual damage, the plaintiff may petition the Court of the area where he/she resides, works or where his/her headquarter is located or where the damage is caused to settle the case;
- dd) If the dispute is over compensation for damage or allowance upon termination of a labor contract, over social insurance, the rights and/or interests in relation to job, wages, income and other working conditions for the laborers, the plaintiff being a laborer may petition the Court of the area where he/she resides or works to settle it;
- e) If the dispute arises from the employment of labor by a sub-contractor or a mediator, the plaintiff may petition the Court of the area where his/her actual employer resides, works or is headquartered or where the sub-contractor or the mediator resides or works to settle it;
- g) If the dispute arises from a contractual relation, the plaintiff may petition the Court of the area where the contract is performed to settle the case;
- h) If the defendants reside, work or are headquartered in different places, the plaintiff may petition the Court of the area where one of the defendants resides or works or is headquartered to settle the case;
- i) If the dispute is over immovables which exist in different localities, the plaintiff may request the Court of the area where one of such immovables exist to settle the dispute.

2. The petitioners may select Courts to settle their marriage and family-related petitions in the following cases:

- a) Regarding civil petitions prescribed in Clauses 1, 2, 3, 4, 6, 7, 8, 9 and 10 of Article 27 of this Code, the petitioners may ask the Courts of the areas where they reside, work or are headquartered to resolve them;
- b) Regarding petitions for revocation of illegal marriages provided for in Clause 1 Article 29 of this Code, the requesters may ask the Courts of the areas where an involved party of illegal marriage registration resides to resolve them;
- c) Regarding petitions for restriction of rights of fathers or mothers towards their minor children or their right to visit the children after the divorces, the petitioners may ask the Courts of the areas where the children reside to resolve them.

#### **Article 41. Transferring civil cases to other courts; settlement of disputes over jurisdiction**

1. If a Court has accepted a civil case which does not fall within its jurisdiction, it shall issue a decision to transfer the civil cases dossier to a competent Court and cross out the civil cases in its acceptance book. Such decision must be immediately sent to the Procuracy all involved parties and relevant agencies, organizations and individuals.

The involved parties and relevant agencies, organizations and individuals may make complaints, the Procuracy may submit recommendation for such decision within 03 working days from the day on which the decision is received. Within 03 working days from the day on which the complaint or the recommendation is received, the Chief Justice of the Court that issued the decision to transfer the civil cases must resolve the complaint/recommendation. The decision of the Chief Justice shall be the final decision.

2. Disputes over the jurisdiction of People's Court of districts in the same province shall be settled by the Chief Justice of the People's Court of province.

3. Any dispute over the jurisdiction between People's Courts of districts of different provinces or between People's Courts of provinces that falls under the territorial jurisdiction of the Collegial People's Court shall be settled by the Chief Justice of the High People's Court.

4. Any dispute over the jurisdiction between People's Courts of districts of different provinces or between People's Courts of provinces that falls under the territorial jurisdiction of different Collegial People's Courts shall be settled by the Chief Justice of the Supreme People's Court.

#### **Article 42. Joining or separating cases**

1. A Court may join two or more cases which it has separately accepted to a single case to resolve if the joinder and resolution in the same case ensure the law compliance.

Regarding cases where multiple persons filing the same petitions for lawsuits against the same individuals or agencies/organizations, the Courts may gather their petitions to resolve in the same cases.

2. A Court may separate a case with different claims into two or more cases if the separation and resolution of the separated cases strictly comply with law.

3. Upon the case merger or separation prescribed in Clauses 1 and 2 of this Article, the Courts which have accepted the petitions must issue decisions and send them immediately to the procuracies of the same level, the involved parties and relevant agencies, organizations and individuals.

### **Section 3. RESOLUTION OF CIVIL CASES WITHOUT LAW PROVISIONS TO APPLY**

#### **Article 43. Rules for determining jurisdiction of Courts in cases where there is no law provisions to apply**

Jurisdiction of Courts in acceptance and resolution of civil cases in cases where there is no law provisions to apply shall comply with regulations in Article 35 to 41 of this Code.

#### **Article 44. Order, procedures for acceptance and resolution of civil cases without law provisions to apply**

Order and procedures for acceptance and resolution of civil cases in cases where there is no law provisions to apply shall comply with provisions of this Code.

#### **Section 45. Rules for resolving civil cases without law provisions to apply**

1. The application of custom shall be conducted as follows:

The Courts shall apply custom to resolve civil cases when the involved parties do not reach agreements on and the law does not provide for such cases. The custom must not be contrary to basic rules of civil legislation specified in Article 3 of the Civil Code.

When petitioning Courts to resolve civil cases, involved parties may adduce customs to request the Courts to apply.

Courts shall verify the applicability of the customs, ensuring the compliance with provisions of Article 5 of the Civil Code.

If involved parties adduce different customs, the ones accepted at the places where the civil cases occur shall prevail.

2. The application of law provisions in the same matters shall be conducted as follows:

The Courts shall apply law provisions applicable to the same matters to resolve civil cases when the involved parties do not reach agreements on and the law does not provide for such cases as prescribed in Article 5 of the Civil Code and clause 1 of this Article.

When applying law provisions applicable to the same matter, the Court shall determine clearly the legal nature of the civil cases, determine clearly that in current legal system there is no legal provisions cover such relationship and determine legal provisions cover similar civil relationship.3. Basic rules of civil law provisions, precedents and the justice shall be applied as follows:

Courts shall apply basic rules of civil law provisions, precedents and the justice to settle civil cases when the application of law provisions applicable to the same matters as prescribed in Article 5 and clause 1 Article 6 of the Civil Code and clauses 1 and 2 of this Article is not available.

Basic rules of civil law provisions are specified in Article 3 of the Civil Code.

Precedents shall be studied and applied in the resolution of civil cases after being selected by the Council of Judges of the Supreme People's Court and announced by the Chief Justice of the Supreme People's Court.

The justice shall be determined on the basis of the reasons admitted by everyone, conformable with the principle of being humanitarian, unbiased and equal in rights and obligations of involved parties in such civil cases.

## **Chapter IV**

### **CIVIL PROCEEDING AUTHORITIES, CIVIL PROCEDURE -PRESIDING OFFICERS AND REPLACEMENT OF CIVIL PROCEDURE –PRESIDING OFFICERS**

#### **Article 46. Civil proceeding authorities, proceeding officers**

1. The civil proceeding authorities include:

- a) The Court;
- b) The Procuracy.

2. The civil proceeding officers include:

- a) The Chief Justices, Judges, People's Jurors, ombudspersons and Court clerks;
- b) The Chairpersons of the Procuracies, the Procurators, the Inspectors.

#### **Article 47. Tasks and powers of the courts' Chief Justices**

1. The court's Chief Justice shall have the following tasks and powers:

- a) To organize the resolution of civil cases falling under the jurisdiction of the Court; ensuring the principle that the Judge and the Juror carry out the adjudication separately and comply with law;
- b) To decide on the assignment of Judges to accept the civil cases, Judges to resolve civil cases, People's Jurors to participate in trial panels to hear civil lawsuits; and to decide on the assignment of ombudspersons, Court clerks to conduct procedures for civil cases, ensuring the principle prescribed in clause 2 Article 16 of this Code;
- c) To decide on the replacement of Judges, People's Jurors, Ombudspersons and/or Court clerks before the opening of Court sessions;
- d) To decide on the replacement of expert-witnesses and/or interpreters before the opening of Court sessions;
- dd) To issue decisions and conduct civil proceedings under the provisions of this Code;
- e) To settle complaints and/or denunciations under the provisions of this Code;
- g) To file appeals according to the cassation or reopening procedures against legally-effective Court judgments or decisions according to the provisions of this Code or request the competent Chief Justice to consider the appeal according to the cassation or reopening procedures against legally-effective Court judgments or decisions.
- h) To request competent agencies to consider amending or repealing a legislative document if such document is discovered denoting against constitutions, laws, resolutions of National Assembly, ordinances, resolutions of the Standing committee of the National Assembly, superior legislative documents of regulatory agencies as prescribed in this Code;
- i) To resolve the acts obstructing the civil procedures as prescribed in law;
- k) To perform the tasks and powers prescribed in law.

2. When the Chief Justice is absent, a Deputy-Chief Justice shall be authorized by the Chief Justice to perform the Chief Justice's tasks and powers, excluding the right to file appeals prescribed in point g Clause 1 of this Article. The Deputy-Chief Justice shall be answerable to the Chief Justice for the authorized tasks and powers.

#### **Article 48. Tasks and powers of Judges**

As assigned by the Court's Chief Justice, the Judges shall have the following tasks and powers:

1. To proceed the application for initiating lawsuits and the petitions and accept the civil cases according to regulations in this Code;
2. To file the dossier of civil cases;
3. To collect and verify the evidence, to hold Court sessions and meetings to resolve civil cases according to regulations in this Code;

4. To decide to apply, change or cancel the provisional emergency measures;
5. To decide to suspend or terminate the resolution of civil cases and decide to continue the resolution of the civil cases;
6. To provide explanation and guidance for involved parties so that they can exercise the right to apply for legal assistant according to law on legal assistance;
7. To hold meetings for checking the handover of, access to and disclosure of evidences and mediating and issue decisions on recognition of the agreements between involved parties according to provisions of this Code;
8. To decide to bring civil lawsuits to Court for trial, or bring civil matters for resolution;
9. To convene people to a trial or a meeting;
10. To work as the chairperson or to participate in adjudicating civil lawsuits and resolving civil matters;
11. To request the Court's Chief Justice to assign ombudspersons to assist the conduct of civil proceedings according to the provisions of this Code;
12. To discover and request the Court's Chief Justice to request competent agencies to consider amending or repealing a legislative document discovered denoting against constitutions, laws, resolutions of National Assembly, ordinances, resolutions of the Standing committee of the National Assembly, superior legislative documents of regulatory agencies as prescribed in this Code;
13. To resolve the acts obstructing the civil procedures as prescribed in law;
14. To conduct other proceedings when resolving civil cases according to the provisions of this Code.

#### **Article 49. Tasks and powers of People's Jurors**

As authorized by the Court's Chief Justice, the People's Jurors shall have the following tasks and powers:

1. To study case files prior to the opening of Court sessions;
2. To request the Chief Justices and/or Judges to issue necessary decisions according to their respective competence;
3. To participate in the trial panel of civil lawsuits;
4. To conduct proceedings and take equal power to the Judge in voting on issues falling within the trial panels' jurisdiction.

#### **Article 50. Tasks and powers of ombudspersons**

As assigned by the Court's Chief Justice, the inspectors shall have the following tasks and powers:

1. To conduct inspection of dossiers of civil cases subject to reconsideration in court's judgments and decisions according to the cassation or reopening procedures.
2. To make conclusion about the inspection and the inspection results and propose solutions for the civil cases to the Court's Chief Justice;
3. To collect materials and evidences relevant to the civil cases as prescribed in this Code;

4. To assist the Judge to conduct civil proceedings according to the provisions of this Code;
5. To conduct other tasks according to the provisions of this Code.

#### **Article 51. Tasks and powers of Court clerks**

As assigned by the Court's Chief Justice, the Court clerks shall have the following tasks and powers:

1. To make necessary professional preparations prior to the opening of Court sessions;
2. To announce the rules of Court sessions;
3. To check and report to the trial panels the list of those summoned to Court sessions;
4. To write up a minute of the Court session, the meeting and the minute of statements of the involved parties in the civil procedures;
5. To conduct other tasks according to the provisions of this Code.

#### **Article 52. Cases where proceeding officers must refuse to conduct the procedures or be replaced**

The proceeding officers must refuse to conduct the procedures or be replaced in the following cases:

1. They are concurrently the involved parties, the representatives or relatives of the involved parties;
2. They have participated in the proceedings in the capacity as defense counsels of the legitimate rights and interests of involved parties, witnesses, expert-witnesses or interpreters in the same case;
3. There are clear grounds to believe that they may not be impartial in performing their tasks.

#### **Article 53. Replacing Judges or People's Jurors**

Judges and/or People's Jurors must refuse to conduct the civil procedures or be replaced in the following cases:

1. In one of the cases prescribed in Article 52 of this Code;
2. They are in the same trial panel and have a close relationship with one another; in this case, only one person is allowed to participate in the civil procedures;
3. They participated in first-instance, appellate, cassation or reopening procedures in the resolution of such civil cases and have issued first-instance judgments, appellate judgments/decisions, cassation or reopening decisions, civil matter resolving decisions, decisions to terminate the resolution of civil cases or decisions to recognize the agreement between involved parties; if such persons are members of the Council of Judges of the Supreme People's Court or Committees of Judges of Collegial People's Courts, they shall be allowed to participate in the resolution of such cases according to cassation/reopening procedures;
4. They have acted as proceeding officers in such cases in the capacity as the ombudsperson, the Court clerk, the prosecutor or the inspector.

#### **Article 54. Replacement of Court clerks, ombudspersons**

Court clerks and ombudspersons must refuse to conduct civil procedures or be replaced in the following cases:

1. In one of the cases prescribed in Article 52 of this Code;
2. They have acted as proceeding officers in such cases in the capacity as the Judge, People's Jurors, ombudsperson, the Court clerk, the prosecutor or the inspector;
3. They are relatives of one of other proceeding officers in the case.

**Article 55. Procedures for refusal to conduct the civil proceedings and procedures for request for replacement of Judges, People's Jurors, Ombudspersons, Court clerks**

1. The refusal to conduct the civil proceedings and the request for the replacement of the Judges, People's Jurors, Ombudspersons, Court clerks before the opening of Court sessions/meetings must be made in writing, clearly stating the reason(s) and grounds therefor.
2. The refusal to conduct the civil proceedings and the request for the replacement of persons specified in clause 1 of this Article in Court sessions/meetings must be recorded in the minutes of the meetings.

**Article 56. Decision on the replacement of Judges, People's Jurors, Ombudspersons and/or Court clerks**

1. Before the opening of Court sessions, the replacement of Judges, People's Jurors, Ombudspersons and/or Court clerks shall be decided by the Chief Justice. If the to be-replaced Judge is the court's Chief Justice, the competence to decide shall be adjusted as follows:
  - a) The replacement of Judges being Chief Justice of People's Courts of districts shall be decided by the Chief Justices of People's Courts of provinces;
  - b) The replacement of Judges being Chief Justice of People's Courts of provinces shall be decided by the Chief Justices of Collegial People's Courts having territorial competence towards such People's Courts of provinces;
  - c) The replacement of Judges being Chief Justice of Collegial People's Courts shall be decided by the Chief Justices of Supreme People's Courts.
2. In Court sessions, the replacement of Judges, People's Jurors, Ombudspersons or Court clerks shall be decided by the trial panels after listening to the opinions of the persons requested to be replaced. The trial panels shall discuss matters in the deliberation rooms and make decisions by majority. The decision on postponement of the Court session for the replacement of Judges, People's Jurors, ombudspersons and/or Court clerks shall be decided by the trial panels. The appointment of other Judges, People's Jurors, ombudspersons and/or Court clerks as the replacement shall be decided by the courts' Chief Justices. If the to be-replaced person is the court's Chief Justice, the competence to decide shall conform to regulations in clause 1 of this Article.
3. The replacement of Judges and/or Court Clerks when processing the civil matters shall comply with regulations in clause 1 and clause 2 Article 368 of this Code.
4. Within 03 working days from the day on which the Court session/meeting is postponed, the court's Chief Justice shall assign the replacing persons.

**Article 57. Tasks and powers of procuracy chairpersons**

1. When supervising the law observance in the civil proceedings, the procuracy chairperson shall have the following tasks and powers:

- a) To organize and direct the work of supervising law observance in civil proceedings;
- b) To decide on assignment of procurators to supervise law observance in civil proceedings, to participate in Court sessions for adjudication of civil lawsuits, sessions/meetings for resolution of civil matters according to the provisions of this Code; to decide on assignment of inspectors to carry out the civil procedures for civil cases, ensuring the principle specified in clause 2 Article 16 of this Code;
- c) To decide on replacement of procurators or inspectors;
- d) To appeal according to appellate, cassation or reopening procedures against Courts judgments or decisions according to the provisions of this Code;
- dd) To make requests, proposals according to regulations in this Code;
- e) To settle complaints and/or denunciations under the provisions of this Code;
- g) To perform the tasks and powers prescribed in law.

2. When the Procuracy Chairperson is absent, a deputy-procuracy chairperson shall be authorized by the Chairperson to perform his/her tasks and powers, except for the power prescribed in point d clause 1 of this Article. The Deputy-procuracy chairperson shall be answerable to the procuracy chairperson for the authorized tasks and powers.

#### **Article 58. Tasks and powers of procurators**

When assigned by the procuracy chairperson to supervise the law observance in civil proceedings, the procurators shall have the following tasks and powers:

1. To investigate the return of the petition;
2. To investigate the acceptance and resolution of civil cases;
3. To study the case files; request the Court to verify and collect evidences during the resolution of civil cases according to provisions of this Code; collect materials and evidences according to regulations in clause 6 Article 97 of this Code;
4. To attend Court sessions/meetings and express opinions of procuracies about the resolution of cases according to provisions of this Code;
5. To inspect judgments/decisions of courts;
6. To request Courts to conducted procedural activities as provided for in this Code;
7. To request competent Chairpersons of procuracy to appeal against judgments/decisions of Courts that is contrary to law;
8. To control the procedural activities of participants; to request competent agencies and organizations to handled violations of participants in procedures against law;
9. To perform other civil procedural tasks and powers falling within competence of procuracies as prescribed in this Code.

#### **Article 59. Tasks and powers of inspectors**

When assigned to conduct the civil procedures, the inspectors shall have the following tasks and powers:

1. To study the case files and report the results to procurators;
2. To file civil case inspection files according to the assignment of procurators or chairpersons of procuracies;
3. To assist procurators to conduct inspection of the compliance with law provisions in civil procedures.

#### **Article 60. Replacement of procurators/inspectors**

Procurators/inspectors must refuse to conduct civil procedures or be replaced in the following cases:

1. In one of the cases prescribed in Article 52 of this Code;
2. They have acted as proceeding officers in such cases in the capacity as the Judge, People's Jurors, ombudsperson, the Court clerk, the prosecutor or the inspector.

#### **Article 61. Procedures for refusal to conduct the civil proceedings and procedures for request for replacement of the procurators/inspectors**

1. Before the opening of Court sessions, the refusal to conduct the civil proceedings and the request for the replacement of the procurators must be made in writing, clearly stating the reason(s) and grounds therefor.

The refusal to conduct the civil proceedings and the request for the replacement of the inspectors must be made in writing, clearly stating the reason(s) and grounds therefor.

2. At the Court session, the refusal to conduct the procedures or the request for the replacement of the procurators must be recorded in the minutes of the Court sessions.

#### **Article 62. Decision on replacement of procurators or inspector**

1. Prior to the opening of Court sessions, the replacement of procurators shall be decided by the chairpersons of the procuracies of the same level; if the to be-replaced procurators are procuracy chairpersons, their replacement shall be decided by the chairpersons of the immediate superior procuracies.

The replacement of the inspectors shall be decided by the procuracy chairpersons at the same level.

2. In Court sessions, the replacement of procurators shall be decided by the trial panels after listening to the opinions of the to be-replaced persons. The trial panels shall discuss matters in the deliberation rooms and make decisions by majority.

The decision on postponement of the Court session for the replacement of procurators shall be decided by the trial panels. The appointment of procurators as the replacement shall be decided by the chairpersons of the procuracies of the same level. If the to be-replaced procurators are chairpersons of the procuracies, their replacement shall be decided by the chairpersons of the immediate superior procuracies.

3. The replacement of procurators when processing the civil matters shall comply with regulations in clause 3 Article 368 of this Code.

4. Within 03 working days from the day on which the Court session/meeting is postponed, the procuracy chairperson shall assign the replacing persons and send the Court a written notification.

## **Chapter V**

### **COMPOSITION OF PANELS FOR RESOLUTION OF CIVIL CASES**

#### **Article 63. Panel for first-instance trial over civil lawsuits**

The panel for first-instance trial over civil lawsuits shall be composed of one Judge and two People's Jurors, except for cases specified in Article 65 of this Code. In special cases, the first-instance trial panel may consist of two Judges and three People's Jurors.

If the case involves minor people, People's Jurors being people who are working at Communist Youth Union of Ho Chi Minh City, Vietnam Women's Union, family affair authorities, children affair authorities must participate in the first-instance trial panel.

Regarding labor cases, People's Jurors being people who have worked or are working in a employee collective's representative organization or people having knowledge in labor law shall participate in the first instance trial panel.

#### **Article 64. Panel for appellate trial over civil lawsuits**

The panel for appellate trial over civil lawsuits shall be composed of three Judges, except for cases specified in Article 65 of this Code.

#### **Article 65. Adjudication of civil lawsuits under simplified procedures**

The first-instance trial, appellate trial procedures for civil lawsuits under simplified procedures shall be conducted by one Judge.

#### **Article 66. Panel for cassation or reopening trial over civil lawsuits**

1. The Committee of Judges of Collegial People's Court shall carry out the cassation or reopening trial through a trial panel including 3 Judges or the whole of the Committee of Judges of Collegial People's Court.

2. The Council of Judges of the Supreme People's Court shall carry out the cassation or reopening trial through a trial panel including 5 Judges or all of Judges of the Supreme People's Court.

#### **Article 67. Arrangements for resolution of civil matters**

1. The civil, marriage and family, business, trade or labor petitions prescribed in Clause 5 of Article 27, Clause 9 of Article 29, Clauses 4 and 5 of Article 31, and clauses 2, 3 and 4 Article 34 of this Code or the appeals against civil matter-settling decisions shall be settled by a board of three Judges.

2. The civil, marriage and family, business, trade or labor petitions which do not fall within the cases prescribed in Clause 1 of this Article shall be settled by one Judge.

3. Arrangement for resolution of business or trade petitions prescribed in Clause 2, Article 31 of this Code shall comply with law regulations on commercial arbitration.

## **Chapter VI**

## **PARTICIPANTS IN CIVIL PROCEDURES**

### **Section 1. INVOLVED PARTIES IN civil cases**

#### **Article 68. Involved parties in civil cases**

1. The involved parties in civil lawsuits are agencies, organizations and individuals, including the plaintiffs, the defendants and the persons with related interests and obligations.

The involved parties in civil matters are agencies, organizations and individuals, including the persons petitioning settlement of civil matters and persons with related interests and obligations.

2. The litigator in a civil lawsuit is the person that initiates lawsuit or the person for whom the other agencies, organizations and individuals prescribed by this Code initiates the lawsuit to request the Court to resolve the civil lawsuit when he/she holds that the legitimate rights and interests of that person have been infringed upon.

Agencies and organizations prescribed by this Code, which initiate civil lawsuits to request Courts to protect the public interests, the State's interests in the domains under their respective charges are also plaintiffs.

3. The defendant in a civil lawsuit is the person against whom the plaintiff initiates a lawsuit or the other agencies, organizations and individuals prescribed by this Code initiates a lawsuit to request the Court to resolve the civil lawsuit when they holds that the legitimate rights and interests of the plaintiff have been infringed upon by such person.

4. The persons with related interests and/or obligations in civil lawsuits are those who neither initiate lawsuits nor are sued, but the resolution of the civil lawsuits is related to their interests and/or obligations and, therefore they themselves, or other involved parties, request to include them in the proceedings in the capacity as the persons with related interests and/or obligations and such requests are accepted by courts.

Where the resolution of a civil lawsuit is related to the interests and/or obligations of a person but no one requests to include him or her in the proceedings in the capacity as the persons with related interests and/or obligations, the Court shall have to include that person in the proceedings in the capacity as the person with related interests and/or obligations.

5. The persons petitioning the resolution of civil matters are those who petition the Court to or not to recognize a legal event to form the basis for the arising of rights and/or obligations relating to civil issues, marriage and family, business, trade and labor of themselves or of other agencies, organizations and individuals; and/or petition the Court to recognize their rights and/or obligations relating to civil issues, marriage and family, business, trade, labor.

6. The persons with related interests and/or obligations in civil matters are those who do not petition the resolution of civil matters, but the resolution of the civil matters is related to their interests and/or obligations and, therefore they themselves, or other involved parties in the civil matters, request to include them in the proceedings in the capacity as the persons with related interests and/or obligations and such requests are accepted by the Courts.

Where the resolution of a civil matter is related to the interests and/or obligations of a person but no one requests to include him or her in the proceedings in the capacity as the persons with related interests and/or obligations, the Court shall have to include that person in the proceedings in the capacity as the person with related interests and/or obligations.

### **Article 69. The involved parties' civil procedure law capacity and civil procedure act capacity**

1. The civil procedure law capacity means the capability to have the law-prescribed rights and obligations in civil procedures. Every agencies, organizations and individuals shall have the same civil procedure law capacity in petitioning the Court to protect his/her/its legitimate rights and interests.

2. The civil procedure act capacity means the ability to exercise one's own rights and obligations by him/herself in civil procedures or authorize his/her representative to participate in civil procedures.

3. The involved parties being persons aged full 18 years or older shall have full civil procedure act capacity, except for legally incapacitated person or except otherwise provided for by law.

Regarding persons with limited capacity of exercise, people with limited cognition or behavior control, their civil procedure act capacity shall be determined according to the decision of the Court.

4. The involved parties being persons aged under 6 years or persons losing their civil act capacity shall not have the civil procedure act capacity. The exercise of the civil proceeding rights and/or obligations of such persons, the protection of the legitimate rights and interests of such persons at Courts shall be performed by their lawful representatives.

5. For the involved parties being persons aged between full 6 and under 15 years, the protection of their civil proceeding rights and/or obligations and the protection of legitimate rights and interests of such persons at Courts shall be performed by their lawful representatives.

Regarding persons with limited capacity of exercise, people with limited cognition or behavior control, their civil procedure act rights and/or obligations and the protection of their legitimate rights and interests shall be determined according to the decision of the Court.

6. The involved parties being persons aged between full 15 years and under 18 years, who have worked under labor contracts or involved in civil transactions with their own properties shall have the right to participate in civil procedures themselves regarding matters related to such labor or civil relations. In such cases, the Court shall have the right to summon their lawful representatives to participate in the procedures. For other matters, the exercise of the civil proceeding rights and/or obligations of such persons at Courts shall be performed by their lawful representatives.

7. The involved parties being agencies, organizations shall participate in civil procedures through their lawful representatives.

### **Article 70. Rights and obligations of the involved parties**

The involved parties shall have equal rights and obligations when participating in civil procedures. When participating in civil procedures, the involved parties shall have the following rights and obligations:

1. To respect courts, and strictly observe the court's rules;

2. To advance Court fees and charges and pay Court fees and charges and other expenses as prescribed by law;

3. To provide sufficiently and accurately address of their residence/work place; during the resolution of cases, any change of address of residence/workplace shall be promptly notified other involved parties and the Court;
4. To maintain, modify, supplement or withdraw their petitions in accordance with this Code;
5. To supply materials and evidences; to prove to protect their legitimate rights and interests;
6. To petition agencies, organizations and individuals that are keeping or managing materials and evidences to supply such materials and evidences to them;
7. To petition the Court to verify and collect materials and evidences of the cases which they cannot perform themselves; petition the Court to request other involved parties to present materials and evidences they are keeping; petition the Court to issue the decision to request the agencies, organizations and individuals that are keeping and managing the materials/evidences to supply such materials and evidences; request the Court to summon witnesses, to ask for expertise, evaluation or price appraisal;
8. To read and take notes, make photocopies of materials and evidences produced by other involved parties or collected by courts, except for materials and evidences specified in clause 2 Article 109 of this Code;
9. To send other involved parties or their lawful representatives photocopies of the petition and materials and evidences, excluding evidences and materials that other involved parties have been provided with as prescribed in clause 2 Article 109 of this Code.

For cases where the photocopies of lawsuit petition, materials and evidences cannot be made due to good and sufficient reasons, they may request the Court to assist;

10. To request Courts to decide on the application, change or cancellation of the application of provisional emergency measures;
11. To reach agreement with one another on the resolution of cases: to participate in mediation conducted by courts;
12. To receive regular notices for the exercise of their rights and obligations;
13. To protect by themselves or ask other persons to protect their legitimate rights and interests;
14. To petition the replacement of civil proceeding officers or participants in civil procedures in accordance with this Code;
15. To participate in the Court sessions according to the provisions of this Code;
16. To be present according to Court summons and abide by Court decisions during the settlement of their cases;
17. To ask the Courts to summon persons with related interests and obligations to participate in civil procedures;
18. To ask Courts to suspend the settlement of their cases in accordance with this Code;
19. To make questions to other persons on matters related to the cases or to propose to Courts matters which need to be questioned on other persons; to confront each other or witnesses;
20. To argue in Court sessions, to present argument about assessment of the evidence and the applied law provisions;

21. To be provided with extracts of Court judgments, judgments or decisions;
22. To appeal against or complain about Court judgments or decisions in accordance with Code;
23. To ask competent persons to appeal according to cassation or reopening procedures against legally effective judgments or decisions of courts;
24. To strictly abide by legally effective judgments or decisions of courts;
25. To enjoy rights of involved parties in a way that such rights are not misused to obstruct the procedures of Courts and/or other involved parties; to bear the consequences prescribed by this Code if failing to fulfill obligations;
26. To have other rights and obligations prescribed by law.

#### **Article 71. Rights and obligations of the plaintiffs**

1. The involved parties' rights and obligations prescribed in Article 70 of this Code.
2. To modify the contents of lawsuit claims; withdraw part or whole of their lawsuit claims.
3. To agree or disagree with part or whole of the counter-claims of defendant, persons with related interests and/or obligations who have independent claims.

#### **Article 72. Rights and obligations of the defendants**

1. The involved parties' rights and obligations prescribed in Article 70 of this Code.
2. To be notified by Courts of the lawsuits against them.
3. To agree or disagree with part or whole of the claims of the plaintiff, persons with related interests and/or obligations who have independent claims.
4. To make counter-claims against the plaintiffs if they are related to the plaintiffs' claims or set off the obligations claimed by the plaintiffs. For counter-claims, the defendants shall have the plaintiffs' rights and obligations prescribed in Article 71 of this Code.
5. To make independent claims for persons with relevant interests and/or obligations and such claims shall relevant to the lawsuit settlement. For independent claims, the defendants shall have the plaintiffs' rights and obligations prescribed in Article 71 of this Code.
6. If the counter-claims or the independent claims are not accepted by the Court to be resolved in the same case, the defendant may initiate another lawsuit.

#### **Article 73. Rights and obligations of the persons with related interests and/or obligations**

1. Persons with related interests and/or obligations shall have the following rights and obligations:
  - a) The rights and obligations prescribed in Article 70 of this Code;
  - b) To be allowed to make independent claims or participate in the procedures on the side of the plaintiffs or the defendants.
2. If the persons with related interests and obligations make independent claims and such independent claims are related to the lawsuit settlement, they shall have the plaintiffs' rights and obligations prescribed in Article 71 of this Code. If different independent claims are not accepted

by the Court to be resolved in the same case, the persons with related interests and/or obligations may initiate another lawsuit.

3. If the persons with related interests and/or obligations participate in the procedures on the side of the plaintiff or only have interests, they shall have the plaintiffs' rights and obligations prescribed in Article 71 of this Code.

4. If the persons with related interests and/or rights participate in the procedures on the side of the defendants or only have obligations, they shall have the defendants' rights and obligations prescribed in Article 72 of this Code.

#### **Article 74. Inheritance of procedural rights and obligations.**

1. Where the involved parties being individuals die while participating in the procedures and their property rights and obligations are inherited, their heirs shall participate in the procedures.

2. Where the involved parties being agencies or organizations have to terminate their operations or to be dissolved, consolidated, merged, divided, separated or organizationally transformed while participating in the procedures, the inheritance of their procedural rights and obligations shall be determined as follows:

a) Where the organizations that have to terminate their operations or to be dissolved are joint-stock companies, limited liability companies or partnerships, the individuals and/or organizations being members of such organizations or their lawful representatives shall participate in the procedures;

b) Where the agencies, organizations that have to terminate their operations or to be dissolved are regulatory agencies, people's armed force units, political organizations, socio-political organizations, professional and socio-political organizations, social organizations, socio-professional organizations or state-owned enterprises, the lawful representatives of the superior agencies of such agencies/organizations or the lawful representatives of the agencies/organizations which take over the former's rights and obligations shall participate in the procedures;

c) Where the organizations are consolidated, merged, divided, separated or organizationally transformed, the individuals or organizations that take over the former's rights and obligations shall participate in the procedures.

3. Where the owners of the organizations are changed and the rights and obligations are transferred to the new owners, the new owners shall inherit the procedural rights and obligations.

4. Where the organizations received the rights and obligations according to civil law provisions, such organizations shall inherit the procedural rights and obligation.

5. Where the organizations other than legal persons participate in the procedures but their representatives or managers die, such organizations shall have to appoint other persons as their representatives to participate in the procedures; if such organizations fail to appoint representatives or have to terminate their operations or to be dissolved, the individuals being members of such organizations shall participate in the procedures.

### **Section 2. OTHER PARTICIPANTS IN THE PROCEDURES**

#### **Article 75. Defense counsels of involved parties' legitimate rights and interests**

1. The defense counsels of involved parties' legitimate rights and interests are persons who participate in the procedures to protect the involved parties' legitimate rights and interests.
2. The following persons can act as defense counsels of the involved parties' legitimate rights and interests when they were asked by the involved parties and have been accepted by Courts to participate in the procedures to protect the involved parties' legitimate rights and interests:
  - a) Lawyers who participate in the procedures under the provisions of the legislation on lawyers;
  - b) Legal aid officers or persons participating in legal aid under the law on legal aid;
  - c) Representatives of employee collective's representative organizations who are defense counsels of employee's legitimate rights and interests in labor cases according to legislation on labor and trade union;
  - d) Vietnamese citizens who have full civil act capacity, have clean criminal records or have been expunged convictions, who do not fall into the cases subject to the application of administrative handling measures; who are not cadres or civil servants in the Court or procuracy sector, officers or non-commissioned officers in the public security force.
3. The defense counsels of the involved parties' legitimate rights and interests can defend the legitimate rights and interests of more than one involved party in the same case, if those persons' legitimate rights and interests do not conflict each other. Many defense counsels of the involved parties' legitimate rights and interests may jointly defend the legitimate rights and interests of one involved party in a case.
4. When applying the Court to carry out the registration procedure for defense counsels of involved parties' legitimate rights and interests, the applicant shall present the following papers:
  - a) The lawyers shall present papers according to regulations in the Law on lawyers;
  - b) Legal aid officers or persons participating in legal aid under the law on legal aid shall present the written appointment for legal aid issued by the organizations providing legal aid and the cards of legal aids or lawyer's card;
  - c) Representatives of employee collective's representative organization shall present the writing that such organizations have appointed them to defend the legitimate rights and interests of the employees/collective labor;
  - d) Vietnamese citizens satisfying conditions specified in point d clause 2 of this Article shall present the written petitions of the involved parties and their identity papers.
5. After checking papers, if the applicant is satisfactory to act as the defense counsel of the involved parties' legitimate rights and interests as prescribed in clauses 2, 3 and 4 of this Article, within 03 working days from the day on which the application is received, the Court shall record to the register the defense counsel of the involved parties' legitimate rights and interests and shall certify the application for defense counsels of the involved parties. If the application is rejected, the Court shall send the applicant a written notification containing the explanation.

**Article 76. Rights and obligations of defense counsels of the involved parties' legitimate rights and interests**

1. To participate in the procedures right at the time of lawsuit initiation or at any stage in the civil procedures.

2. To collect and supply materials and evidences to courts; to study case files and to take notes, to copy necessary materials in the case files in order to defend the legitimate rights and interests of the involved parties, except for materials and evidences specified in clause 2 Article 109 of this Code.
3. To participate in mediation, Court sessions or make their written defense of the legitimate rights and interests of the involved parties to Courts for consideration.
4. To petition on behalf of the involved parties the replacement of proceeding officers and/or other procedure participants according to the provisions of this Code.
5. To provide involved parties with legal aid related to the defense of their legitimate rights and interests; if they are authorized by the involved parties, they shall receive the papers and procedural documents that are transmitted or notified by the Court on behalf of the involved parties and shall give them to the involved parties.
6. To comply with rights and obligations specified in clauses 1, 6, 16, 17, 18, 19 and 20 of Article 70 of this Code.
7. To have other rights and obligations prescribed by law.

#### **Article 77. Witnesses**

Persons who know details related to the contents of cases may be summoned by Courts at the request of the involved parties to participate in the procedures in the capacity as witnesses. Persons who lose their civil act capacity cannot act as witnesses.

#### **Article 78. Rights and obligations of witnesses**

1. To supply all information, documents and/or objects they have obtained, which are related to the resolution of cases.
2. To honestly declare details they know, which are related to the resolution of cases.
3. To refuse to make declarations if their declarations are related to State secrets, professional secrets, business secrets, personal secrets, family secrets or such declarations adversely affect or harm the involved parties being their close relatives.
4. To be off duty while the Courts summon them or take their testimonies, if they work in agencies or organizations.
5. To be paid related expenses according to law provisions.
6. To petition the Courts which have summoned them and competent agencies to protect their lives, health, honor, dignity, properties and other legitimate rights and interests when participating in the procedures; to complain about procedural acts of proceeding officers.
7. To compensate and take legal responsibility for damage caused to the involved parties or other persons by their untruthful testimonies.
8. To be present at courts, Court sessions/meetings under the court's summon of the Courts if the witness's testimony must be given publicly at courts, Court sessions/meetings; where witnesses fail to show up in Court sessions/meetings without good and sufficient reasons and their absence obstruct the adjudication/resolution, the Judges, the trial panels or the civil matter resolution council may issue decisions to escort them to Court sessions/meetings, unless the witnesses are minors.

9. To make commitments before Courts to perform their rights and obligations, except for cases where the witnesses are minors.

### **Article 79. Expert-witnesses**

Expert-witnesses are persons who have law-prescribed necessary knowledge and/or experiences in the fields where exist objects needed to be expertised, who are called by Courts to expertise the objects in question or at the request of the involved parties according to regulations in Article 102 of this Code.

### **Article 80. Rights and obligations of expert-witnesses**

1. Expert-witnesses shall have the following rights and obligations:

- a) To read documents in the case files which are related to the to be-expertised objects; to petition Courts to provide documents necessary for the expertise;
- b) To question participants in legal procedures about matters related to the to be - expertised objects;
- c) To be present under the courts' summons; present, explain and answer questions related to the expertise and expertising conclusions in an honest, well-grounded and objective manner;
- d) To notify the Courts in writing of the impossibility to conduct the expertise as the matters needed to be expertised go beyond their professional capability and/or the documents supplied in service of the expertising are inadequate or unusable;
- dd) To preserve the received documents and return them to Courts together with their expertising conclusions or with the notices on impossibility to conduct expertise;
- e) Not to arbitrarily collect materials for conducting the expertise nor to contact other participants in the procedures if such contacts effect the expertising results; not to disclose secret information they know while conducting the expertise nor to inform the expertising results to other persons, except for the Judges who decide to request the expertise;
- g) To be paid related expenses according to law provisions;
- h) To make commitments before Courts to perform their rights and obligations.

2. Expert-witnesses must refuse to take the job or be replaced in the following cases:

- a) They fall into one of the cases prescribed in Clauses 1 and 3 of Article 52 of this Code or Article 34 of the Law on judicial expertise;
- b) They have participated in the procedures in the capacity as defense counsels of the legitimate rights and interests of the involved parties, as witnesses or interpreters in the same case;
- c) They have acted as proceeding officers in such cases in the capacity as the Judge, People's Jurors, ombudsperson, the Court clerk, the prosecutor or the inspector.

### **Article 81. Interpreters**

1. Interpreters are persons capable of translating a foreign language into Vietnamese and vice versa in cases where procedure participants are unable to use Vietnamese. Interpreters shall be selected by an involved party or under the agreement between involved parties and are accepted or requested by courts.

2. People who understand language of disabled persons or can use language of disabled people are also considered interpreters.

Where only representatives or relatives of disabled persons can understand and use their language, such representatives or relatives may be accepted by Courts to act as interpreters for such disabled persons.

### **Article 82. Rights and obligations of interpreters**

1. Interpreters shall have the following rights and obligations:

- a) To be present under courts' summons;
- b) To interpret truthfully, objectively and accurately;
- c) To request proceeding officers and/or participants to additionally explain their words which need to be interpreted;
- d) Not to contact other procedure participants if such contacts affect the truthfulness, objectiveness and accuracy of their interpretation;
- dd) To be paid related expenses according to law provisions;
- e) To make commitments before Courts to perform their rights and obligations.

2. Interpreters must refuse to take the job or be replaced in the following cases:

- a) They fall into one of the cases prescribed in Clauses 1 and 3 of Article 52 of this Code;
- b) They have participated in the proceedings in the capacity as defense counsels of the legitimate rights and interests of involved parties, witnesses or expert-witnesses in the same case;
- c) They have presided over the procedure in the capacity as the Judge, People's Jurors, ombudsperson, the Court clerk, the prosecutor or the inspector.

### **Article 83. Procedures for refusing to give expertise opinions or interpretations or requesting the replacement of expert-witnesses or interpreters.**

1. The refusal to give expertise opinions or interpretations or the request for replacement of expert-witnesses or interpreters prior to the opening of Court sessions must be made in writing, clearly stating the reasons therefor.

2. The refusal to give expertise opinions or interpretations or the request for replacement of expert-witnesses or interpreters in Court sessions must be recorded in the minutes of the Court sessions.

### **Article 84. Deciding on replacement of expert-witnesses, interpreters**

1. Prior to the opening of Court sessions, the replacement of expert-witnesses and/or interpreters shall be decided by courts' Chief Justices.

2. In the Court session, the replacement of the expert-witnesses and/or interpreters shall be decided by the Judges, Trial panels, civil matter-resolving councils after listening to the to be-replaced persons. The trial panels and the civil matter-resolving councils shall discuss matters in the deliberation rooms and make decisions by majority.

Where expert-witnesses or interpreters must be replaced, the Judges, the Trial panels or the Civil matter-resolving council shall issue decisions to postpone the Court sessions. The request for

other expert-witnesses or interpreters shall comply with the provisions of Articles 79 and 81 of this Code.

### **Article 85. Representatives**

1. The representatives in civil procedures comprise the representatives at law and the proxy representatives. The representatives can be individuals or legal entities as defined in Civil Code

2. The representatives at law as defined in the Civil Code shall be the representatives at law in the civil procedures, except where the representative right is restricted under law provisions.

Agencies, organizations and individuals that initiate lawsuit to protect the legitimate rights and interests of others shall also be the representatives at law of the protected persons in the civil procedures.

3. Employee collective's representative organizations shall be lawful representatives of collective of employees initiating lawsuits over labor cases, participate in procedures at Courts when legitimate rights and interests of the collective of employees are infringed upon; employee collective's representative organizations are in charge of representing employees in initiating lawsuits over labor cases and participate in procedures when being authorized by employees.

If multiple employees filing the same claim towards the employer of the same enterprise/unit, such employees may authorize a representative from the employee collective's representative organization to represent them in initiating lawsuits over labor cases and participate in procedures at the Court.

4. The proxy representatives as defined in the Civil Code shall be the proxy representatives in the civil procedures.

For the divorce, the involved parties must not designate any other persons to participate in the procedure on their behalf. If parents or other relatives of the involved parties petition the Courts to resolve the divorce cases as prescribed in clause 2 Article 51 of the Law on marriage and family, they such be the representatives.

### **Article 86. Rights and obligations of representatives**

1. The representatives at law in civil procedures shall exercise the procedural rights and obligations of the involved parties within the scope they represent.

2. The proxy representatives in civil procedures shall exercise the procedural rights and obligations of the involved parties according to the written authorization.

### **Article 87. Cases of disallowance to act as representatives**

1. Persons must not act as representatives at law in the following cases:

a) They are also the involved parties in the same case with the represented persons where their legitimate rights and interests are contrary to those of the represented persons;

b) They are acting as representatives at law in civil procedures for other involved parties whose legitimate rights and interests are contrary to those of the represented persons in the same case.

2. The provisions in Clause 1 of this Article shall also apply to the case of proxy representatives in civil procedures.

3. Officials or employees in the court, procuracy or police sectors must not act as representatives in civil procedures, except for cases where they participate in civil procedures in the capacity as representatives of their agencies or as representatives at law.

#### **Article 88. Appointing representatives in civil procedures**

1. While civil procedures are conducted, if any involved party is the minor persons, legally incapacitated persons, persons with limited capacity of exercise, persons with limited cognition or behavior control but has no representative or his/her representative at law falls into one of the cases specified in Clause 1, Article 87 of this Code, the Court must appoint the representative to participate in the proceedings at courts.

2. In labor cases where involved parties are those specified in clause 1 of this Article or where the employees are minor persons and they have no representatives and the Courts fail to appoint the employee collective's representative organization as prescribed in clause 1 of this Article, the Courts shall appoint organization representing collective labor to represent such employees.

#### **Article 89. Termination of the representation in civil procedures**

The representatives at law, the proxy representatives in civil procedures shall terminate their representation according to the provisions of the Civil Code.

#### **Article 90. Consequences of the termination of representation in civil procedures**

1. In cases where the representation at law terminates while the represented persons have come of age or had their civil act capacity restored such persons shall participate in civil procedures themselves or authorize other persons to participate in civil procedures according to procedures prescribed by this Code.

2. In cases where the proxy representation terminates, the involved parties or their heirs shall participate in civil procedures in person or authorize other persons to participate in the procedures according to the procedures prescribed by this Code.

### **Chapter VII**

#### **PROOFS AND EVIDENCES**

#### **Article 91. Obligations to prove**

1. The involved parties who petition the Courts to protect their legitimate rights and interests must collect, introduce and supply the Courts with materials and evidences to prove that such petitions are well-grounded and lawful, except for the following cases:

a) Litigators are customers who are not required to prove faults of organizations and individuals trading goods and/or services Organizations and individuals trading goods/services that are sued shall be obliged to prove that they have no fault that leads to the damage as provided for in the Law on consumers' right protection;

b) Involved parties being employees in labor cases fail provide or supply the Courts materials and evidences because such materials/evidences are being under the management and retention of employers, thus the employers shall provide and supply such materials and evidences to the Courts.

If an involved party initiating a lawsuit over the unilateral termination of a labor contract in case where the employer is not allowed to have the right to unilaterally terminate the labor contract or

where the employer fails to enforce labor discipline on the employee as prescribed in legislation on labor, the obligation to prove must be fulfilled by the employer;

c) Other cases where there are other law regulations on obligations to prove.

2. The involved parties that protest against other persons' claims against them must present in writing and must collect, introduce and supply the Courts with materials and evidences to prove such protests.

3. Agencies, organizations and individuals that initiate lawsuit to protect public interests, the State's interests, or petition Courts to protect others' legitimate rights and interests must collect, provide and supply the Courts with evidences to prove that their lawsuits or petitions are well-grounded and lawful.

Social organizations that protect interests of the consumers do not have the obligation to prove the faults of organizations/individuals trading goods/services according to the Law on protection of customer's rights.

4. If the involved parties that are obliged to introduce evidences to prove but fail to introduce evidences or fail to introduce adequate evidences, the Courts shall resolve the civil cases according to the collected evidences in the dossier about the cases.

#### **Article 92. Details and facts that are not required to be proved**

1. The following details and facts are not required to be proved:

a) Details and facts that are clear and come to everyone's knowledge and are accepted by courts;

b) Details and facts that have been identified in the Court judgments or decisions which are legally effective or in decisions of competent State bodies which have come into force;

c) Details and facts that have been recorded in writing and have been notarized or authenticated. If there is any suspicion of the objectiveness of such details/facts or the objectiveness of the notarized/authenticated writing, the Judge may request the involved parties or the notarizing/certifying agencies to present the original copies.

2. If either involved party acknowledges or does not protest against the details, facts, materials, conclusions issued by specialized agencies and given by the other involved party, the latter is not required to prove them.

3. If an involved party has a representative to participate in the procedures, that representative's acknowledgement shall be regarded as the acknowledgement of such involved party if it does not exceed the representative scope.

#### **Article 93. Evidences**

Evidences in civil cases are factual things which are handed to Courts by involved parties, agencies, organizations or individuals or gathered by Courts according to the order and procedures prescribed by this Code and are used by Courts as bases to determine objective details of the cases as well as to determine whether the involved parties' claims or protests are well grounded and lawful or not.

#### **Article 94. Sources of evidence**

Evidences are gathered from the following sources:

1. Readable, audible or visible materials, electronic data;
2. Exhibits;
3. Involved parties' testimonies;
4. Witnesses' testimonies;
5. Expertising conclusions;
6. On-site appraisal minutes;
7. Property evaluation and price appraisal results;
8. Written records of legal facts or acts that are formulated by functional persons;
9. Notarized/authenticated documents;
10. Other sources prescribed by law.

#### **Article 95. Identifying evidences**

1. Contents-readable materials shall be regarded as evidences if they are originals or copies lawfully notarized or authenticated or supplied and certified by competent agencies or organizations.
2. Audible, visible materials shall be regarded as evidences if they are presented together with documents about the origins of such materials (applicable to materials recorded by the presenting persons themselves) or the documents certified by the one providing such materials for the presenting persons about the origins of those materials or documents related to such audio and/or video recording.
3. Electronic data shall be presented in form of exchange of electronic data, electronic invoices, electronic mails, telegram, telegraphy, facsimile and other similar forms according to legislation on electronic transactions.
4. Exhibits to be regarded as evidences must be the original and related to the cases.
5. Involved parties' testimonies, witnesses' testimonies shall be regarded as evidences if they are recorded in writing or in audio-tapes, audio-discs, or video-tapes or discs or other audio or image recording devices as provided for in Clause 2 of this Article, or are given orally in Court sessions.
6. Expertising conclusions shall be regarded as evidences if the expertise is conducted in accordance with the procedures prescribed by law.
7. On-site appraisal minutes shall be regarded as evidences if the appraisal is conducted in accordance with the procedures prescribed by law.
8. Property evaluation results and price appraisal results shall be regarded as evidences if the evaluation/appraisal is carried out in accordance with the procedures prescribed by law.
9. Written records of legal facts or acts that are formulated on site by functional persons shall be regarded as evidences if the formulation of such records is carried out according to the procedures prescribed by law.
10. Notarized/authenticated documents shall be regarded as evidences if the notarization/authentication is conducted according to the procedures prescribed by law.

11. Other sources prescribed by law shall be determined to be evidences according to requirements and procedures prescribed by law.

#### **Article 96. Hand-over of materials and evidences**

1. During the process of resolving civil cases by courts, the involved parties shall have the rights and obligations to hand over materials and evidences to the courts. If the handed materials/evidences are inadequate to form the base for resolution of the matters/cases, the Judge shall request the involved parties to supplement the materials/evidences. If the involved parties fail to hand over the materials/evidences or do not hand over adequately the materials/evidences requested by the Courts, the Courts shall resolve the civil cases pursuant to the materials and evidences handed over by the involved parties and those collected by the Courts according to regulations in Article 97 of this Code.

2. The hand-over of materials/evidences to Courts by involved parties must be recorded in the minutes. The minutes must clearly state the appellations, forms, contents, characteristics of the materials/evidences; the number of copies, the number of pages and time of reception; the signatures or append finger prints of the deliverers, the signatures of the recipients and seals of the courts. The minutes must be made in two copies, one of which shall be incorporated in the civil case files and the other shall be handed to the involved parties handing over the evidences.

3. The materials/evidences submitted in ethnic minority languages or foreign languages to Courts by the involved parties must be enclosed with their Vietnamese translations that are lawfully notarized or authenticated.

4. Deadline for handing over materials and evidences shall be defined by the Judges in charge of the cases provided that such time does not exceed the duration of preparation for adjudication according to first-instance procedures and/or the duration of preparation for resolution of civil matters according to regulations in this Code.

If the Courts request the involve parties to hand over materials and evidences but the involved parties fail to comply with due to good and sufficient reason and supply the required materials and evidences when decisions to bring the cases to trial according to first-instance procedures and the decisions to hold meetings to resolve the civil matters have been issued, such involved parties must prove the reasons for the lateness of supply of such materials/evidences. Regarding materials and evidences which the Courts did not request the involved parties to supplied or materials and evidences that the involved parties cannot know about during the resolution of the cases according to first-instance procedures, the involved parties may supply and present such materials/evidences in first-instance trial sessions or the meetings for resolving civil matters or later procedural stages of the resolution of such civil cases.

5. When materials and evidences hand over to the Courts, there must be their copies sent to other involved parties or lawful representatives or other involved parties; regarding materials and evidences specified in clause 2 Article 109 of this Code or materials and evidences whose copies cannot be made, written notifications must be sent to other involved parties or lawful representatives of other involved parties.

#### **Article 97. Verification and collection of evidences**

1. Agencies, organizations and individuals may collect materials and evidences themselves by taking the following measures:

- a) Collecting readable, audible or visible materials, electronic data;
- b) Collecting exhibits;
- c) Defining witnesses and collecting confirmation of the witnesses;
- d) Requesting the agencies, organizations or individuals to allow the copy or to supply the materials related to the resolution of the matters/cases that are kept or managed by such agencies, organizations or individuals;
- dd) Requesting the People's Committees of communes to authenticate the signatures of the witnesses;
- e) Requesting the Courts to collect materials and evidences, in case the involved parties cannot do it;
- g) Requesting the Courts to issue the decisions on request for expertise or property evaluation;
- h) Requesting agencies, organizations and individuals to conduct other tasks as prescribed by law.

2. In cases prescribed by this Code, the Courts may take one or a number of the following measures to collect materials and evidences:

- a) Taking testimonies of the involved parties, witnesses;
- b) Holding confrontations between involved parties and between involved parties and witnesses;
- c) Requesting expertises;
- d) Conducting property evaluation;
- dd) Conducting on-site inspection and appraisal;
- e) Entrusting the collection and verification of documents and evidence;
- g) Requesting agencies, organizations and individuals to supply readable, audible and visible materials or other exhibits related to the resolution of civil cases;
- h) Verifying the presence or absence of the involved parties at the residence;
- i) Other measures according to regulations in this Code.

3. When applying the measures specified in Points c, d, dd, e, and, Clause 2 of this Article, the Judges must issue decisions clearly stating the reasons for the application and the request of the courts.

4. In the process of cassation trial, reopening trial, the Ombudspersons may take the measures specified in points a, g and h clause 2 of this Article.

When the ombudspersons take the measures specified in Points g Clause 2 of this Article, the Courts must issue decisions clearly stating the reasons for the application and the request of the courts.

5. Within 03 working days from the day on which the Courts collected the materials/evidences, the Courts shall notify the involved parties of those materials/evidences so that they can exercise their rights and obligations.

6. The procuracy shall collect materials/evidences to ensure the exercise of appeal jurisdiction according to the appellate, cassation trial or reopening trial procedures.

#### **Article 98. Taking testimonies of involved parties**

1. Judges shall take the testimonies of involved parties only when the latter have not yet made the written testimonies or the contents of their written testimonies are insufficient and/or unclear. The involved parties must write the testimonies themselves and sign their names thereon. Where the involved parties cannot write the testimonies by themselves, the Judges shall take their testimonies. The taking of involved parties' testimonies shall only focus on details declared inadequately and/or unclearly by the involved parties. The Judges themselves or the Court clerks shall record the involved parties' testimonies in the minutes. Judges shall take testimonies of the involved parties at the Court offices or outside the Court offices in case of necessity.

2. The minutes recording involved parties' testimonies must be read or heard and signed or fingerprinted by such involved parties. The involved parties may petition amendments and/or supplements to be inscribed in the testimony-recording minutes and sign or fingerprint for certification. The minutes must be signed by the persons who take the testimonies, the minute recorders and affixed with court's seals. If the minutes are made in loose pages, each page must be signed and affixed with seal in both margins. In cases where the minutes of taking the involved parties' testimonies are made outside the Court offices, the testimony taking must be certified by witnesses or by the People's Committees or police offices of communes, wards, townships or by agencies or organizations where the minutes are made.

3. The taking of involved parties' testimonies in one of the cases prescribed in Clauses 4 and 5, Article 69 of this Code must be carried out in the presence of the lawful representatives of such involved parties.

#### **Article 99. Taking testimonies of witnesses**

1. At the request of the involved parties or when it is deemed necessary, Judges may take testimonies of witnesses at Court offices or outside Court offices.

Before taking testimonies of witnesses, the Judges must provide the witnesses with information about rights and obligations of witnesses and request the witnesses to undertake the truthfulness of their testimonies.

2. The procedures for taking witnesses' testimonies shall be the same as those for taking the involved parties' testimonies provided for in Clause 2, Article 98 of this Code.

3. The taking of testimonies of witnesses aged not full 18 years, or of persons with limited capacity of exercise or persons with limited cognition or behavior control must be carried out in the presence of their representatives at law or guardians.

#### **Article 100. Confrontation**

1. At the request of the involved parties or when contradictions are deemed to have existed in the testimonies of the involved parties or witnesses, Judges may conduct confrontations among the involved parties, between the involved parties and the witnesses or among the witnesses.

2. Confrontations must be recorded in minutes which must be signed by the participants in such confrontations.

#### **Article 101. On-site inspection/appraisal**

1. At the request of the involved parties or when it is deemed necessary, the Judges shall carry out on-site inspections/appraisals in the presence of representatives of People's Committees of communes or Police offices of communes/wards/townships or agencies/organizations where exist the objects which need to be inspected/appraised; the on-site inspections/appraisals must be notified in advance so that the involved parties know and witness such inspections/appraisals.
2. On-site inspections/appraisals must be recorded in minutes. The minutes must clearly state the inspection/appraisal results, clearly describe the sites, contain the signatures of the persons that conduct the inspections/appraisals and the signatures or fingerprints of the involved parties if they are present, of the representatives of the commune-level People's Committees or Police offices of communes/wards/townships or agencies/organizations where exist the to be-inspected/appraised objects and others that are invited to participate in the inspections/appraisals. After completing the minutes, the persons that conduct the inspections/appraisals must request the representatives of the commune-level People's Committees or Police offices of communes/wards/townships or agencies/organizations where exist the objects which need to be inspected/appraised to sign and seal for certification.
3. Any obstruction of the inspection/appraisal is forbidden.
4. If there is any obstruction of the on-site inspection/appraisal, the Judge may request the assistance of People's Committees of communes or Police offices of communes/wards/townships exist the objects subject to on-site inspection/appraisal.

#### **Article 102. Request for expertise**

1. Involved parties may petition Courts to request expertise or request expertise themselves if the involved parties' applications for referenda for expertise have been rejected by the Courts. The right to apply for expertise shall be exercised before the Courts issued decisions to bring the cases to trial according to first-instance procedures or decisions to hold the meetings for resolving civil matters.
2. At the request of involved parties of when it is deemed necessary, Judges shall decide to conduct referenda for expertise. In decisions to request an expertise, names and addresses of expert-witnesses, objects of expertise, expertise matters and requests that need conclusions of expert-witnesses must be specified.
3. If the expertising conclusions are considered unsatisfactory or contra to law provisions, then according to the petitions of involved parties or when it is deemed necessary, the Courts shall request the expert-witnesses to explain the expertising conclusions, summon the expert witnesses to Court sessions/meetings to directly present about necessary information.
4. At the request of involved parties or when it is deemed necessary, the Courts shall make decisions to conduct referenda for additional expertises if the expertising conclusions are not satisfactory or when new issues relating to details of the cases that have been given expertising conclusions formerly.
5. The re-expertise shall be conducted if there are grounds for presuming that the initial expertise conclusions are inexact and contrary to law or of special cases according to decisions of Chairpersons of the Supreme People's Procuracy and/or Chief Justices of the Supreme People's Court according to provisions of the Law on judicial expertise.

#### **Article 103. Requesting expertise of evidences denounced to be forgery**

1. Where evidences are denounced to be forgery, the suppliers of such evidences may withdraw them. If not, the denouncers may request the courts, or the Courts decide themselves, to solicit expertises as provided for in Article 102 of this Code.
2. Where the evidence forgery shows criminal signs, the Courts shall transfer the relevant materials and evidences to the competent criminal investigation bodies for consideration according to regulations in laws on criminal procedures.
3. The suppliers of evidences that are concluded to be forged evidences must compensate for damage if the forgery of such evidences causes damage to others and must pay the cost of expertise if the Court decides to request expertise.

#### **Article 104. Property evaluation and price appraisal**

1. Involved parties may provide the price of the properties that are being in dispute or reach agreement about the price of the properties that are being in dispute.
2. The parties may reach agreement on the selection of property appraisal organizations to conduct the evaluation of properties and provide the price evaluation results for the Courts.

Properly price appraisal shall be carried out under the law on property price appraisal.

3. Courts shall make decisions on property price assessment and set up Price Assessment Councils in the following cases:

a) At the request of involved parties;

b) Involved parties failed to reach agreement about selection of price assessment organizations or offered prices were different or agreement about prices has not been reached;

c) Parties reach agreements with each other or with price assessment councils the prices which are lower than the market prices of the area where the properties are located at the time of price assessment to evade fulfilling obligations to the State or the third parties or there are grounds proving that the price assessment organizations commit violations against law provisions when conducting price assessment.

4. Procedures for establishment of Price Assessment Council and procedures for price assessment:

a) Price Assessment Councils shall be established by Courts and shall consist of the representatives of financial agencies as the Chairpersons and representatives of relevant specialized agencies as members. Persons who have conducted procedures in such cases and persons specified in Article 52 of this Code must not be members of Price Assessment Councils.

Price Assessment Councils shall conduct assessment only when no members of the Councils are absent. When it is necessary, representatives of People's Committees of communes where the to be-assessed properties are located shall be invited to witness the assessment. Involved parties shall be priorly notified of time and place of price assessment, shall be entitled to attend and express opinions about the price assessment. Price Assessment Councils shall be entitled to make decisions on prices of the properties which are assessed;

b) Financial agencies and specialized agencies which are relevant shall be responsible for assigning persons to be members of Price Assessment Councils and enable them to fulfill tasks. Persons assigned to be members of Price Assessment Councils shall participate fully the

assessment. If financial agencies and/or specialized agencies fail to assign persons to be members of Price Assessment Councils, Courts shall request competent immediate management agencies to direct financial agencies and specialized agencies to fulfill their requests. If persons who are assigned to be members of Prices Assessment Councils are absent without plausible reasons, Courts shall request heads of agencies having assigned such persons shall consider responsibility and appoint replacements and notify the Courts so that the price assessment could be conducted;

c) Price assessment must be recorded into minutes where opinions of each present members and involved parties shall be specified. Decisions of Price Assessment Councils must be approved by more than half of their members. Members of Price Assessment Councils, involved parties and witnesses shall append signatures or fingerprints to the minutes.

5. The re-assessment of property prices shall be conducted when there are grounds for presuming that the results of the first assessment are inexact or unconfirmable with market prices of places where the properties are located at the time of processing civil lawsuits.

#### **Article 105. Entrusting the collection of evidences**

1. In the course of resolving civil cases, a Court may issue a decision to entrust another Court or a competent agency defined in Clause 4 of this Article to take the testimonies of involved parties, and/or witnesses, to conduct on-site appraisals or property evaluations or other measures to gather evidences and to verify details of the civil cases.

2. The entrustment decisions must clearly state the names and addresses of the plaintiffs and the defendants, the disputed relationship and specific entrusted jobs to collect of evidences.

3. The Court that receives the entrustment decision shall have the responsibility to perform the specific assignments within 1 month from the day on which the entrustment decision is received and shall notify in writing the results to the Court that has issued the entrustment decision. In cases where it cannot realize the specific assignments, it must send a written notification of such failure stating clearly the reasons therefor to the Court that has issued the entrustment decision.

4. If the collection of evidences must be carried out overseas, the Courts shall conduct the entrustment procedures through Vietnamese competent agencies or competent agencies of foreign countries that sign International treaty with the Socialist Republic of Vietnam.

5. If the Courts fail to conduct the entrustment as prescribed in clauses 3 and 4 of this Article or the Courts have conducted the entrustment but the results are not sent, the Courts shall lawsuit settlement pursuant to the evidences that have filed in the civil lawsuit dossier.

#### **Article 106. Requesting agencies, organizations and individuals to supply materials and evidences**

1. Involved parties may request agencies, organizations and individuals to supply materials and evidences. Any involved parties requesting agencies, organizations and individuals to supply materials and/or evidences shall make a written application clearly stating the to be-supplied materials/evidences; reasons for supply; full names and addresses of individuals, names and addresses of agencies/organizations that are managing or keeping the to be-supplied materials/evidences.

Agencies, organizations or individuals shall supply materials and evidences to involved parties within 15 days from the day on which the requests are received; otherwise, written responses containing explanation shall be made and sent to the requesters.

2. Where the involved parties that have applied necessary measures to gather evidences still fail to gather by themselves, they may request the Courts to issue decision requesting agencies, organizations or individuals keeping or managing the materials/evidences to supply those materials/evidences or request the Courts to collect materials/evidences in order to ensure the proper resolution of civil cases.

The involved parties that request the Courts to gather materials/evidences shall make written applications clearly stating the point(s) to be proved, the evidence to be gathered, the reasons why they cannot gather the evidences by themselves; full names and addresses of the individuals, agencies or organizations that are managing or keeping the evidences which need to be collected.

3. When there are requests of involved parties or when it is deemed necessary, the Courts shall issue decisions requesting agencies, organizations and individuals that are managing or keeping the materials/evidences to supply those materials/evidences to the Courts.

Agencies, organizations and individuals managing or keeping the materials/evidences have the responsibility to supply adequately materials and evidences at the request of the Courts within 15 days from the day on which the requests are received; after such time limit, if such agencies, organizations or individuals fail to supply adequately materials and evidences at the request of the Courts, they shall make written responses containing explanation. Any agencies, organizations or individuals failing to comply with the requests of the Courts without good and sufficient reasons shall be administratively sanctioned or shall face criminal prosecution as prescribed by law, depending on nature and severity of the violations. The administrative penalties or criminal prosecution as prescribed by law imposed on the agencies, organizations or individuals shall not mean the exemption from supply of materials/evidences to the Courts.

4. If the procuracies request the materials/evidences, the agencies, organizations and individuals shall comply with regulations in clause 3 of this Article.

#### **Article 107. Preserving materials and evidences**

1. If materials/evidences have been handed over at courts, the preservation of such materials/evidences shall rest with the courts.

2. If materials/evidences cannot be handed over at courts, the preservation of such materials/evidences shall rest with the materials/evidence keepers.

3. Where it is necessary to hand over materials/evidences to the third persons for preservation, Judges shall issue decisions and make minutes of the hand-over to those persons for preservation. The persons undertaking the preservation must sign the minutes, be entitled to remuneration and bear the responsibility for preserving such materials/evidences as prescribed by law.

4. Any destruction of materials/evidences shall be strictly forbidden.

#### **Article 108. Assessing evidences**

1. The assessment of evidences must be objective, comprehensive, adequate and accurate.

2. Courts must assess evidences one by one, the link between evidences and determine the lawfulness, the relevance and the proving capacity of every evidence.

#### **Article 109. Disclosing and using materials and evidences**

1. Any evidence shall be publicly and equally disclosed and used, except for cases specified in Clause 2 of this Article.

2. Courts shall not disclose material/evidence contents related to State secrets, fine customs and practices of the nation, professional secrets, business secrets, family secrets or secrets of individuals' private lives at the legitimate requests of the involved parties; however, Courts shall notify the involved parties of the materials/evidences that must not be disclosed.

3. Proceeding officers and procedure participants must keep secret, as provided for by law, materials and evidences specified in Clause 2 of this Article.

#### **Article 110. Protecting evidences**

1. Where evidences are being destroyed or are in danger of being destroyed or are hard to be gathered in the future, the involved parties may request the Courts to decide to apply necessary measures to preserve the evidences. The requests of the involved parties must be made in writing. The Courts may decide to apply one or several of the measures including sealing, keeping, photographing, audio-recording, video-recording, restoration, examination, minutes making and other measures.

2. Where witnesses are cheated, threatened, compelled or bought off for the purpose of not supplying evidences or supplying untruthful evidences, the Courts shall have the right to issue decisions to force the persons who have committed acts of cheating, threatening, compelling or buying off the witnesses to terminate their acts. Where the acts show criminal signs, the Courts shall request procuracies to examine the penal liability.

### **Chapter VIII**

#### **PROVISIONAL EMERGENCY MEASURES**

#### **Article 111. Right to petition the application of provisional emergency measures**

1. During the resolution of civil lawsuits, the involved parties or their lawful representatives or agencies, organizations or individuals instituting the cases defined in Article 187 of this Code may petition the Courts handling such cases to apply one or more provisional emergency measures provided for in Article 114 of this Code to provisionally deal with the urgent petitions of the involved parties, to protect lives, health, properties, gather and protect evidences, preserving their current conditions in order to avoid irrecoverable damage and to ensure the lawsuit settlement or judgment execution.

2. In urgent cases where it is necessary to immediately protect evidences or to prevent possible serious consequences, relevant agencies, organizations and individuals may petition the competent Courts to issue decisions to apply provisional emergency measures prescribed in Article 114 of this Code, simultaneously with the submission of applications to initiate the lawsuits to such courts.

3. The Courts shall issue decisions on their own to apply the provisional emergency measures only in the cases provided for in Article 135 of this Code.

## **Article 112. Competence to decide on the application, change or cancellation of provisional emergency measures**

1. Before the opening of a Court session, the application, change or cancellation of provisional emergency measures shall be considered and decided by a Judge.
2. In the Court sessions, the application, change, cancellation of provisional emergency measures shall be considered and decided by the trial panels.

## **Article 113. Responsibilities for improper application of provisional emergency measures**

1. The persons who petition the Courts to apply provisional emergency measures must be responsible before law for their petitions; Where the petitions for application of provisional emergency measures are made improperly thus causing damage to the persons against whom the provisional emergency measures are applied or to the third persons, compensation must be made.
2. If the Courts apply the provisional emergency measures improperly, thus causing damage to those subject to such measures or to the third persons, the Courts shall have to pay compensation therefor in the following cases:
  - a) The Courts have applied the provisional emergency measures on their own;
  - b) The Courts have applied other provisional emergency measures than those petitioned by agencies/organizations/individuals;
  - c) The Courts have applied the provisional emergency measures beyond the petitions of agencies, organizations and individuals;
  - d) The Courts have applied the provisional emergency measures unconformably with the time limit prescribed by law or the Courts fail to apply the provisional emergency measures without good and sufficient reasons.
3. The compensation specified in clause 2 of this Article shall comply with regulations in the Law on State compensation liability.

## **Article 114. Provisional emergency measures**

1. Sending minor persons, legally incapacitated persons, person with limited cognition or behavior control to individuals or organizations for looking after, nurturing, taking care of and educating.
2. Forcing the prior performance of part of the alimony obligation.
3. Forcing the prior performance of part of the obligation to compensate for damage to individuals whose lives and/or health have been infringed upon.
4. Forcing the employers to provide the employees with advance wages, health insurance, social insurance, treatment cost for occupational accidents or occupational diseases or compensations, allowances for occupational accidents or occupational diseases.
5. Suspending the execution of decisions on unilateral termination of labor contract or decisions on dismissal of employees.
6. Distraining the disputed properties.
7. Prohibiting the transfer of property right over the disputed properties.

8. Prohibiting the change of the current conditions of disputed properties.
9. Permitting the harvesting, sale of subsidiary food crops or other products, commodities.
10. Freezing accounts at banks or other credit institutions, State treasury; freezing properties at places of their deposit.
11. Freezing properties of the obligor.
12. Prohibiting involved parties from performing, or forcing them to perform certain acts.
13. Prohibiting the obligors from leaving Vietnam.
14. Prohibiting the contact with victims of family violence.
15. Suspending the bid closing and activities related to bidding.
16. Arresting aircrafts or ships to ensure the lawsuit settlement.
17. Other provisional emergency measures provided for by law.

**Article 115. Sending minor persons, legally incapacitated persons, person with limited cognition or behavior control to individuals or organizations for looking after, nurturing, taking care of and educating.**

The sending of minor persons, legally incapacitated persons, person with limited cognition or behavior control to individuals or organizations for looking after, nurturing, taking care of and educating shall be applied if the resolution of cases involves such persons who have no guardians.

The sending of minors who are from full 7 years old or elder shall be carried out after considering their expectation.

**Article 116. Forced prior-performance of part of the alimony obligation**

The forced prior-performance of part of the alimony obligation shall be applied if the resolution of cases is related to alimony petitions which are deemed well-grounded and the failure to immediately perform in advance part of the alimony obligation shall affect the health and/or life of the persons entitled to the alimony.

**Article 117. Forced prior-performance of part of the obligation to pay compensation for damage to health or life**

Forced prior-performance of part of the obligation to pay compensation for damage to health or life shall be applied if the case resolution is related to petitions for compensation for damage to health or life.

**Article 118. Forcing of the employers to provide the employees with advance wages, health insurance, social insurance, treatment cost for occupational accidents or occupational diseases or compensations, allowances for occupational accidents or occupational diseases**

Forcing the employers to provide the employees with advance wages, health insurance, social insurance, treatment cost for occupational accidents or occupational diseases or compensations, allowances for occupational accidents or occupational diseases shall be applied to protect the lawful rights and obligations of employees pertaining to wages, insurance, compensation, allowances, healthcare services as prescribed by law.

**Article 119. Suspending the execution of decisions on unilateral termination of labor contract or decisions on dismissal of employees**

The suspension of the execution of decisions on unilateral termination of labor contract or decisions on dismissal of employees shall be applied if the lawsuit settlement related to the unilateral termination of labor contract, dismissal of employees is of cases the employers are not allowed to execute the right to unilaterally terminate the labor contract or dismiss the employees as prescribed by the legislation on labor.

**Article 120. Distraining disputed properties**

1. The distraint of disputed properties shall be applied if in the course of settling cases there are grounds showing that the keepers of the disputed properties are committing acts of dispersing or destroying the properties.

2. The distrained properties may be kept and preserved at the offices of the judgment-executing bodies or assigned in minutes to one involved party or the third person for management until a decision of the Court is issued.

**Article 121. Prohibiting the transfer of property right over disputed properties.**

The prohibition of transfer of property right over disputed properties shall be applied if in the course of settling cases there are grounds showing that the persons possessing or keeping the disputed properties are committing acts of transferring the property right over the disputed properties to other persons.

**Article 122. Prohibiting the change of existing conditions of disputed properties**

The prohibition to change the existing conditions of disputed properties shall apply if in the process of settling cases there are grounds showing that the persons possessing or keeping the disputed properties are committing acts of disassembly, assembly, expansion or other acts, thus changing the existing conditions of such properties.

**Article 123. Permitting to harvest and sell subsidiary food crops or other products or commodities**

The permission to harvest and sell subsidiary food crops or other products and commodities shall be applied if in the course of settling cases, disputed properties are related to subsidiary food crops or other products, commodities, which are in the period of harvesting or cannot be preserved for a long time.

**Article 124. Freezing accounts at banks, other credit institutions, State Treasury**

Freezing accounts at banks, other credit institutions, State Treasury shall be applied if in the course of settling cases there are grounds showing that the obligors have accounts at banks, other credit institutions or State Treasury and the application of this measure is necessary to ensure the settlement of the cases or to ensure the judgment enforcement.

**Article 125. Freezing properties at depositories**

Freezing properties at depositories shall be applied if in the course of settling cases there are grounds showing that the obligors have their properties deposited and the application of this measure is necessary to ensure the settlement of the cases or to ensure the judgment enforcement.

**Article 126. Freezing the obligors' properties**

Freezing the obligors' properties shall be applied if in the course of settling cases there are grounds showing that the obligors have such properties and the application of this measure is necessary to ensure the settlement of the cases or to ensure the judgment enforcement.

**Article 127. Prohibiting or forcing the performance of certain acts**

Prohibiting or forcing the performance of certain acts shall be applied if in the course of settling cases there are grounds showing that the non-performance or performance of certain acts by involved parties or agencies, organizations and/or individuals affects the case resolution or the legitimate rights and interests of others that are involved in the cases being resolved by courts.

**Article 128. Prohibiting the obligors from leaving Vietnam**

Prohibiting the obligors from leaving Vietnam shall be applied if there are grounds showing that the lawsuit settlement is related to their obligations towards the State or other agencies, organizations and/or individuals and their leaving from Vietnam affects the case resolution, the interests of the State, legitimate rights and interests of other agencies, organizations and individuals or to ensure the judgment enforcement.

**Article 129. Prohibiting the contact with victims of family violence**

Prohibiting the contact with victims of family violence shall be applied if it is necessary for protecting lives, health and honor of the victims of family violence as prescribed in the Law on family violence prevention and control.

**Article 130. Suspending the bid closing and activities related to bidding**

The suspension of bid closing, approval for shortlists and/or results of selection of contractors and investors, contract conclusion or contract execution shall be applied if the course of case resolution shows that the application of such measures is necessary for ensuring the case resolution conformable to the law provisions.

**Article 131. Arresting aircrafts or seagoing ships to ensure the case resolution**

1. Courts shall make decisions on application of provisional emergency measures to ensure the resolution of civil lawsuits against which lawsuits were initiated by owners of aircrafts or a creditor, if the aircraft is an asset to secure a debt, or persons who are damaged by flying aircrafts or persons with relevant rights and interests towards aircrafts according to law regulations on Vietnamese civil aviation.

2. Courts shall make decisions on the application of provisional emergency measures to arrest ships in the following cases:

a) Persons who initiate lawsuits against civil lawsuits apply for arrest of seagoing ships to ensure the settlement of their marine complaints;

b) Owners of ships are persons who have obligation about properties in the cases being in settle and are still ships' owners at the time of application of provisional emergency measures to arrest ships;

c) Demise charterers, time charterers, voyage charterers or ship operators are person having obligations about properties in civil lawsuits arising from marine complaints prescribed in Vietnam Marine Code and are still demise charterers, time charterers, voyage charterers or ship

operators or ship owners at the time of application of provisional emergency measures to arrest seagoing ships;

d) Disputes are being settled in the cases arising on the basis of the mortgage of such seagoing ships;

dd) Disputes are being settled in cases related to the ownership or the right of possession of such seagoing ships.

3. Procedures for arresting aircrafts or seagoing ships shall comply with law regulations on arrest of aircrafts/seagoing ships.

### **Article 132. Other provisional emergency measures**

Apart from provisional emergency measures specified in clause 1 to clause 16 Article 114 of this Code, the Courts shall resolve the petitions for application of other provisional emergency measures prescribed in other laws.

### **Article 133. Procedures for application of provisional emergency measures**

1. Any person who petitions the Court to apply a provisional emergency measure must make an application and send it to a competent court. Such application must contain the following principal details:

a) Date of the application;

b) Name, address; phone number, fax, e-mail address (if any) of the petitioner for the application of provisional emergency measures;

c) Name, address; phone number, fax, e-mail address (if any) of the persons subject to the application of provisional emergency measures;

d) Summarized contents of the dispute or act of infringing upon the legitimate rights and interests of his/her own;

dd) Reasons for the application of the provisional emergency measures;

e) Provisional emergency measures to be applied and specific requirements.

Depending on the requests for application of provisional emergency measures, the petitioners must provide the Courts with evidences to prove the necessity to apply such provisional emergency measures.

2. The petition for application of provisional emergency measures in cases specified in clause 1 Article 11 of this Code shall be resolved as follows:

a) If the Court receives the application before the court session is opened, the Judge assigned to resolve the case shall consider resolving. Within 03 working days from the day on which the applications are received, if the petitioners do not have to apply security measures or immediately after such persons apply the security measures prescribed in Article 136 of this Code, the Judges must issue decisions to apply the provisional emergency measures; if the applications are rejected, the Judges shall send the petitioners written notification containing explanation;

b) If the trial panels receive the applications at the Court sessions, the trial panels shall consider, discuss and resolve the petitions at the courtrooms. If the application is accepted, the trial panels

shall issue the decisions to apply the provisional emergency measures immediately or when the petitioners have applied the security measures prescribed in Article 136 of this Code. The security measures shall be applied since the trial panel has issued the decisions to force the application of security measures but the petitioner must present evidences about the completion of application of security measures before the trial panel members get in the deliberation room; if the petition for application of provisional emergency measures is rejected, the trial panel shall immediately announce the refusal and recorded it to the Court minute.

3. Regarding petitions for application of provisional emergency measures specified in clause 2 Article 111 of this Code, when the written petitions enclosed with petitions and evidences have been received, Chief Justices of the Courts shall immediately assign Judges to solve the petitions. Within 48 hours since a petition is received, the Judge shall consider and make decision to apply provisional emergency measures; if the petition is rejected, the Judge shall issue a written notification containing explanation for the petitioner.

4. For cases where provisional emergency measures specified in clauses 10 and 11 Article 144 of this Code are applied, only accounts, properties valuing equivalent to financial obligations that the persons liable to provisional emergency measures are obliged to fulfill shall be blockaded.

**Article 134. Recommendation for application of provisional emergency measures of agencies, organizations and individuals initiating lawsuits to protect public interests, State interests and lawful rights and interests of other people**

Agencies, organizations and individuals initiating lawsuits specified in Article 187 of this Code shall recommend the Courts to apply provisional emergency measures; such recommendation shall contain the reasons; provisional emergency measures which should be applied; names and addresses of persons lawful rights and interests which need to be protected; names and addresses of persons on whom provisional emergency measures should be applied; summaries of disputes, infringement upon lawful rights and interests of involved parties and evidences proving that their recommendations are grounded and lawful.

**Article 135. Courts make decisions on application of provisional emergency measures by themselves**

Courts shall make decisions on application of provisional emergency measures specified in clauses 1, 2, 3, 4 and 5 Article 114 of this Code by themselves in cases where the involved parties do not petition the application of provisional emergency measures.

**Article 136. Forcible application of security measures**

1. The persons who petition the Courts to apply one of the provisional emergency measures prescribed in Clauses 6, 7, 8, 10, 11, 15 and 16 Article 114 of this Code must submit to the Courts guarantee invoices deposit a money sum, precious metals, precious stones or valuable papers as determined by the courts, which must be equivalent to the property obligation to be performed by the obligor in order to protect the interests of the persons against whom the provisional emergency measures are applied and to prevent the abuse of right to petition the application of the provisional emergency measures by petitioners.

For cases prescribed in Clause 2, Article 111 of this Code, the time-limit for application of security measures provided for in this clause must not exceed 48 hours since the application are submitted.

2. Sums of money, precious metals, gemstones or valuable papers must be put into escrow account at banks of where the offices of the Courts making decisions to apply provisional emergency measures are located within the time defined by the Courts.

If the security measures are conducted on holidays or on days-off, the sums of money subject to security measures shall be retained at the Courts. The Courts shall conduct submitting and receiving procedures and shall immediately send such amount to the banks on the next working days.

#### **Article 137. Changing, additionally applying provisional emergency measures**

When the provisional emergency measures being applied are deemed no longer suitable and need to be changed or other provisional emergency measures should be additionally applied, the procedures for changing the provisional emergency measures or additionally applying other provisional emergency measures shall comply with the provision in Article 133 in this Code.

#### **Article 138. Cancellation of the application of provisional emergency measures**

1. The Courts shall immediately issue decisions to cancel the applied provisional emergency measures in one of the following cases:

- a) It is so petitioned by the persons who have petitioned the application of provisional emergency measures;
- b) The persons who are obliged to execute the decisions on application of provisional emergency measures shall deposit property as security or other persons apply measures to secure the performance of the obligations toward the petitioners;
- c) Civil obligations of the obligor terminate as provided for in the Civil Code;
- d) The resolution of the cases is terminated according to regulations in this Code;
- dd) The decisions on application of provisional emergency measures are unconfirmable to the provisions of this Code;
- e) The grounds for application of the provisional emergency measures are no longer existed;
- g) The cases have been resolved with judgments/decisions of the Courts that have been effective;
- h) The Courts have returned the lawsuit petitions as prescribed in this Code.

2. In case of canceling the application of provisional emergency measures, the Courts must consider and permit the persons who have petitioned the application of provisional emergency measures to receive back the security invoices which are secured with assets of banks or other credit organizations security money sums, precious metals, precious stones or valuable papers prescribed in Article 136 of this Code, except for the cases specified in Clause 1, Article 113 of this Code.

3. Procedures for issuance of decisions on cancellation of application of provisional emergency measures shall comply with regulations in Article 133 of this Code. If there are effective judgments/decisions of the Courts, the resolution of petitions for cancellation of decisions on application of provisional emergency measures shall be resolved by a Judge assigned by the Chief Justice of the Courts having issued the decisions on application of provisional emergency measures.

**Article 139. Effect of decisions on application, change or cancellation of provisional emergency measures**

1. Decisions on application, change, or cancellation of provisional emergency measures shall take immediate implementation effect.
2. The Courts must issue or send decisions on application, change or cancellation of provisional emergency measures to the petitioners, the persons subject to the application thereof, and relevant agencies, organizations and individuals and competent civil judgment-executing bodies and procuracies of the same level immediately after the issuance of such decisions.

**Article 140. Complaint, recommendations about decisions on application, change or cancellation or non-application, non-change, non-cancellation of provisional emergency measures**

The involved parties shall have the right to complain, and the procuracies shall have the right to submit recommendations to the Chief Justices of Courts which are settling cases about decisions on application, change or cancellation of provisional emergency measures, or about the non-issuance of such decisions by Judges. The time limit for lodging a complaint or recommendation is 03 working days from the day on which the decisions on application, change or cancellation of provisional emergency measures or the replies of Judges about the non-issuance of decisions on application, change or cancellation of provisional emergency measures are received.

**Article 141. Complaint, recommendations about decisions on application, change or cancellation or non-application, non-change, non-cancellation of provisional emergency measures**

1. The Chief Justices of Courts must consider and settle complaints and recommendations prescribed in Article 140 of this Code within 03 working days from the day on which the complaints or recommendations are received.
2. The Chief Justices' decisions on settlement of complaints, recommendations shall be the final ones and must be issued or sent immediately according to the provisions of Clause 2, Article 139 of this Code.
3. In Court sessions, the settlement of complaints or recommendations falls within the jurisdiction of the trial panels. The trial panels' decisions on settlement of complaints or recommendations shall be the final ones.

**Article 142. Execution of decisions on application, change or cancellation of provisional emergency measures**

1. The decisions on application, change or cancellation of provisional emergency measures shall be executed in accordance with law regulations on civil judgment execution.
2. If the decisions on application of provisional emergency measures involve properties with registration of right to ownership and/or right to enjoyment, the involved parties are obliged to submit copies of the decisions to the agencies managing the registration of right to ownership and/or right to enjoyment.

**Chapter IX**

**COURT FEES, CHARGES AND OTHER PROCEDURAL EXPENSES**

## **Section 1. Court FEES AND CHARGES**

### **Article 143. Court fee advance, charge advance; Court fees and charges**

1. Court fee advances shall include first-instance Court fee advances and appellate Court fee advances.
2. Court fees shall include first-instance Court fees and appellate Court fees.
3. Charge advances for civil matter resolution shall include first-instance charge advances and appellate charge advances.
4. Charges shall include charges for providing copies of judgments, decisions or other documents of courts, charges for submitting applications requesting Courts to settle civil matters, charges for settlement of civil matters and other charges stipulated by law.

### **Article 144. Handling of collected Court fee advance, charge advance, Court fees and charges**

1. All collected Court fees and charges must be fully and timely remitted into the State budget at the State Treasury.
2. Court fee advance and charge advance shall be submitted to the competent judgment-executing agencies for deposit in custody accounts opened at the State Treasury, and shall be withdrawn for judgment execution under Court decisions.
3. If the persons who have advanced Court fees or charges must bear such fees and/or charges, immediately after the Court judgments or decisions come into effect, the collected advance amounts must be remitted into the State budget.

In cases where the persons who have advanced Court fees and/or charges are entitled to partial or full reimbursement of the amounts they have paid under Court judgments or decisions, the judgment-executing agencies which have collected the Court fee advances or charge advances must carry out procedures to return the money to them.

4. In cases where the resolution of the civil cases is suspended, the already advanced Court fees and/or advanced charges shall be disposed when the resolution of the civil cases resumes.

### **Article 145. Regime of collection and expenditure of Court fee advances, charge advances, Court fees and charges**

The collection of Court fee advances and Court fees, charge advances and Court charges; and the payment of Court fee advances, charge advances must comply with law provisions.

### **Article 146. Obligation to advance Court fees and advance charges**

1. The plaintiffs, the defendants who have made counter-claims against the plaintiffs and the persons with related rights and interests who have made independent claims in civil lawsuits must advance first-instance Court fees; the persons who have made appeals must advance appellate Court fees, except for cases where they are exempted from, or do not have to pay Court fee advances.
2. Persons who have submitted applications petitioning Courts to settle civil matters must advance charges for the resolution of such civil matters, except for cases where they are exempt from, or do not have to pay the charge advances.

Regarding persons applying for recognition of voluntary divorces and agreements on child custody and property division upon divorce, husbands and wives may agree about the payment of charge advances, except for cases where they are exempt from, or do not have to pay the charge advances according to law provisions. If spouses fail to agree the payment of charge advance, each of them shall pay a half of the charge advance.

#### **Article 147. Obligation to bear first-instance Court fees**

1. The involved parties must bear the first-instance Court fees if their petitions are not accepted by courts, except for cases where they are exempted from, or do not have to pay such fees.
2. In cases where the involved parties cannot themselves determine their portions in the common properties and petition the Courts to settle the division of the common properties, each party must bear the first-instance Court fee corresponding to the value of the property portion she/he enjoys.
3. Prior to the opening of Court sessions, the Courts shall conduct mediations; if the involved parties have reached mutual agreement on the resolution of cases, they must bear 50% of the first-instance Court fee level prescribed in Clauses 1 and 2 of this Article.
4. The plaintiffs in divorce cases must pay first-instance Court fees, without depending on whether the Courts accept their petitions or not. In cases where both parties voluntarily agree on their divorce, each involved party must bear half of the first-instance Court fees.
5. If an involved party to a case is exempted from the first-instance Court fee, then the other involved party shall still have to pay the first-instance Court fee payable under Clauses 1, 2, 3 and 4 of this Article.
6. Where the case is suspended, the obligation to pay first-instance Court fee shall be decided when the resolution of the case resumes in accordance with the provisions in this Article.

#### **Article 148. Obligation to bear first-instance Court fees**

1. The appellant must pay the appellate Court fees, if the appealed first-instance judgments or decision are upheld by the Courts of appeal, except for cases where the appellants are exempted from, or do not have to pay such fees.
2. The appellants shall not pay the appellate Court fees, if the appealed first-instance judgments or decisions are amended by the Courts of appeal. The Courts of appeal must re-determine the obligation to bear first-instance Court fees as provided for in Article 147 of this Code.
3. Where the Courts of appeal abrogate the appealed first-instance judgments/decisions for re-trial under first-instance procedure, the appellants shall not be obliged to bear the appellate Court fees. The obligation to bear Court fees shall be re-determined when the cases are retried under first-instance procedure.

#### **Article 149. Obligation to bear charges**

1. The obligation to bear charges shall be determined depending on specific types of civil matters and shall be specified in law.
2. Regarding persons applying for recognition of voluntary divorces and agreements on child custody and property division upon divorces, husbands and wives may agree about the payment

of charges, except for cases where they are exempt from, or do not have to pay the charges according to law provisions.

If spouses fail to agree the payment of charge, each of them shall pay a half of the charge.

### **Article 150. Specific regulations on Court fees and charges**

Pursuant to the provisions of the Law on fees and charges and provisions of this Code, the Standing committee of the National Assembly of the Socialist Republic of Vietnam shall issue specific regulations on Court fees and charges; rates of Court fees and charges for specific matters/cases; cases eligible for exemption or reduction from Court fees and charges, cases not subject to paying Court fees and charges; regulations on collection, payment, management and use of Court fees and charges.

## **Section 2. OTHER PROCEDURAL EXPENSES**

### **Article 151. Overseas request for judicial assistance expense advance, overseas request for judicial assistance expense**

1. Overseas request for judicial assistance means a sum of money temporarily calculated by the Court to be pay for request for judicial assistance upon the collection and supply of evidences or delivery of papers, documents and materials and the summoning of witnesses or expert witnesses and requests for judicial assistance related to the settlement of a civil case.
2. Overseas request for judicial assistance expense means the necessary and reasonable sum of money to be paid for the performance of request for judicial assistance according to law provisions of Vietnam and the country requested for request for judicial assistance.

### **Article 152. Obligation to pay overseas request for judicial assistance expense advance**

1. Plaintiffs or appellants according to appellate procedures or other involved parties in civil lawsuits must pay the overseas request for judicial assistance expense advance if their requests results in the overseas request for judicial assistance.
2. Petitioners for settlement of civil matters or appellants according to appellate procedures or other involved parties in civil matters must pay the overseas request for judicial assistance expense advance if their requests results in the overseas request for judicial assistance.

### **Article 153. Obligation to bear overseas request for judicial assistance expense**

Unless otherwise agreed by involved parties or provided for by laws, the obligation to bear the overseas request for judicial assistance expense shall be determined as follows:

1. Involved parties must bear the overseas request for judicial assistance expense if their requests for settlement of cases are rejected by the Courts;
2. In case where the Court is requested to divide a common property, each person who has received a share from such property must bear the overseas request for judicial assistance expense amount proportionate to the value of the property share he/she has received;
3. In divorce cases, plaintiffs must pay the overseas request for judicial assistance expense, regardless of whether the Courts accept their requests or not. In cases where both parties voluntarily agree on their divorce, each involved party must bear half of the overseas request for judicial assistance expense;

4. If the settlement of the cases is suspended as prescribed in point c clause 1 Article 217, point b clause 1 Article 299 of this Code, the plaintiffs must bear the overseas request for judicial assistance expense.

If the settlement of the cases is suspended as prescribed in point b clause 1 Article 289, clause 3 Article 296 of this Code, the appellants according to appellate procedures must bear the overseas request for judicial assistance expense;

5. For other cases where the settlement is suspended according to regulations of this Code, persons who request for overseas request for judicial assistance must bear the overseas request for judicial assistance expense.

#### **Article 154. Handling of overseas request for judicial assistance expense advance**

1. If the person who has paid the request for judicial assistance advance is not liable for the request for judicial assistance expense, the person who has to bear such expense under the decision of the Court shall refund such advance to the former.

2. In cases where the person who has paid the request for judicial assistance expense advance is liable for the request for judicial assistance expense and the advance that has been paid is smaller than the actual request for judicial assistance expense, such person must pay the deficit; if the paid advance is bigger than the actual request for judicial assistance expense, such person shall receive the surplus according to the court's decision.

#### **Article 155. On-site inspection/appraisal expense advance, on-site inspection/appraisal expense**

1. On-site inspection/appraisal expense advance means a sum of money that is estimated by the Court to be paid for the on-site inspection/appraisal.

2. On-site inspection/appraisal expense means a necessary and reasonable sum of money to be paid for the on-site inspection/appraisal pursuant to law provisions.

#### **Article 156. Obligation to pay on-site inspection/appraisal expense advance**

1. Persons who request the Courts to conduct on-site inspection/appraisal must pay the on-site inspection/appraisal expense advance at the request of the Court.

2. In cases where the Courts deem it is necessary and decide to conduct on-site inspection/appraisal, the plaintiffs, the persons requesting for settlement of civil matters and the appellants according to appellate procedures must pay the on-site inspection/appraisal advance.

#### **Article 157. Obligation to bear on-site inspection/appraisal expense**

Unless otherwise agreed by involved parties or provided for by laws, the obligation to bear the on-site inspection/appraisal expense shall be determined as follows:

1. Involved parties must bear the on-site inspection/appraisal expense if their requests are rejected by the Courts;

2. In cases where the Court is requested to divide a common property, each person who has received a share from such property must bear the on-site inspection/appraisal expense amount proportionate to the value of the property share he/she has received;

3. In divorce cases, plaintiffs must pay the on-site inspection/appraisal expense, regardless of whether the Courts accept their requests or not. In cases where both parties voluntarily agree on their divorce, each involved party must bear half of the on-site inspection/appraisal expense;

4. If the settlement of the cases is suspended as prescribed in point c clause 1 Article 217, point b clause 1 Article 299 of this Code, the plaintiffs must bear the on-site inspection/appraisal expense.

If the settlement of the cases is suspended as prescribed in point b clause 1 Article 289, clause 3 Article 296 of this Code, the appellants according to appellate procedures must bear the on-site inspection/appraisal expense;

5. For other cases where the settlement is suspended according to regulations of this Code, persons who request for the inspection/appraisal must bear the on-site inspection/appraisal expense.

#### **Article 158. Handling of on-site inspection/appraisal expense advances**

1. If the person who has paid the on-site inspection/appraisal advance is not liable for the on-site inspection/appraisal expense, the person who has to bear such expense under the decision of the Court shall refund such advance to the former.

2. In cases where the person who has paid the request for judicial assistance advance is liable for the request for judicial assistance expense and the advance that has been paid is smaller than the actual on-site inspection/appraisal expense, such person must pay the deficit; if the paid advance is bigger than the actual on-site inspection/appraisal expense, such person shall receive the surplus according to the court's decision.

#### **Article 159. Expertise expense advance, expertise expense**

1. Expertise expense advance means a sum of money estimated by the expert-witness to be paid for the expertise under the Court's decision or at the request of the involved parties.

2. Expertise expense means a necessary and reasonable sum of money to be paid for the expertise that is calculated by the expert-witness pursuant to law provisions.

#### **Article 160. Obligation to pay expertising expense advances**

In cases where the parties do not otherwise agree or the law does not otherwise prescribe, the obligation to pay expertising expense advances shall be determined as follows:

1. Persons requesting the Courts to request expertise must pay the expertising expense advances.

If the involved parties requesting the Courts to request expertise on the same objects, each involved party must pay a half of the expertising expense advances;

2. If the Courts deem that it is necessary to request expertise and decide to request expertise, the involved parties, the requesters for civil matter resolution, the appellants under appellate trial procedure must pay the expertising expense advances;

3. If involved parties, requesters for civil matter resolution, appellants whose applications for expertise request are rejected by the Courts request other organizations/individuals to conduct expertises, the expertising expense advances shall be paid according to provisions of the Law on judicial expertise.

#### **Article 161. Obligation to bear expertising expenses**

In cases where the parties do not otherwise agree or the law does not otherwise prescribe, the obligation to bear expertising expenses shall be determined as follows:

1. The persons who request for expertising request must bear the expertising expenses if the expertising results prove that their requests are groundless. If the expertising results prove that their requests are partially grounded, they must pay the expertising expenses for the requested parts that are proved groundless;
2. The persons who do not accept the expertising requests of other involved parties to the cases must pay the expertising expenses if the expertising results prove that the expertising requests are well grounded. If the expertising results prove that the requests are partially grounded, the persons who do not accept the expertising requests must bear the expertising expenses for the requested parts that are proved well-grounded;
3. For termination of case resolution specified in point c clause 1 Article 217 and point b clause 1 Article 299 of this Code, the plaintiffs must bear the expertising expenses.

For cases where the appellate trial is terminated as prescribed in point b clause 1 Article 289 and clause 3 Article 296 of this Code, the appellants under appellate procedure must bear the expertising expenses;

4. If a person himself/herself requests for expertises as prescribed in clause 3 Article 160 of this Code and the expertising results prove that his/her expertising request is well-grounded, the losing party must bear the expertising expenses. If the expertising results prove that their expertising requests are partially grounded, they must pay the expertising expenses for their requested parts that are proved groundless;
5. For other cases where case resolution is terminated as prescribed in this Code, those who request for expertise must bear the expertising expenses.

#### **Article 162. Handling of paid expertising expense advances**

1. In cases where the persons who have advanced expertising expenses do not have to pay the expertising expenses, the persons who must pay the expertising expenses under Court decisions must refund the money to the persons who have paid them.
2. In cases where the persons who have paid the expertising expense advances are obliged to pay the expertising expenses, but the paid advance money is not enough to cover the actual expertising expenses, such persons must pay the deficit amount. If the advanced amounts exceed the actual expertising expenses, the surplus shall be refunded to the persons who have advanced the money.

#### **Article 163. Property valuation expense advances, property valuation expenses**

1. The property valuation expense advance means a sum of money estimated by the Evaluation Boards for valuation conducted under a Court decision.
2. Valuation expenses are the reasonable and necessary sums of money to be paid for the valuation and calculated by the Valuation Boards on the basis of law provisions.

#### **Article 164. Obligation to advance property valuation expenses**

In cases where the involved parties do not otherwise agree or the law does not otherwise prescribe, the obligation to pay property valuation expenses shall be determined as follows:

1. The persons requesting for property valuation must pay the property valuation expense advances;
2. In cases where the involved parties could not agree on the prices and request the Courts to conduct the property valuation, each party must pay half of the property valuation expense advances. If there are multiple involved parties, all parties must pay the property valuation expense advances at rates decided by the Courts;
3. For cases specified in clause 3 Article 104 of this Code, the plaintiffs/appellants must pay the property valuation expense advances.

#### **Article 165. Obligation to bear property valuation/price appraisal expenses**

In cases where the parties do not otherwise agree or the law does not otherwise prescribe, the obligation to bear property valuation/price appraisal expenses shall be determined as follows:

1. Involved parties must bear the property valuation expenses if their requests are not accepted by the Courts;
2. In case where the Court is requested to divide a common property, each person who has received a share from such property must bear the property valuation expense amount proportionate to the value of the property share he/she has received;
3. In cases where the Courts issue decisions on property valuation prescribed in point c clause 3 Article 104 of this Code, the obligation to bear the property valuation expenses shall be determined as follows:
  - a) Involved parties must bear the property valuation expenses prescribed in clause 1 of this Article if the valuation results prove that the property valuation decisions of the Courts are well-grounded;
  - b) The Courts shall pay the property valuation expenses if the valuation results prove that the property valuation decisions of the Courts are groundless.
4. For termination of case resolution specified in point c clause 1 Article 217 and point b clause 1 Article 299 of this Code, if the Evaluation Boards have conducted the valuation, the plaintiffs must bear the property valuation expenses.

For cases where the appellate trial is terminated as prescribed in point b clause 1 Article 289 and clause 3 Article 296 of this Code, if the Evaluation Boards have conducted the valuation, the appellants under appellate procedure must bear the property valuation expenses;

5. For other termination of case resolution as prescribed in this Code, if the Evaluation Boards have conducted the valuation, the requesters for property valuation must bear the property valuation expenses;
6. The obligation to bear the property valuation expenses of involved parties shall be in accordance with the obligation to bear the property valuation expenses specified in clauses 1, 2, 4 and 5 of this Article.

#### **Article 166. Handling of valuation expense advances**

1. In cases where the persons who have advanced property valuation expenses do not have to pay the valuation expenses, the persons who must pay the valuation expenses under Court decisions must refund the money to the persons who have paid them.

2. In cases where the persons who have advanced the property valuation expenses are obliged to pay them, but the advanced amounts are not enough to cover the actual valuation expenses, such persons must pay the deficits. If the advanced sums exceed the actual valuation expenses, the surpluses shall be refunded to the persons who have advanced the money.

#### **Article 167. Expenses for witnesses**

1. Reasonable and actual expenses for witnesses shall be borne by the involved parties.
2. The persons who request the Courts to summon witnesses must bear the expenses for such witnesses, if the testimonies of the witnesses are true but not right for the demands of the person requesting to summon such witnesses. If the testimonies are true and right for the demands of the persons requesting to summon such witnesses, the expenses must be borne by the party making requests independent from the former's requests.

#### **Article 168. Expenses for interpreters and lawyers**

1. Expenses for interpreters mean sum of money payable to interpreters in the course of settling civil cases as agreed upon by the involved parties and the interpreters or stipulated by law.
2. Expenses for lawyers mean sums of money payable to lawyers as agreed upon by the involved parties and the lawyers within the prescribed scope of the law-practicing organization and according to law provisions.
3. Expenses for interpreters or lawyers shall be borne by the persons requesting such interpreters or lawyers, except otherwise agreed upon by the parties.
4. Where the Courts request interpreters, the expenses for the interpreters shall be paid by the courts.

#### **Article 169. Specific regulations on procedural expenses**

Pursuant to regulations in this Code, the Standing committee of the National Assembly of the Socialist Republic of Vietnam shall issue specific regulations on expense of overseas request for judicial assistance, costs of on-site inspection and appraisal, costs of expertise and price appraisal of properties; cost of payment for witnesses and interpreters; other procedural costs prescribed in other laws and the exemption and decrease of procedural costs during the case settlement.

### **Chapter X**

#### **ISSUANCE, SENDING AND NOTIFICATION OF PROCEDURAL DOCUMENTS**

#### **Article 170. Obligation to issue, send or notify procedural documents**

The courts, the procuracies and the judgment-executing bodies shall issue, send or notify procedural documents to the involved parties, other participants in procedures and relevant agencies, organizations and individuals according to the provisions of this Code and relevant law provisions.

#### **Article 171. Procedural documents to be issued, sent or notified**

1. Announcements, written notices, summons, invitations in civil procedures.
2. Judgments and decisions of courts.
3. Appellate decisions of procuracies; documents of civil judgment-executing bodies.

4. Other procedural documents prescribed by law.

#### **Article 172. Persons effecting the issuance, sending or notification of procedural documents**

The issuance, sending or notification of procedural documents shall be carried out by the following persons:

1. Civil proceeding officers or people of the procedure document-promulgating agencies who are tasked to issue, send or notify procedural documents;
2. The commune-level People's Committees of the localities where the civil procedure participants reside or the agencies or organizations where the civil procedure participants work when so requested by courts;
3. The involved parties, their representatives or the defense counsels of the involved parties' legitimate rights and interests in the cases prescribed by this Code;
4. Postal service organization officers;
5. Persons with sending function;
6. Other persons defined by law.

#### **Article 173. Modes of issuing, sending or notifying procedural documents**

The issuance, sending or notification of procedural documents may be effected by the following modes:

1. Issuance, sending or notification effected directly or by post office or by the third persons who are authorized to effect the issuance, sending or notification;
2. Issuance, sending or notification effected by electronic means at the request of the involved parties or other participants in accordance with law regulations on electronic transaction;
3. Public posting;
4. Announcement on the mass media;
5. Issuance, sending or notification effected by other modes prescribed in Chapter XXXVIII of this Code.

#### **Article 174. Validity of the issuance, sending or notification of procedural documents**

1. The issuance, sending or notification of procedural documents, which is carried out in accordance with this Code, shall be considered valid.
2. The persons who are obliged to effect the issuance, sending or notification of procedural documents must comply with the provisions of this Code.

The persons who are obliged to execute procedural documents that are conformably issued, sent or notified must strictly execute such documents.

#### **Article 175. Procedures for issuance, sending or notification of procedural documents**

1. The persons effecting the issuance, sending or notification of procedural documents must directly hand the relevant procedural documents to the persons to whom such documents are issued, sent or notified. The latter must sign in the minutes or books recording the delivery and

receipt of procedural documents. The time for calculating the procedural time limit is the date when they are issued or sent with, or notified of, the procedural documents.

2. Procedural documents that are issued, sent or notified by post office must be registered mails that are certified by the receivers.

Certified documents must be returned to the Courts.

Time limit for conducting civil procedures shall be calculated from the day on which the receivers certify that they have received the procedural documents from the post office.

#### **Article 176. Procedures for issuance, sending or notification of procedural documents by electronic means**

The issuance, sending and notification of procedural documents by electronic means shall be conformable to law on electronic transaction.

The Supreme People's Court shall provide guidance on the implementation of this Article.

#### **Article 177. Procedures for direct issuance, sending or notification to individuals**

1. Procedural documents that are issued, sent or notified to addresses that the involved parties provided for the Courts in modes requested by the involved parties or to the addresses agreed and requested by the involved parties.

2. If the persons to whom procedural documents are issued, sent or notified are individuals, the procedural documents must be delivered directly to them. Involved parties must sign the minutes of receipt as prescribed in clause 1 Article 175 of this Code.

3. If the persons to whom the procedural documents are issued, sent or notified have moved to new residences and have notified the Courts of the change of residences, such procedural documents must be sent to their new residences. Involved parties must append signatures or fingerprints on the minutes of receipt as prescribed in clause 1 Article 175 of this Code. If such involved parties failed to notify the Courts of the change of residences and the new addresses, the Courts shall comply with provisions of Articles 179 and 180 of this Code.

4. Where the persons to whom the procedural documents are issued, sent or notified refuse to receive such documents, the issuers, senders or notifiers must make records thereon clearly stating reasons therefor, with certification by population group leaders or police offices of communes of their refusal. The records must be recorded in the case files.

5. If the persons to whom the procedural documents are issued/sent/notified are absent from the residences, the issuers/senders/notifiers must make records and deliver the documents to their relatives who have fully civil capacity living with them or to their population group leaders, then ask such relatives or population group leaders to append signatures or fingerprints on the minutes of receipt and to undertake to directly deliver the documents to the to be-issued/sent/notified persons. The records must be recorded in the case files.

If the persons to whom the procedural documents are issued/sent/notified are absent from the residences and the time they return is indefinite or their new residences are unknown, the issuers/senders/notifiers must make a records therein with certification of the population group leaders or Police offices of communes; simultaneously, conduct the public posting procedures of the to be-sent documents according to regulations in Article 179 of this Code. The records must be recorded in the case files.

**Article 178. Procedures for direct issuance, sending or notification to agencies, organizations**

1. Where the persons to whom the procedural documents are issued, sent or notified are agencies or organizations, the procedural documents must be delivered directly to their representatives at law or persons responsible for the receipt thereof, who must sign the receipts. Where the agencies or organizations to which the documents are issued, sent or notified have their representatives to participate in the civil procedure or to receive the procedural documents, such persons shall sign for the receipt thereof. The date of signing for receipt shall be regarded as the date of issuance, sending or notification.

2. If the persons to whom the procedural documents are issued, sent or notified refuse to receive such documents or are absent, provisions in clauses 4 and 5 Article 177 of this Code shall be complied with.

**Article 179. Procedures for public posting**

1. The public posting of procedural documents shall be carried out the procedural documents cannot be issued/sent/notified as prescribed in Articles 177 and 178 of this Code.

2. The public posting of procedural documents shall be conducted by Courts directly, or by persons with sending function or commune-level People's Committees of the localities where the involved parties reside or where the agencies/organizations are headquartered that are authorized by the Courts according to the following procedures:

a) Posting the originals of the procedural documents at the offices of the Courts or the commune-level People's Committees of the localities where the persons to whom the documents are issued, sent or notified reside or reside last, or where the agencies/organizations to which the documents are issued, sent or notified are headquartered or headquartered last;

b) Posting the copies thereof at the places of residence or last residence of such persons to whom the documents are issued, sent or notified; or at the headquarters or last headquarters of the agencies/organizations to which the documents are issued/sent or notified;

c) Making records on the public-posting procedures, clearly stating the date of posting.

3. The duration for public posting of procedural documents is 15 days as from the date of posting.

**Article 180. Procedures for announcement on the mass media**

1. The announcement on the mass media shall be effected only when it is so provided for by law or when there are grounds to believe that the public posting does not guarantee that the persons to whom the procedural documents are issued, sent or notified get the information on such documents.

2. The announcement on the mass media can be effected if so requested by the other involved parties. In this case, the fees for announcement on the mass media shall be borne by the announcement requesters.

3. Announcement on the mass media shall be published on e-portals of the Courts, on one of central dailies for three consecutive issues, and broadcasted on the central radio or television channels three times for 03 consecutive days.

## **Article 181. Notification of results of issuance, sending or notification of procedural documents**

Where the persons that issue, send or notify the procedural documents are neither Courts nor procedural document-issuing agencies, nor their officials, such persons must immediately notify the results of issuance, sending or notification of procedural documents to the Courts or the agencies issuing such procedural documents.

## **Chapter XI**

### **PROCEDURAL TIME LIMITS**

#### **Article 182. Procedural time limits**

1. The procedural time limit is a period of time which is determined from this point of time to another point of time for the procedure-conducting persons, procedure participants or relevant agencies, organizations and individuals to perform procedural acts prescribed by this Code.
2. The procedural time limit can be determined in hour, day, week, month, year or an event which may occur.

#### **Article 183. Application of the Civil Code's regulations on time limits**

The method of calculating the procedural time limits, the regulations on procedural time limits, the starting time and the ending time of the procedural time limits in this Code shall comply with the corresponding provisions of the Civil Code.

#### **Article 184. The statute of limitations for lawsuits, the statute of limitations for requests for civil matter resolution**

1. The statute of limitations for lawsuits, the statute of limitations for requests for civil matter resolution shall conform to provisions of the Civil Code.
2. The Courts shall apply the regulations on statute of limitations according to the requests for application of statute of limitations of one or multiple sides, provided that such requests are made before the first-instance Courts issue the judgments/decisions on such matters/cases.

The persons to get benefits from the application of statute of limitations may refuse to apply the statute of limitations, unless such refusal is to avoid their performance of obligations.

#### **Article 185. Application of the Civil Code's regulations on statute of limitations**

The Civil Code's regulations on statute of limitations shall apply in civil procedures.

## **PART TWO**

### **PROCEDURES FOR SETTLING CASES AT FIRST-INSTANCE COURTS**

## **Chapter XII**

### **INSTITUTION AND ACCEPTANCE OF CASES**

#### **Article 186. Right to institute cases**

Agencies, organizations and individuals are entitled to institute cases by themselves or through their lawful representatives (hereinafter referred to as the litigators) at competent Courts to request the protection of their legitimate rights and interests.

**Article 187. Right to institute civil lawsuits to protect legitimate rights and interests of other persons, public interests and/or the State's interests**

1. Family affair authorities, children affair authorities and Vietnam Women's Union, within their tasks and power, may initiate lawsuits pertaining to marriage and family as prescribed in Law on marriage and family.
2. Employee collective's representative organizations shall have the right to institute labor cases where it is necessary to protect the legitimate rights and interests of the employee collective or where authorized by the employees as prescribed by law.
3. Social organizations protecting interests of consumers shall have the right to represent consumers to institute lawsuits to protect interests of consumers or institute lawsuits themselves for public interests according to provisions of the Law on protection of consumers' interests.
4. Agencies and organizations shall, within the scope of their respective tasks and powers, have the right to institute civil lawsuits to request Courts to protect the public interests and/or the State's interests in the domains under their respective charge or according to law provisions.
5. Individuals shall have the right to institute lawsuits pertaining to marriage and family to protect legitimate rights and benefits of other people according to regulations on marriage and family.

**Article 188. Scope of initiation of lawsuits**

1. An agency, organization or individual may initiate a lawsuit against another or many other agencies, organizations and/or individuals regarding one legal relation or many interrelated legal relations for settlement in the same case.
2. Multiple agencies, organizations and/or individuals may initiate a lawsuit against another agency, organization or individual regarding one legal relation or many interrelated legal relations for settlement in the same case.
3. Any agency, organization or individual specified in Article 187 of this Code may initiate a lawsuit against another or many other agencies, organizations or individuals regarding one legal relation or many interrelated legal relations for settlement in the same case.

**Article 189. Form and contents of a lawsuit petition**

1. Individuals, agencies and organizations initiating lawsuits must prepare their petitions.
2. Individuals shall draw up petitions as follows:
  - a) Individuals with fully civil procedure act capacity may draw up petitions themselves or request other persons to draw up petitions. Names and residential addresses of such individuals shall be written at the blanks for names and addresses of the litigators; at the end of the petitions, there shall be signatures or fingerprints of such individuals;
  - b) Regarding individuals being minors, legally incapacitated persons, persons with limited cognition or behavior control, their lawful representatives may draw up petitions themselves or request other persons to draw up petitions. Names and residential addresses of such individuals shall be written at blanks for names and addresses of the litigators; at the end of the petitions, there shall be signatures or fingerprints of the lawful representatives;

c) Individuals of cases specified in points a and b of this clause who are illiterate or have visual disabilities or who cannot draw up petitions or append signatures or fingerprints themselves may request other persons to help them draw up the petitions under the witnessing of persons with fully civil procedure capacity. The witnesses must append their signatures on the petitions.

3. If litigators are agencies or organizations, the lawful representatives of such agencies/organizations may draw up themselves or request other persons to draw up petitions. Names and residential addresses of such agencies/organizations and full names and positions of their lawful representatives shall be written at the blanks for names and address of litigators; at the end of the petitions, there shall be signatures and seals of the lawful representatives of such agencies/organizations. If the litigators are enterprises, the use of seals must comply with regulations in the Law on Enterprise.

4. A lawsuit petition must include the following principal contents:

a) Date of its making;

b) Name of the Court receiving the lawsuit petition;

c) Name, place of residence, place of work of the litigator (applicable to litigators being individuals) or head office of the litigator (applicable to litigators being agencies/organizations); phone number, fax and e-mail address (if any).

If the parties reach agreement on an address for the Court to contact, such address shall be specified;

d) Name, place of residence, place of work of person whose interests and duties are protected (applicable to individuals) or head office of person whose interests and duties are protected (applicable to agencies and organizations); phone number, fax and e-mail address (if any);

dd) Name, place of residence, place of work of the defendant (applicable to individuals) or head office of the defendant (applicable to agencies/organizations); phone number, fax and e-mail address (if any). If the place of residence, place of work or head office of the defendant is indefinite, the last place of residence, place of work or head office of the defendant shall be specified;

e) Name, place of residence, place of work of person with relevant interests and duties (applicable to individuals) or head office of person with relevant interests and duties (applicable to agencies and organizations); phone number, fax and e-mail address (if any).

If the place of residence, place of work or head office of the person with relevant interests and duties is indefinite, the last place of residence, place of work or head office of the defendant shall be specified;

g) Lawful interests and duties of the litigator that are infringed upon; specific matters of the defendant, person with relevant interests and duties that are applied for resolution by the Court;

h) Names and addresses of witnesses (if any);

i) List of documents and/or evidences accompanied with lawsuit petitions.

5. The petitions must be accompanied with materials and evidences proving that legal rights and interests of litigators are infringed upon. For cases where due to objective reasons, the litigators failed to provide adequately materials and evidences accompanied with the petitions, they must

provide current materials and evidences to prove that legal rights and interests of the litigators are infringed upon. Litigators shall supplement materials and evidences at the request of the Courts during the case resolution.

#### **Article 190. Submission of lawsuit petitions to courts**

1. Litigators shall submit their lawsuit petitions and the accompanied documents and/or evidences to Courts competent to settle their cases by the following modes:

- a) Direct submission at courts;
- b) Sending to Courts by post;
- c) Sending through e-portal of Courts (if any).

2. Date of initiation of lawsuits is the day on which the Courts receive the petitions submitted by involved parties or the date written on the seals of the post office where the petitions are sent from.

In cases where the date cannot be identified through the seals of the sending post offices, the date of initiation of lawsuit shall be the day on which the involved parties send the petitions from the post offices. Involved parties shall prove the day on which they sent the petitions from the post offices; otherwise, the date of initiation of lawsuit shall be the day on which the Courts receive the petitions delivered by the post offices.

3. If the litigators send the petitions through e-portal, the date of initiation of lawsuit shall be the day on which the petitions are sent.

4. If the cases are transferred to other Courts as prescribed in Article 41 of this Code, the date of initiation of lawsuit shall be the day on which the petitions are sent to the Courts which have accepted the petitions ultra vires and shall be determined according to provisions in clause 2 and 3 of this Article.

5. The Supreme People's Court shall provide guidance on the implementation of this Article.

#### **Article 191. Procedures for receiving and processing lawsuit petitions**

1. Courts, via petition receiving divisions, must receive lawsuit petitions lodged by litigators directly or via post and must record them in the petition registers. If the petitions are sent through the e-portal, the Courts shall make printing copies of the petitions and must record them in the petition registers.

When receiving petitions that are submitted directly, Courts shall immediately issue the receiving slip for the litigators. For petitions sent by post, within 02 working days from the day on which the petitions are received, the Courts shall send the litigators notifications of the receipt of the petitions. If the petitions are sent through the e-portal, the Courts shall immediately notify the litigators of the receipt of the petitions via their e-portal (if any).

2. Within 03 working days from the day on which the petitions are received, the Chief Justices of Courts shall assign one Judge to review the petitions.

3. Within 05 working days from the day on which they are assigned, the Judges shall review the petitions and make one of the following decisions:

- a) To request for amendment and/or supplementation of lawsuit petitions;

- b) To carry out the acceptance procedures of the cases according to normal procedures or simplified procedures, if the cases are satisfied for resolution according to simplified procedures as prescribed in clause 1 Article 317 of this Code;
  - c) To transfer the lawsuit petitions to competent Courts and notify the litigators thereof if the cases fall under other courts' jurisdiction;
  - d) To return the lawsuit petitions to the litigators if such cases do not fall under the court's jurisdiction.
4. Results of petition processing of the Judges prescribed in clause 3 of this Article must be recorded to the petition registers and notified to the litigators via the Courts' e-portals (if any).

**Article 192. Return of lawsuit petitions, consequences of the return of lawsuit petitions**

1. The Courts shall return the lawsuit petitions in the following cases:

- a) The petitioners have no right to initiate a lawsuit as prescribed in Articles 186 and 187 of this Code or do not have full civil procedure act capacity;
- b) Conditions for initiating lawsuits prescribed by law are not fully satisfied.

Cases where conditions for initiating lawsuits are not fully satisfied are cases where there are provisions about conditions for initiating lawsuits but the litigators initiate lawsuits when any of such conditions has not been satisfied;

- c) The matters have been resolved by effective judgments or decisions of Courts or legally binding decisions of competent State agencies, except for cases where the Courts reject the applications for divorce, for change in child adoption, change of alimony levels or damage compensation levels, or applications for change of property manager, change of inherited-property manager, change of guardian or cases of the reclaim of leased or lent properties or houses leased, lent or offered for other people's free-of-charge stay, which have not been recognized by Court and eligible for re-initiation of lawsuits as prescribed by law;
- d) After the time limit specified in clause 2 Article 195 of this Code, the litigators fail to submit the receipts of Court fee advances to the Courts, except for cases they are exempt or do not have to pay the Court fee advances or there are objective obstacles or force majeure events;
- dd) The cases do not fall under the courts' jurisdiction;
- e) The litigators fail to amend or supplement the petitions at the request of the Judges as prescribed in clause 2 Article 193 of this Code.

If in the petitions, the litigators have written sufficiently and accurately the residential addresses of the defendants and/or the persons with relevant interests and duties but such persons change their residences regularly without notification to competent agencies/persons according to law regulations on residence to evade obligations towards the litigators, the Judges shall not return the lawsuit petitions but regard the defendants/persons with related interests and duties as purposely concealing their addresses and accept the petition and conduct settlement according to general procedures.

If in the petitions, the litigators failed to declare sufficiently or accurately names and addresses of defendants and/or persons with relevant interests and duties and fail to make

amendment/supplement according to the requests of the Judges, the Judges shall return the petitions to the litigators;

g) The litigators withdraw the petitions.

2. When returning the petitions and the enclosed materials and evidences to the litigators, the Judges shall make writings containing reasons for the return of the petitions and send them to the litigators and the procuracies of the same levels. Petitions and materials and evidences that the Judges return to the litigators must be photocopied and retained at the Court to serve as the basis for settlement of the complaints/recommendations on request.

3. Involved parties may re-submit the petitions in the following cases:

a) The litigators have fully had civil procedure act capacity;

b) The petitions for divorces, for change in child adoption, change of alimony levels or damage compensation levels, or petitions for change of property manager, change of inherited-property manager, change of guardian or cases of the reclaim of leased or lent properties or houses leased, lent or offered for other people's free-of-charge stay have not been recognized by Court and are eligible for re-initiation of lawsuits as prescribed by law;

c) Requirements for initiating lawsuits have been fully satisfied;

d) Other cases prescribed by law.

4. The Supreme People's Court shall provide guidance on the implementation of clauses 1 and 3 of this Article.

#### **Article 193. Request for amendment and/or supplementation of lawsuit petitions**

1. In cases where a lawsuit petition does not fully contain the details prescribed in Clause 4, Article 189 of this Code, the Court shall make written notification of such to the litigator for amendment and/or supplementation within a time limit set by the Judge, which, however, must not exceed 01 month; for special cases, the Judge may extend that time limit but for not more than 15 days. The written notification shall be sent directly, online or by post to the litigator and must be recorded to the petition register for supervision. Duration of amendment/supplement shall not be included in the statute of limitations of lawsuit initiation.

2. In cases where the litigators have amended and/or supplemented their lawsuit petitions strictly according to the provisions of Clause 4, Article 189 of this Code, the Courts shall continue processing the cases; if they fail to amend and/or supplement their lawsuit petitions as requested, the Judges shall return the petitions as well as materials and evidences to the litigators.

#### **Article 194. Complaints, recommendations about the return of lawsuit petitions and settlement thereof**

1. Within 10 days from the day on which the returned petitions are received, the litigators may file their complaints, or the procuracies may file recommendations to the Courts which have returned the lawsuit petitions.

2. Immediately after the complaints, recommendations about the return of lawsuit petitions are received, the Chief Justices of the Courts shall assign other Judges to review and settle such complaints/recommendations.

3. Within 05 working days from the day on which they are assigned, the Judges shall hold meeting to review and settle the complaints/recommendations. Such meeting must be under the attendance of representatives of procuracies of the same levels and involved parties filing the complaints; if the involved parties are absent, the sessions shall be carried out under the direction of the Judges.

4. Pursuant to materials and evidences related to the return of lawsuit petitions, opinions of representatives of procuracies and involved parties filing complaints at the meetings, the Judge shall make one of the following decisions:

a) To remain the return of lawsuit petitions and notify the involved parties and procuracies of the same level;

b) To receive back the lawsuit petitions and accompanied materials as well as evidences in order to process the cases.

5. Within 10 days from the day on which the decisions responding the complaints/recommendations are received, the litigators may file their complaints, or the procuracies may file recommendations to the Chief Justices of the directly superior Courts for consideration and settlement.

6. Within 10 days from the day on which the complaints/recommendations pertaining to the return of the lawsuit petitions are received, the Chief Justices of the directly superior Courts must make one of the following decisions:

a) To uphold the return of the lawsuit petitions;

b) To request the first-instance Courts to receive back the lawsuit petitions and accompanied materials as well as evidences in order to process the cases.

The decisions on settlement of complaints/recommendations of the Chief Justices of the Courts of the directly superior shall be immediately effective and shall be sent to the litigators, procuracies of the same level, the procuracies filing the recommendation and the Courts having issued the decisions on return of the petitions.

7. If there are grounds to determine that the decisions of Chief Justice of the immediate superior Court prescribed in clause 6 of this Article are contrary to the law, then within 10 days from the day on which the decisions are received, the involved parties may file complaints or the procuracies may file recommendations to the Chief Justices of the Collegial People's Courts (applicable to cases where the decisions subject to complaint/recommendation are issued by the People's Courts of provinces) or to the Chief Justice of the Supreme People's Court (applicable to cases where the decisions subject to complaint/recommendation are issued by Collegial People's Courts)

Within 10 days as from the day on which the complaints of the involved parties or the recommendations of the procuracies are received, the Chief Justices must consider and settle them. Decision of the Chief Justices shall be the final one.

#### **Article 195. Accepting cases**

1. After receiving lawsuit petitions and accompanied materials and/or evidences, if deeming that the cases fall within the courts' jurisdiction, the Judges shall immediately notify the litigators

thereof so that they may come to Courts for carrying out procedures to advance the Court fees in cases where they are liable thereto.

2. The Judges shall estimate the Court fee advance amounts, write them down on the notices and hand them to the litigators for payment of Court fee advances. Within 07 days as from the day on which the courts' notices on payment of Court fee advances are received, the litigators must pay such advances and submit the receipts for payment of Court fee advances.

3. The Judges shall accept the petitions when the litigators have submitted to the Courts the Court fee advance payment receipts.

4. In cases where the litigators are exempt from, or not required to pay, Court fee advances, the Judges must accept the petitions upon receiving the lawsuit petitions and accompanied materials and/or evidences.

#### **Article 196. Notice on acceptance of cases**

1. Within 03 working days from the day on which the cases are accepted, the Judge must send written notices to plaintiffs, defendants, agencies, organizations and individuals with rights and obligations related to the settlement of the cases, to the procuracies of the same level on the Courts' acceptances of the cases.

Regarding cases initiated by consumers, the Courts shall post publicly at the offices of the Courts information about the acceptance of the cases within 03 working days from the day on which the cases are accepted.

2. Such a written notice must contain the following principal details:

- a) Date on which the notice is made;
- b) Name and address of the Court accepting the case;
- c) Name, address; phone number, fax, e-mail address (if any) of the litigator;
- d) Specific matters that the litigator for request the Court to resolve;
- dd) That whether the case is accepted under normal procedures or simplified procedures;
- e) List of materials and evidences submitted together with the lawsuit petition by the litigator;
- g) Time limit for the defendant and/ or person with relevant interests and duties to submit to the Court opinions in writing towards the request of the litigator and accompanied materials and evidences, counter-claims, independent claims (if any);
- h) Legal consequences of case where the defendant and/or person with relevant interests and duties fail to submit to the Court opinion in writing for the petition for initiating lawsuit.

3. If the plaintiffs file application for the assistance of the Court in the sending of materials and evidences, the notices on the acceptance of the cases that the Courts sent to the defendants and/or persons with relevant interests and duties copies of materials and evidences provided by the plaintiffs.

#### **Article 197. Assigning Judges to settle cases**

1. On the basis of the reports on the acceptance of the cases made by the Judges assigned to accept the petitions, the Chief Justices of the Courts shall give decision on assignment of Judges to settle the cases, ensuring the principle of impartiality, objectiveness and contingency.

2. Within 03 working days from the day on which a case is accepted, the court's Chief Justice shall assign a Judge to resolve the case.

For complicated cases and the settlement seemed to be long-lasting, the Chief Justices of the Courts shall assign alternate Judges to ensure the on-schedule settlement as prescribed by the Code.

3. In the course of settling the case, if the assigned Judge cannot continue with the assigned task, the Chief Justice of the Court shall assign another Judge to continue that work; in cases where the trial is being underway without the alternate Judge, the case must be retried from the beginning and the Court must notify the involved parties and the procuracies of the same levels of the retrial.

#### **Article 198. Tasks and powers of Judges when preparing case files**

1. Set up the case files as prescribed in Article 204 of this Code.
2. Request the involved parties to submit materials and evidences to courts.
3. Verify the case and collect evidences according to the provisions of Clauses 2 and 3, Article 97 of this Code.

#### **Article 199. Rights and duties of defendants and persons with relevant interests and duties after receiving the notices**

1. Within 15 days from the day on which the notices are received, defendants and/or persons with relevant interests and duties must submit to the Court opinions in writing towards the request of the plaintiffs and materials and evidences, counter-claims and independent claims (if any).

Any defendant or person with relevant interests and duties wishing to have such time limit extended must submit to the Court an application for time extension stating the reasons for such extension; if the application is well-grounded, the Court shall grant the extension that must not exceed 15 days.

2. Defendants or persons with relevant interests and duties are entitled to request the Court to allow them to see, take notes or make photocopies of the petitions and materials and evidences enclosed therewith, except for materials and evidences specified in clause 2 Article 109 of this Code.

#### **Article 200. Defendants' right to make counter-claims**

1. Together with their obligation to submit to Courts their written opinions on the plaintiffs' claims, the defendants are entitled to file counter-claims against the plaintiffs or persons with relevant interests and duties who have made independent claims.

2. The defendants' counter-claims against the plaintiffs and/or persons with relevant interests and duties shall be accepted in one of the following cases:

- a) The counter-claims are made to clear liability against the plaintiffs' claims and/or persons with relevant interests and duties with independent claims;
- b) The accepted counter-claims may exclude the partial or full acceptance of the plaintiffs' claims and/or persons with relevant interests and duties who have made independent claims;

c) There is an interrelation between the counter-claim and the claim of the plaintiff/person with relevant interests and duties, and if these claims are settled in the same case, the resolution of such claims in the same case shall be more accurate and quicker.

3. Defendants are entitled to make counter-claims before the opening of the meetings for checking the handover of, access to and disclosure of evidences and mediating.

#### **Article 201. Right of persons with related interests and obligations to make independent claims**

1. In cases where the persons with related interests and obligations do not participate in the procedures on the side of the plaintiff or the defendant, they shall be entitled to make independent claims when the following conditions are met:

a) The resolution of the case is related to their interests and obligations;

b) Their independent claims are related to the case being settled;

c) If their independent claims are settled in the same case, the resolution of such case shall be more accurate and quicker.

2. Persons with relevant interests and duties are entitled to make independent claims before the opening of the meeting held for meetings for checking the handover of, access to and disclosure of evidences and mediating.

#### **Article 202. Procedures for making counter-claims or independent claims**

The procedures for making counter-claims or independent claims shall comply with this Code's regulations on procedures for initiating lawsuits by plaintiffs.

### **Chapter XIII**

#### **MEDIATION AND TRIAL PREPARATION PROCEDURES**

#### **Article 203. Time limit for trial preparation**

1. The time limits for preparation for trial over cases of various types, except for cases resolved under simplified procedures or cases involving foreign elements are specified as follows:

a) For the cases prescribed in Articles 26 and 28 of this Code, the time limit shall be 04 months counting from the day on which the cases are accepted;

b) For the cases prescribed in Articles 30 and 32 of this Code, the time limit shall be 02 months counting from the day on which the cases are accepted.

For complicated cases, or when due to force majeure events or objective obstacles, the Chief Justices of Courts may decide to extend the trial preparation time limits but for not more than 02 months for cases prescribed in Point a of this clause and 01 month for cases prescribed in Point b of this clause.

If there are decisions on suspension of case resolution, the time limit for trial preparation shall be calculated from the day on which the decisions to resume the case resolution issued by the Courts take legal effect.

2. In the process of trial preparation, the Judge shall carry out the following tasks and power:

a) Set up the case files as prescribed in Article 198 of this Code;

- b) Determine the status of the involved parties and other participants in the procedure;
- c) Determine the disputing relationship between involved parties and the applicable law provisions;
- d) Examine objective details of the cases;
- dd) Verify the cases and collect evidences according to the regulations in this Code;
- e) Apply provisional emergency measures;
- g) Hold meetings for checking the handover of, access to and disclosure of evidences and mediating according to provisions of this Code, except for cases resolved under simplified procedures;
- h) Fulfill other tasks and power as prescribed in this Code.

3. Within the trial preparation time limits prescribed in Clause 1 of this Article, the Judges shall, on a case-by-case basis, issue one of the following decisions:

- a) To recognize the agreement between the involved parties;
- b) To suspend the resolution of the civil lawsuit;
- c) To terminate the resolution of the civil lawsuit;
- d) To bring the case to trial.

4. Within 01 month from the day on which the decision to bring the case to trial is issued, the Court must open a Court session. In case of good and sufficient reason, this time limit shall be 02 months.

#### **Article 204. Documenting civil lawsuits' files**

1. A civil lawsuit's file shall include the petition and all the materials and evidences provided by involved parties and other participants; materials and evidences collected by the Courts that are related to the case; procedural documents of the Courts and the Procuracies about the resolution of such civil lawsuit.

2. All papers and documents in the civil-case file must be numbered and arranged by date. Newer papers shall be put above the older ones; such papers shall be managed, retained and used according to law provisions.

#### **Article 205. Principle for conducting mediation**

1. During the period of preparation for the first-instance trial over cases, the Courts must carry out mediation for the involved parties to reach agreement on the resolution of the cases, except cases which must not be mediated or cannot be mediated as stipulated in Articles 206 and 207 of this Code or cases settled under simplified procedures.

2. The mediation must be conducted on the following principles:

- a) Respect for the voluntary agreement of the involved parties, non-use of force or non-threat to use force to compel the involved parties to reach agreements against their will;
- b) The contents of agreements between the involved parties must not contravene law and social ethics.

**Article 206. Civil lawsuits which must not be mediated**

1. Claims for compensation for damage caused to State properties.
2. Civil lawsuits arising from civil transactions which are contrary to law or social ethics.

**Article 207. Civil lawsuits which cannot be mediated**

1. The defendants or the persons with relevant interests and duties are intentionally absent though having been duly summoned twice by courts.
2. The involved parties cannot take part in the mediation for plausible reasons.
3. The involved parties being wives or husbands in divorce cases have lost their civil act capacity.
4. One of involved parties applies for non-mediation.

**Article 208. Notification about meetings for checking the handover of, access to and disclosure of evidences and mediating**

1. The Judges shall hold meetings for checking the handover of, access to and disclosure of evidences and mediating between involved parties. Before holding the meetings, the Judges shall notify the involved parties, their lawful representatives and defense counsels of their rights and interests of time, venue and contents of the meetings.
2. If the mediation over the civil lawsuits as cannot be conducted as prescribed in Articles 206 and 207 of this Code, the Judge shall hold the meetings for checking the handover of, access to and disclosure of evidences without mediation.
3. Regarding marriage and family cases involving minors, before hold the meetings for checking the handover of, access to and disclosure of evidences and mediating between involved parties, the Judges and/or Ombudspersons assigned by the Courts shall collect materials and evidences to determine reasons for the arising of the disputes. When it is deemed necessary, the Judges may refer to opinions of family affair authorities and children affair authorities about the situations of the families, reasons for the arising of disputes and the expectation of the wives, husbands and children related to the cases.

Regarding disputes over child rearing after divorces or change of post-divorce child custodian, the Judges shall depend on the expectation of the children who are underage and not younger than 7; when it is deemed necessary, representatives of family affair authorities and children affair authorities shall witness and contribute opinions. The collection of expectation of underage children and the conduct of other procedures for minors must be friendly, suitable for the psychology, age, mature level and the awareness of the minors, ensuring legitimate rights and interests and personal secret of minors.

**Article 209. Participants in meetings for checking the handover of, access to and disclosure of evidences and mediating**

1. Participants in the meetings shall include:
  - a) The meeting presiding Judge;
  - b) Court clerks in charge of writing up meeting minutes;
  - c) Involved or lawful representatives of involved parties;

d) Representatives of employee collective's representative organizations, applicable to labor cases, at the request of employees, excluding labor cases where employee collective's representative organizations or defense counsels of rights and interests of employees' collectives/employees attend as representative organizations of employees' collective. If the representatives of employee collective's representative organizations do not attend the meeting for mediating, written opinions must be submitted;

dd) Defense counsels of rights and interests of involved parties (if any);

e) Interpreters (if any).

2. When it is deemed necessary, the Judges shall request relevant individuals, agencies and organizations to participate in the meetings; for cases pertaining to marriage and families, the Judges shall request representatives of family affair authorities, children affair authorities and/or Vietnam Women's Union to participate in the meetings; if they are absent, the meetings shall be still conducted.

3. In cases where any of involved parties is absent but involved parties who attend agree to conduct the meetings and such meetings do not affect rights and obligations of absent involved parties, the Judges shall conduct meetings between involved parties who attend; if involved parties request to postpone the mediation meeting until all involved parties attend, the Judge must follow their request. The Judges must notify the involved parties of such postponement and the resuming of the meetings.

#### **Article 210. Order of meetings for checking the handover of, access to and disclosure of evidences and mediating**

1. Before conducting the meetings, Court clerks shall report the Judges about the absence and attendance of participants in the meetings that had received notifications from the Courts. The Judges presiding over the meetings shall recheck the attendance and ID cards of participants then provide involved parties with information about their rights and obligations according to provisions of this Code.

2. When checking the handover of, access to and disclosure of evidences, the Judges shall announce materials and evidences in case files and ask the involved parties about the following matters:

a) Requests and scope of lawsuit, the amendment, supplement, modification and withdrawal of petitions for initiating lawsuits, counter-claims, independent claims; matters that have been and have not been agreed to be resolved by the Courts;

b) Materials and evidences that have been submitted to the Courts and the delivery of materials and evidences to other involved parties;

c) The amendment of materials/evidences; requests for collection of materials and evidences by the Courts; requests for summon of other involved parties by the Courts, witnesses and other participants at the Court sessions;

d) Other matters that the involved parties deem to be necessary.

3. When involved parties finished their presentations, the Judges shall review opinions and consider resolving requests of involved parties specified in clause 2 of this Article. If the persons summoned by the Courts are absent, the Courts shall notify them of the results of the meetings.

#### 4. Procedures for mediation:

- a) The Judges disseminate to involved parties the provisions of laws related to the resolution of the cases so that involved parties can relate them with their rights and obligations and analyze legal consequence of the success of the mediation then voluntarily reach agreements with each other about the resolution of the cases;
- b) Plaintiff and defense counsels of their legitimate rights and interests make presentations of the disputes, make amendment of petitions for initiating lawsuits; grounds for protecting the petition and express opinions about matters to be mediated and resolution of the cases (if any);
- c) Defendants and defense counsels of their legitimate rights and interests make presentations of the claims of the plaintiffs and about counter-claims (if any); grounds for protesting against the petition of the plaintiffs; grounds for defending their counter claims and express opinions about matters to be mediated and resolution of the cases (if any);
- d) Persons with relevant interests and duties, defense counsels of their legitimate rights and interests express their opinions about the claims of the plaintiffs and the defendants; present their independent claims (if any); grounds for protesting against the claims of the plaintiffs and the defendants; grounds for protecting their independent claims and express opinions about matters to be mediated and resolution of the cases (if any);
- dd) Other participants in the mediation meetings (if any) express their opinions;
- e) When involved parties and defense counsels of their legitimate rights and interests have expressed their opinions, the Judges shall determined matters that involved parties have or have not agreed about and request involved parties to make additional presentation about unclear and not agreed contents;
- g) The Judges shall make conclusion of those which involved parties have agreed or not agreed about.

#### **Article 211. Minutes of meetings for checking the handover of, access to and disclosure of evidences and mediating**

1. Court clerks shall be in charge of formulating minutes of meetings for checking the handover of, access to and disclosure of evidences and for mediating.
2. Minutes of the checking the handover of, access to and disclosure of evidences must contain the following contents:
  - a) Date of meeting;
  - b) Place of meeting;
  - c) The participants in the meeting;
  - d) Opinions of involved parties or lawful representatives of involved parties about contents specified in clause 2 Article 210 of this Code;
  - dd) Other contents;
  - e) Decisions of the Court to accept or not accept claims of involved parties.
3. Minutes of the mediation must contain the following contents:
  - a) Those specified in points a, b and c clause 2 of this Article;

b) Opinions of involved parties and defense counsels of their legitimate rights and interests of involved parties;

c) Contents have or have not been agreed by involved parties.

4. The minutes must bear the signatures or fingerprints of all participants in the meetings, signatures of the Court clerks in charge of making minutes and of the presiding Judges of the meetings. Participants in the meetings may have a look at the minutes immediately when the meetings finish and may request for amendment and supplement to the minutes before appending signatures or fingerprints.

5. If involved parties reach agreements about matters to be resolved in civil lawsuits, the Courts shall make minutes of successful mediation. Such minutes shall be immediately sent to involved parties participating in the mediation.

#### **Article 212. Issuing decisions to recognize the agreements of the involved parties**

1. Upon the expiry of the 07-day time limit after making the records on successful mediation, if no parties change their opinions on such agreement, the Judge who presides over the mediation session or another Judge who has been assigned by the court's Chief Justice shall issue a decision recognizing the agreement of the involved parties.

Within 05 working days after the issuance of the decision to recognize the agreement of the involved parties, the Court must send the decision to the involved parties and the procuracy of the same level.

2. The Judge shall only issue a decision to recognize the agreement of the involved parties if they have reached an agreement on the resolution of the whole case.

3. In the cases stipulated in Clause 4 of Article 210 of this Code, where the present parties have reached agreement on the settlement of their case, such agreement shall be valid only for the present persons and shall be recognized by the Judge in a decision if it does not affect the rights and obligations of the absent parties. In cases where such agreement affects the rights and obligations of the absent parties, it shall be valid and recognized by the Judge in a decision only if it is accepted in writing by the parties that are absent from the mediation session.

#### **Article 213. Effect of decisions to recognize the involved parties' agreements**

1. The decisions to recognize the involved parties' agreements shall take effect immediately after they are issued and are not appealed against according to the appellate procedures.

2. The decisions to recognize the involved parties' agreements may be appealed against according to the cassation procedures only if there are grounds to believe that such agreements were reached as a result of mistakes, deceptions, intimidation, force or they contravene law or social ethics.

#### **Article 214. Suspension of the resolution of civil lawsuits**

1. The Court shall issue a decision to suspend the resolution of a civil lawsuit in one of the following cases:

a) The involved parties being individuals have died or being agencies or organizations have been merged, divided, separated or dissolved without any agencies, organizations or individuals inheriting their procedural rights and obligations;

- b) One involved party being an individual has lost his/her civil act capacity or being a minor while his/her representative at law has not been determined yet;
- c) The lawful representative of an involved party terminates without a replacement;
- d) The results of resolution of another related case or matter, which, as required by law, must be settled by other agencies or organizations before the cases are resolved, need to be waited for;
- dd) The results of the request for judicial assistance, entrustment of evidence collection or materials or evidences sent from agencies/organizations at the request of the Court need to be waited for;
- e) The results of the processing of legislative documents, which, related to the case resolution denote violations against a Constitution, Law or Resolution of National Assembly, Ordinance or Resolution of the Standing committee of the National, legislative documents of superior regulatory agencies to which the Court have sent written recommendations for consideration for amendment, supplement or annulment, need to be waited for;
- g) The case is mentioned in Article 41 of the Law on Bankruptcy;
- h) Other circumstances prescribed by law.

2. Within 03 working days from the day on which the decisions to suspend the resolution of civil lawsuits are issued, the Courts must send such decisions to the involved parties, the agencies/organizations/individuals initiating lawsuits and the procuracies of the same level.

**Article 215. Consequences of the suspension of resolution of civil lawsuits**

1. The Court must not delete the names of suspended civil lawsuits from the case acceptance books but only note down the number and date of the decisions to suspend the resolution of such civil lawsuits in the case acceptance books.
2. The Court fee advances and Court fees paid by the involved parties shall be deposited at the State Treasury and handled when the Courts proceed with the resolution of the civil lawsuits.
3. For the cases of suspension prescribed in point e clause 1 Article 214 of this Code, before the suspension, the Chief Justices of the Courts in charge of the cases must make a writing requesting the Chief Justices of the Supreme People's Court to recommend the competent agencies to consider amending, supplementing or annulling legislative documents denoting contrary to the Constitution, law, resolution of National Assembly, ordinance or resolution of the Standing committee of the National Assembly or legislative documents of superior regulatory agencies as prescribed in Article 221 of this Code.

Within 01 month from the day on which the written recommendations from the Courts are received, competent agencies must make a written response. After such period, if the competent agencies fail to issue the response, the Courts shall continue the case resolution according to the common procedures.

4. During the suspension period of the case resolution, the Judges assigned to resolve the cases must be still responsible for the case resolution.

When the decisions on suspension of the case resolution prescribed in clause 1 Article 214 of this Code have been issued, the Judges assigned to resolve the cases shall supervise and expedite

agencies, organizations and individuals to as soon as possible eliminate the problems leading to such suspension to promptly settle the cases.

5. Decisions to suspend the resolution of the civil lawsuits may be appealed against under appellate procedures.

#### **Article 216. Decisions on resuming the resolution of civil lawsuits**

Within 03 working days from the day on which the reasons to suspend the resolution of civil lawsuits prescribed in Article 214 of this Code are resolved, the Courts must issue decisions to resume the case resolution and send such decisions to the involved parties, the agencies/organizations/individuals initiating lawsuits and the procuracies of the same level.

Decisions on suspension of civil lawsuit's resolution shall expire since the decisions on resuming of civil lawsuit's resolution are issued. The Courts shall resume resolving the cases since the decisions on resuming of civil lawsuit's resolution are issued.

#### **Article 217. Termination of the resolution of civil lawsuits**

1. After accepting cases which fall within their respective jurisdiction, the Courts shall issue decisions to terminate the resolution of the civil lawsuits in the following circumstances:

a) The plaintiffs or defendants being individuals have died while their rights and obligations are not inherited;

b) Agencies or organizations have been dissolved or are bankrupt without any agencies, organizations or individuals inheriting their procedural rights and obligations;

c) The litigators withdraw all petitions for initiation of lawsuits or the plaintiffs are absent though having been duly summoned twice, unless they apply for trials in their absence or a force majeure event or an objective obstacle occurs;

d) The Courts have issued decisions to open bankruptcy procedures for enterprises or cooperatives being a party to the cases and the resolution of such cases is related to the obligations and property of such enterprises or cooperatives;

dd) plaintiffs fail to advance the charges for property price appraisal and other procedural charges prescribed in the Code.

If the defendants with counter-claims or persons with relevant interests and duties with independent claims fail to advance the property price appraisal and other procedural charges as prescribed in this Code, the Courts shall terminate the resolution of counter-claims or the independent claims of the persons with relevant interests and duties;

e) The involved parties have requested to apply the statute of limitations before the first-instance Courts issue the judgments/decisions on case resolution and the statute of limitations for lawsuit initiation expire;

g) Cases prescribed in clause 1 Article 192 of this Code that have been accepted by the Courts;

h) Other circumstances prescribed by law.

2. If the plaintiffs withdraw all petitions for lawsuit initiation or are absent without good and sufficient reasons or do not apply for trials in their absence though have been duly summoned twice and there are defendants applying for counter-claims and/or persons with relevant interests and duties applying for independent claims, the cases shall be resolved as follows:

- a) If the defendants withdraw all the counter-claims and/or persons with relevant interests and duties withdraw all the independent claims, the Courts shall issue decisions to terminate the resolution of the cases;
  - b) If the defendants do not withdraw or withdraw only a part of the counter-claims, the Courts shall issue decisions to terminate the resolution of the petitions for lawsuits of plaintiffs; then the defendants shall become the plaintiffs and vice versa;
  - c) If the defendants withdraw all the counter-claims, persons with relevant interests and duties do not withdraw or withdraw only a part of the independent claims, the Courts shall issue decisions to terminate the resolution of the petitions for lawsuits of plaintiffs and/or counter-claims of defendants; then the persons with relevant interests and duties shall become the plaintiffs, persons who are sued according to independent claims shall become the defendants;
3. The Courts shall make decisions to terminate the resolution of civil lawsuits and cross out the civil cases in the acceptance books and return the petitions and accompanied materials and evidences to involved parties on request; in such cases, the Courts must make and retain copies of such petitions, documents and evidences to serve as basis for resolution of appeals and recommendations on request.

Within 03 working days from the day on which decisions to terminate the resolution of civil lawsuits are issued, the Courts shall send such decisions to involved parties, agencies, organizations and individuals initiating the lawsuits and procuracies of the same levels.

4. Regarding cases that are re-settled according to first-instance procedures, immediately when decisions to conduct cassation or reopening trials have been issued, if the Courts decide to terminate the resolution of the cases, the Courts shall also resolve the consequences of the enforcement of judgments and other relevant matters (if any); if the plaintiffs withdraw the petitions or are absent though have been duly summoned twice, the termination of the resolution of the cases must be agreed by the defendants and persons with relevant interests and duties.

#### **Article 218. Consequences of the termination of resolution of civil lawsuits**

1. When the decisions to terminate the resolution of civil lawsuits are issued, the involved parties shall not be entitled to initiate lawsuits to request the Courts to re-settle such civil lawsuits if the institution of the subsequent cases does not bring in any difference from the previous cases in terms of the plaintiff, defendant and the disputed legal relations, except for cases prescribed in clause 3 Article 192, point c clause 1 Article 217 of this Code and cases otherwise provided for by law.
2. In cases where the Courts issue decisions to terminate the resolution of civil lawsuits as provided for in points a and b Clause 1, Article 217 of this Code or because the plaintiffs are absent though have been duly summoned twice as prescribed in point c clause 1 Article 217 of this Code, the Court fee advance money paid by the involved parties shall be confiscated by the State for public fund.
3. In cases where the Court issue decisions to terminate the resolution of civil lawsuits because the litigators withdraw all petitions for lawsuit initiation as provided for in point c and other cases specified in points d, dd, e and g clause 1 Article 217 of this Code, the Court fee advance money paid by the involved parties shall be refunded to the payers.

4. The decisions to terminate the resolution of civil lawsuits may be appealed against under appellate procedures.

**Article 219. Competence to issue decisions to suspend, resume or terminate the resolution of civil lawsuits**

1. Before the opening of the trial, the Judges who are assigned to resolve the civil lawsuits shall be competent to issue decisions to suspend/resume/terminate the resolution of such civil lawsuits.

2. In the Court session, the trial panels shall be competent to issue decisions to terminate/resume/terminate the resolution of the civil lawsuits.

**Article 220. Decisions to bring cases to trial**

1. A decision to bring a case to trial shall contain the following principal details:

a) Date of issue of the decision;

b) Name of the Court issuing that decision;

c) The case to be brought to trial;

d) Name and address of the plaintiff, defendant or agency/organization/individuals initiating the lawsuit prescribed in Article 187 of this Code and persons with relevant interests and duties;

dd) Full names of the Judge, People's Juror, Court clerk and full names of the alternate Judge or alternate People's Juror (if any);

e) Full name of the procurator who takes part in the Court session, full name of alternate procurator (if any);

g) Time, date and venue of the Court session;

h) Public trial or closed trial;

i) Full names of persons who are summoned to the Court session.

2. Decisions to bring the cases to trial must be sent to the involved parties and the procuracies of the same level immediately within 03 working days from the day on which they are issued.

Where the procuracies participate in Court sessions as provided for in Clause 2, Article 21 of this Code, the Courts must send the case files and the decisions to bring a case to trial to the procuracies of the same level. Within 15 days from the day on which the documents are received, the procuracies must study then return the files to the courts.

**Article 221. Discovery and recommendation for amendment, supplement or annulment of legislative documents**

1. During the course of civil lawsuit's resolution, if a legislative document related to the resolution of a civil lawsuit denotes contrariness against a Constitution, law or resolution of National Assembly, ordinance, resolution of Standing committee of National Assembly or a legislative document of a superior regulatory agency, the Court shall handle as follows:

a) If not any decisions to bring the case to trial is issued, the Judge assigned to resolve the case shall make a report and request the Chief Justice of the Court being in charge of the case to issue

a writing requesting the Chief Justice of the Supreme People's Court to recommend a competent agency to consider amending, supplementing or annulling a legislative document;

b) If a decision to bring the case to trial has been issued or the case is being examined at the Court trial or is being adjudicated according to cassation/reopening procedure, the trial panel shall suspend the trial as prescribed in point e clause 1 Article 259 of this Code and report the case to the Chief Justice of the Court being in charge of the case so that he/she shall issue a writing requesting the Chief Justice of the Supreme People's Court to recommend a competent agency to consider amending, supplementing or annulling a legislative document.

2. Within 15 days from the day on which the written request by the Chief Justice of the inferior Court is received, the Chief Justice of the Supreme People's Court shall consider and handle as follows:

a) If the request is well-grounded, a written recommendation shall be issued and sent to the competent agency requesting for amendment, supplement or annulment of the legislative document and a notification shall be sent to the requesting Court so that it issues a decision to suspend the case resolution;

b) If the request is groundless, a written response shall be sent to the requesting Court so that it continues the case resolution according to law provisions.

3. Agencies receiving recommendation of the Court about the amendment, supplement or annulment of legislative documents shall handle as follows:

a) Regarding legislative documents detailing and/or guiding Constitutions, laws or resolutions of National Assembly or ordinances or resolutions of Standing Committee of National Assembly or legislative documents of superior regulatory agencies, within 01 month from the day on which the recommendation made by the Chief Justice of the Supreme People's Court is received, the agency issuing such documents must consider and send written response to the Supreme People's Court. When such time limit expires, if not any written response is received, the Court shall resolve the case pursuant to the documents with higher-level effect;

b) Regarding legislative documents being laws or resolutions of National Assembly or ordinances or resolutions of Standing committees of National Assembly, the provisions of the Law on promulgation of legislative documents shall be applied.

## **Chapter XIV**

### **FIRST-INSTANCE COURT SESSION**

#### **Section 1. GENERAL REGULATIONS ON FIRST-INSTANCE Court SESSIONS**

##### **Article 222. General requirements for first-instance Court sessions**

The first-instance Court sessions must be conducted on the right times and at the right places written in the decisions to bring the cases to trial or in the notices on resuming the Court sessions in cases where the Court sessions have been postponed.

##### **Article 223. Place of Court session**

Court sessions must be held at the offices of the Court or outside the Court, provided that the seriousness is ensured and the arrangement of the courtrooms shall conformed to regulations in Article 224 of this Code.

#### **Article 224. Arrangement of courtrooms**

1. The national emblem of the Socialist Republic of Vietnam shall be put up in the middle of the top of the wall behind the Trial Panel.
2. The courtroom must have areas exclusively reserved for the Trial Panel, Procurator, Court clerk, involved parties, defense counsels of lawful rights and interests of involved parties, other procedure participants and Court participants in the Court sessions.

#### **Article 225. Direct and oral trial**

1. The Courts must directly ascertain details and facts of the cases by listening to the presentations of the plaintiffs, the defendants, persons with related interests and duties, lawful representatives, defense counsels of the legitimate rights and interests of the involved parties and other participants in the procedures and agencies and organizations invited to the Court session; questioning and listening to the answers; examining and verifying collected documents and evidences; directing and listening to the debates among the involved parties; listening to the opinions of the procuracy presented by procurators .
2. The trial must be oral trial and must be conducted in courtrooms.

#### **Article 226. Replacement of Trial Panel members in special cases**

1. Where Judges or People’s Jurors cannot continue to participate in the trial, the trial may be continued if there are alternate Judges or People’s Jurors present at the Court sessions from the beginning.

In cases where a Trial Panel consists of two Judges and the presiding Judge cannot continue to participate in the trial, the other Judge being member of the Trial Panel shall act as the presiding Judge of the Court session and the alternate Judge shall be added to be member of the Trial Panel.

2. In cases where there is no alternate Judge or People’s Juror to replace a member of the Trial Panel, or where the presiding Judge of the Court session must be replaced while there is no Judge for replacement as provided for in Clause 1 of this Article, the case shall be retried from the beginning.

#### **Article 227. Presence of involved parties, their representatives and defense counsels of legitimate rights and interests**

1. For the first time duly summoned by the Court, involved parties or their representatives and defense counsels of their legitimate rights and interests must be present at the Court session; if any of them is absent, the trial panel shall postpone the Court session, unless such person requests for trial in his/her absence.

The Courts must notify the involved parties, their representatives and defense counsels of legitimate rights and interests of the postponement of the Court session.

2. For the second time duly summoned by the Court, involved parties or their representatives and defense counsels of their legitimate rights and interests must be present at the Court session, unless they request for trials in their absence; if any of them is absent due to a force majeure event or an objective obstacle, the Court may postpone the Court session, otherwise the Court shall handle as follows:

a) If the plaintiff is absent and his/her representative does not participate in the Court session, such plaintiff shall be considered giving up the lawsuit initiation, thus the Court shall issue a decision to terminate the case resolution for his/her request for lawsuit initiation, unless such plaintiff requests for trials in their absence. The plaintiff may re-initiate lawsuits according to law provisions;

b) If the defendant without counter-claims or a person with relevant interests and duties without independent claims is absent and his/her representative does not participate in the Court session neither, then the Court shall direct the trial according to absence-trial procedure;

a) If the defendant has counter-claims but is absent and his/her representative does not participate in the Court session, such defendant shall be considered giving up the counter claims, thus the Court shall issue a decision to terminate the resolution for his/her counter claims, unless such defendant requests for trial in his/her absence. The defendant may re-initiate lawsuits for his/her counter-claims according to law provisions;

a) If the person with relevant interests and duties has independent claims but is absent and his/her representative does not participate in the Court session, such person shall be considered giving up the independent claims, thus the Court shall issue a decision to terminate the resolution for his/her independent claims, unless such person requests for trial in his/her absence. Such person may re-initiate lawsuits for his/her independent claims according to law provisions;

dd) If the defense counsels of legitimate rights and interests of the involved parties are absent, the Court shall direct the trial according to absence-trial procedures.

#### **Article 228. Trial in absence of involved parties and/or defense counsels of their rights and interests from Court sessions**

The Courts shall proceed with the case adjudication in the following circumstances:

1. The plaintiff, the defendant or the persons with related interests and duties and their representatives are absent from Court sessions but such plaintiff/defendant/person with related interests and duties files an application to request the Courts to conduct the trial in their absence;
2. The plaintiff, the defendant or the persons with related interests and obligations, who are absent from Court sessions, have their lawful representatives to attend the Court sessions;
3. The cases prescribed in points b, c, d and dd clause 2 Article 227 of this Code.

#### **Article 229. Presence of witnesses**

1. Witnesses shall be obliged to attend Court sessions under Court subpoenas.
2. Where the witnesses are absent, the Trial Panels shall decide to keep adjudicating the cases or to postpone the court.

The Trial Panels shall keep adjudicating the cases if the witnesses are absent but have earlier given their testimonies in person or sent their testimonies to courts. The presiding Judges shall make such testimonies public.

The Trial Panels shall decide to postpone the Court sessions if the absence of the witnesses at Court creates difficulties or affects the objective and comprehensive resolution of the cases.

3. If the witnesses are absent from the Court sessions without good and sufficient reasons and such absence obstructs the adjudication, they can be escorted to the Court sessions under the decision of the trial panels, unless the witnesses are minors.

**Article 230. Presence of expert-witnesses**

1. Expert-witnesses shall be obliged to attend Court sessions under Court subpoena to explain and answer issues relating to the expertise and expertising conclusions.
2. Where the expert-witnesses are absent, the Trial Panels shall decide to keep adjudicating the cases or postpone the Court sessions.

**Article 231. Presence of interpreters**

1. Interpreters shall be obliged to attend the Court sessions under Court subpoena.
2. Where the interpreters are absent without substitutes, the Trial Panels shall decide to postpone the Court sessions.

**Article 232. Presence of procurators**

1. The procurators assigned by the heads of the procuracies of the same level shall have the duty to attend the Court sessions. If the procurators are absent, the trial panels shall keep adjudicating and the Court sessions shall not be postponed.
2. Where the procurators are replaced in Court sessions or cannot continue to participate in the trial sessions and the alternate procurators are available, the latter may attend the Court sessions for continued trial over the cases if they are present at the Court session from the beginning.

**Article 233. Time limit for postponing a Court session and decision to postpone a Court session**

1. The trial panels shall issue decisions to postpone a Court session in cases specified in clause 2 Article 56, clause 2 Article 62, clause 2 Article 84, Article 227, clause 2 Article 229, clause 2 Article 230, clause 2 Article 231 and Article 241 of this Code. Time limit for postponing a Court session shall not exceed 01 month or not exceed 15 days, applicable to Court carried out under simplified procedure, from the day on which the decision to postpone the Court session is issued.
2. A decision to postpone a Court session must contain the following principal details:
  - a) Date of issue of the decision;
  - b) Name of the Court and full names of presiding officers;
  - c) The case to be brought to trial;
  - d) Reasons for the postponement of the Court session;
  - dd) Time and venue for resumption of the Court session.
3. The decisions to postpone the Court sessions must be signed by the Judges presiding over the Court sessions on behalf of the trial panels and be publicly notified at the Court session. For absent persons, the Courts shall immediately send the decisions to them and concurrently to the procuracies of the same level.
4. In cases where the Courts cannot resume the Court sessions on the right time and at the right places inscribed in the decisions to postpone the Courts sessions, the Courts must immediately

notify the procuracies of the same level and procedure participants of the time and venues for re-opening the Court sessions.

#### **Article 234. Internal rules of Court sessions**

1. When entering the courtroom, everyone shall conform to the security testing of the forces responsible for protecting the Court session.
2. Arms, murder weapons, explosives, flammable substances, poisons, radioactive substances, objects banned from circulation, leaflets, banners and other documents and objects affecting the seriousness of the Court sessions are prohibited from bringing into the Court sessions, except for exhibits serving the resolution of the cases or arms and tools that competent persons used for protecting the Court session.
3. Participants in a Court session at the request of the Court must present their subpoenas, invitations and other relevant papers to the Court reporter at clerk's desk at least 15 minutes before the opening time of the Court session and must take seats in the courtroom according to the guidance of the Court reporter; people who are late must present the required papers to the Court reporter via the security forces of the Court session.
4. Journalists attending a Court session to collect and communicate information about the happening of the Court session must comply with the direction of the presiding Judge of the Court session about press gallery. Journalists shall record audio or video of the trial panel only when allowed by the presiding Judge of the Court session. The recording of audio and video of involved parties or other participants in the procedure must be agreed by them.
5. Any one attending the Court sessions must wear serious costume and must respect the trial panel, keep silent and must comply with the direction of the presiding Judge.
6. Persons attending the Court sessions must not wear hats and color glasses in the courtrooms, unless they have plausible reasons and are permitted by the presiding Judge to do so; use of cell phones, smoking, eating, drinking and other acts affecting the solemnity of the Court sessions are not allowed in the courtrooms.
7. All participants in a Court sessions who are summoned by the Courts shall be present at the Court sessions throughout the course of trial, unless they are permitted by the presiding Judges to leave the courtrooms for plausible reasons.  
People who are under 16 must not get into courtrooms, unless they are summoned by the Courts to attend the Court session.
8. All people in courtrooms must stand up when the Trial panel members enter the courtroom and when the judgments are pronounced, except for special cases where they are permitted to stay seated by the presiding Judges.
9. Only persons who are permitted by the Trial panel may raise or answer questions or express opinions. Persons must stand up while questioning, answering or expressing opinions, unless they are permitted by the presiding Judges to stay seated due to health conditions.

#### **Article 235. Procedures for rendering Court judgments or decisions in Court sessions**

1. Judgments must be discussed and adopted by the Trial Panels in the deliberation rooms.

2. Decisions to replace the procedure presiding officers, expert-witnesses, interpreters, to transfer the cases, to suspend or terminate the resolution of cases, or to postpone Court sessions, or decisions to recognize the agreement between involved parties or to suspend the Court session, must be discussed and adopted by the trial panel at the deliberation rooms and made in writing.

3. Decisions on other matters shall be discussed and adopted by the Trial Panels at the Court rooms and need not to be made in writing but must be recorded in the minutes of the Court sessions.

#### **Article 236. Minutes of Court sessions**

1. Minutes of a Court session must be fully inscribed with the following details:

a) Main contents of the decision to bring the case to trial as stipulated in Clause 1 of Article 220 of this Code;

b) All developments at the Court session from the beginning to the end;

c) Questions, answers and statements given at the Court session.

2. Apart from recording the minutes of Court sessions, the Trial Panels may make audio-recording and/or video-recording of the developments of the Court session.

3. At the end of a Court session, the presiding Judge of the Court session must examine the minutes and co-sign on the minutes with the Court reporter.

4. The procurator and procedure participants shall be entitled to read the minutes of the Court session immediately after the end of the Court session and request the inclusion of amendments or additions into the minutes and append the countersign.

#### **Article 237. Preparing for the opening of a Court session**

Before the opening of a Court session, the Court reporter must perform the following jobs:

1. Briefing on the internal rules of the Court session.

2. Checking up on the absence or presence of the persons participating in the Court sessions under the court's subpoenas or notices; if any person is absent, the reasons therefor must be clarified.

3. Maintaining order in the Court room.

4. Requesting all people present in the Court room to stand up when the Trial Panel enters the Court room.

#### **Article 238. Procedures for conducting trial in absence of all procedure participants**

1. The Courts shall base themselves on materials and evidences included in the case files to conduct trials in the absence of involved parties and/or other procedure participants according to law provisions when the following conditions are fully satisfied:

a) The plaintiffs and/or their lawful representatives submit applications for trials in their absence;

b) The defendant, persons with relevant interests and duties and/or their lawful representatives submit applications for trials in their absence or are absent though have been duly summoned twice;

c) Defense counsels of legitimate rights and interests of plaintiffs, defendants or persons with relevant interests and duties submit applications for trials in their absence or are absent though have been duly summoned twice.

2. The presiding Judges of the Court session shall announce reasons for the absence of the involved parties or their applications for trials in their absence.

3. The presiding Judges of the Court session shall briefly announce the contents of the cases and materials and evidences included in the case files. The trial panel shall discuss matters to be settled in the cases.

4. Procurators shall present opinions of the procuracies.

5. The trial panels shall deliberate the cases and pronounce judgments according to regulations in this Code.

## **Section 2. PROCEDURES FOR COMMENCING A Court SESSION**

### **Article 239. Opening a Court session**

1. The presiding Judge of the Court session shall open the Court session and read out the decision to bring the case to trial.

2. The Court reporter shall then report to the Trial Panel on the presence and absence of the persons participating in the Court session under the court's subpoenas or notices and the reasons for their absence.

3. The presiding Judge of the Court shall cross-check the presence of the participants in the Court session under the court's subpoenas or notices and examine identities of the involved parties and procedure participants.

4. The presiding Judge shall explain the rights and obligations of the involved parties and other procedure participants.

5. The presiding Judge shall introduce full names of the procedure presiding officers, expert-witnesses, interpreters.

6. The presiding Judge of the Court shall ask persons who are entitled to request the replacement of procedure presiding officers, expert-witnesses or interpreters to see if they wish to replace anyone.

7. The witnesses shall be requested to undertake to give truthful testimonies, if not, they will take legal responsibility, unless the witnesses are minors.

8. The expert-witnesses and the interpreters shall be requested to undertake to provide accurately the expertising results and to interpret accurately the contents to be interpreted.

### **Article 240. Handling requests for replacement of procedure conductors, expert-witnesses and/or interpreters**

In cases where certain persons request the replacement of procedure presiding officers, expert-witnesses and/or interpreters, the trial panels must consider and decide in accordance with procedures stipulated in this Code and may accept or not accept such request. In case of non-acceptance, the reasons therefor must be clearly stated.

### **Article 241. Considering and deciding on the postponement of Court sessions upon someone's absence**

When any procedure participants are absent from Court sessions and they do not fall into the cases where the Courts must postpone the Court sessions, the presiding Judges must ask if there is any one requesting the postponement of the Court sessions. If there is, the Trial Panels shall consider and decide thereon according to the procedures stipulated in this Code and may accept or not accept such request. In case of non-acceptance, the reasons therefor must be clearly stated.

### **Article 242. Securing the objectivity of witnesses**

1. Before asking the witnesses about matters they know, which are related to the resolution of the cases, the presiding Judges may decide to take necessary measures so that witnesses cannot hear each other's testimonies nor contact the relevant persons.
2. If the testimonies of the involved parties and the witnesses are interrelated, the presiding Judges may decide to isolate the involved parties from the witnesses before the witnesses are questioned.

### **Article 243. Inquiring the involved parties about change, supplementation or withdrawal of their claims**

Procedures for inquiring the involved parties about change, supplementation or withdrawal of their claims start when the presiding Judges ask the involved parties about the following matters:

1. Inquiring the plaintiffs to see whether or not they wish to change, supplement or withdraw part or whole of their lawsuit petitions;
2. Inquiring the defendants to see whether or not they wish to change, supplement or withdraw part or whole of their counter-claims;
3. Inquiring the persons with related interests and duties who make independent claims to see whether or not they wish to change, supplement or withdraw part or whole of their independent claims.

### **Article 244. Considering the change, supplementation or withdrawal of claims**

1. The trial panels shall accept the change and/or supplementation of the involved parties' claims, if such change or supplementation does not fall beyond the scope of their original lawsuit petitions, counter-claims or independent claims.
2. Where an involved party voluntarily withdraws part or whole of his/her claim, the Trial Panel may accept such request and terminate the trial regarding the withdrawn part or whole of the claim.

### **Article 245. Changing the procedural status**

1. Where the plaintiff withdraws the entire lawsuit claim, but the defendant still maintains his/her counterclaims, the defendant shall become the plaintiff and the plaintiff shall become the defendant.
2. Where the plaintiff withdraws the entire lawsuit claim and the defendant withdraws the entire counterclaims, but persons with related interests and duties still maintain their independent claims, the persons with related interests and duties shall become plaintiffs while the persons who are sued under the independent claims shall become defendants.

### **Article 246. Recognizing the agreements of involved parties**

1. The presiding Judge of the Court shall ask if the involved parties can reach an agreement about the case resolution. If the involved parties can voluntarily reach an agreement on the case resolution that is not contrary the law or social ethics, the trial panel shall issue decisions on recognition of the agreement between involved parties on the case resolution
2. The Court decisions recognizing the involved parties' agreements on the resolution of the cases shall take legal effect as prescribed in Article 213 of this Code.

### **Section 3. ORAL ARGUMENT IN Court SESSIONS**

#### **Article 257. Contents and mode of oral argument in Court sessions**

1. Oral argument at the Courts include the presentation of evidences, questioning and answering and the expression of opinions and argument about evidences and details of the civil lawsuits or disputes and the applicable law provisions for the resolution of petitions of involved parties in the cases.
2. The oral argument at the Courts shall be conducted according to the direction of the Presiding Judge of the Court session.
3. The Presiding Judge must not limit the duration of the oral argument and must enable persons who participate in the argument to present fully their opinions; however, the Presiding Judge shall be entitled to request such persons to stop presenting contents irrelevant to the cases.

#### **Article 248. Presentation of defense counsels of legitimate rights and interests of the involved parties**

1. In cases where certain involved parties still maintain their claims and cannot reach agreements on the resolution of the cases, the involved parties shall present in the following order:

- a) The defense counsels of the plaintiff's legitimate rights and interests shall present the plaintiff's claims and evidences to prove that their claims are well-grounded and lawful. The plaintiff shall be entitled to give additional opinions.

In cases where agencies or organization institute the cases, their representatives shall present the lawsuit claims and evidences to prove that their lawsuit claims are well-grounded and lawful;

- b) The defense counsels of the defendant's legitimate rights and interests shall present the defendant's opinions on the plaintiff's claims; the defendant's counter-claims and proposals as well as evidences to prove that such proposals are well grounded and lawful. The defendant shall be entitled to give additional opinions.

- c) The defense counsels of the legitimate rights and interests of persons with related rights and obligations shall present the latter's opinions on the claims and proposals of the plaintiff and the defendant; independent claims and proposals of the persons with related rights and obligations as well as evidences to prove that such proposals are well grounded and lawful.

The persons with related interests and duties shall be entitled to give additional opinions.

2. In cases where the plaintiff, the defendant or the persons with related interests and duties have no defense counsels of their legitimate rights and interests, they shall present by themselves their claims and proposals as well as evidences to prove that such claims and proposals are well grounded and lawful.

3. At the Court sessions, the involved parties and defense counsels of their legitimate rights and interest are entitled to supplement evidences as prescribed in clause 4 Article 96 of this Code to prove their respective claims and proposals.

#### **Article 249. Order and principle of inquiring in Court session**

1. When the presentations of the involved parties finish and the defense counsels of rights and interests of the involved parties, according to provisions of Article 248 of this Code and under the direction of the Presiding Judge of the Court session, the order of inquiring in Court session shall be:

a) The plaintiffs, defense counsels of rights and interests of the plaintiffs; the defendants, defense counsels of rights and interests of the defendants; persons with relevant interests and duties, defense counsels of rights and interests of persons with relevant interests and duties;

b) Other procedure participants;

c) The Judge of the Court session, People's Jurors;

d) Procurators participating in the Court session.

2. Questions for the inquiry must be clear, serious, unduplicated and the questioners must not misuse the inquiry to infringe upon honor and dignity of procedure participants.

#### **Article 250. Inquiring plaintiffs**

1. In cases where there are more than one plaintiff, they shall be inquired and separately one by one.

2. The plaintiffs shall be inquired only about matters presented by themselves or by the defense counsels of their legitimate rights and interests which are unclear, inconsistent or contradictory to their previous testimonies, or contradictory to the presentations of the defendant, the persons with related rights and obligations and/or the defense counsels of their legitimate rights and interests.

3. Plaintiffs may themselves reply or the defense counsels of their legitimate rights and interests may rely on their behalf, then the plaintiffs may give additional answers.

#### **Article 251. Inquiring defendants**

1. In cases where there is more than one defendant, each defendant shall be inquired separately.2. The defendants shall only be inquired about matters which have been unclearly presented by themselves or the defense counsels of their legitimate rights and interests or have been inconsistent or contradictory to their previous testimonies, or contradictory to the claims of the plaintiffs or the persons with related rights and obligations and/or the defense counsels of their legitimate right and interests.

3. Defendants may answer questions by themselves or the defense counsels of their legitimate rights and interests answer on their behalf before the defendants give additional answers.

#### **Article 252. Inquiring persons with related interests and obligations**

1. In cases where there are more than one person with related interests and obligations, each of them shall be inquired separately.

2. The persons with related interests and obligations shall only be inquired about matters which have been unclearly presented by themselves or the defense counsels of their legitimate rights and interests or have been inconsistent or contradictory to their previous testimonies, or contradictory to the claims of the plaintiffs or the persons with related rights and obligations and/or the defense counsels of their legitimate right and interests.

3. Persons with related rights and obligations may answer questions by themselves or the defense counsels of their legitimate rights and interests answer on their behalf before they give additional answers.

### **Article 253. Inquiring witnesses**

1. Before questioning witnesses, the presiding Judges shall ask clearly about the relations between them and parties involved in the cases; if witnesses are minors, the presiding Judges may request their parents, guardians or teachers to help in the inquiries. In cases where there is more than one witness, each of them shall be inquired separately.

2. The presiding Judges shall request the witnesses to present details about the cases that they know. After the witnesses complete their presentations, they may only be further questioned about points which they have presented unclearly, incompletely or inconsistently or which have been contradictory to their previous testimonies, contradictory to the presentations of the involved parties and/or the defense counsels of the involved parties' legitimate rights and interests.

3. After completing their presentations, the witnesses shall stay in the Court rooms so that they may be further questioned.

4. In cases where it is necessary to secure the safety of the witnesses or their relatives, the Trial Panels may decide not to disclose information on their personal records and must keep them from being seen by attendants to the Court sessions.

5. involved parties and defense counsels of their legitimate rights and interests may question the witnesses after agreed by the presiding Judges of the Court session.

### **Article 254. Public disclosure of materials and evidences of the cases**

1. The Trial Panel shall publicly disclose materials and evidences of a case in the following cases:

a) Procedure participants are absent from Court sessions but have given their testimonies during adjudication preparation;

b) Testimonies given in Court sessions by procedure participants are contradictory to their previous testimonies;

c) In other cases that the trial panel considers necessary or at the request of procurators, involved parties, defense counsels of rights and interests of involved parties, other procedure participants.

2. In special cases where it is necessary to keep State secrets, to preserve the nation's fine customs and practices, to keep professional secrets, business secrets, private secrets or family secrets or to protect minor people at the requests of the involved parties, the trial panels shall not disclose documents included in the case files.

**Article 255. Listening to audio-tapes and/or discs, watching video tapes and/or discs and other audio/video-recording devices**

At the request of the involved parties, defense counsels of their legitimate rights and interests, procedure participants or procurators or when deeming it necessary, the Trial Panels may arrange for the audio tapes and/or discs to be listened to, and/or video tapes and/or discs and/or other audio/video recording devices to be screened in Court sessions, except for the cases stipulated in Clause 2 of Article 254 of this Code.

**Article 256. Examining exhibits**

Exhibits, photos or records certifying exhibits shall be presented for examination in Court sessions.

When necessary, the trial panel, together with the involved parties, may conduct an on-site inspection of the exhibits that cannot be brought to the Court session.

**Article 257. Inquiring expert-witnesses**

1. The presiding Judges shall request the expert-witnesses to present their conclusions on matters they have been assigned to expertise. During their presentations, the expert-witnesses may give additional explanations on the expertising conclusions and the grounds to make such conclusions.
2. Procurators and procedure participants present in Court sessions shall be entitled to give comments on the expertising conclusions, to ask about matters which are unclear or contradictory in the expertising conclusions or contradictory to other details of the cases.
3. In cases where the expert-witnesses are absent from Court sessions, the presiding Judges shall publicly disclose the expertising conclusions.
4. When any involved parties or defense counsels of rights and interests of involved parties disagrees with the expertising conclusions publicly disclosed in Court sessions and request the expert-witnesses to make additional expertise or re-expertise, if deeming that the additional expertise or the re-expertise is necessary for the settlement of the cases, the Trial Panels shall decide on the additional expertise or re-expertise; in this case, the Trial Panels shall decide to postpone the Court sessions according to provisions in point d clause 1 Article 259 of this Code.

**Article 258. Concluding the inquiries in Court sessions**

When deeming that the case details have been fully examined, the presiding Judges shall ask the procurators, the involved parties, the defense counsels of the legitimate rights and interests of the involved parties and other procedure participants whether they request to ask about any matters or not; in cases where someone has such request and he/she deems that such request is well grounded, the presiding Judges shall decide to continue the inquiries.

**Article 259. Postponement of Court sessions**

1. During the process of adjudication, the trial panel shall be entitled to make decisions to postpone the Court session in any of the following cases:
  - a) Due to health conditions or due to a force majeure event or an objective obstacle, the proceeding officer cannot continue with the Court session, unless the proceeding officer can be replaced;

- b) Due to health conditions or due to a force majeure event or an objective obstacle, the procedure participant cannot continue participating in the Court session, unless the presiding officer apply for trial in their absence;
- c) Cases where materials and/or evidences must be verified or additional collected to resolve the cases and such activities could not be carried out at the court;
- d) Cases where the additional expertising results or the re-expertising results have not been made and must be waited for;
- dd) Involved parties agree to request the Court to postpone the Court session so that they will conduct mediation themselves;
- e) Cases which must be reported to the Chief Justice of the Courts to apply for amendment and/or supplement or repeal of legislative documents as prescribed in Article 221 of this Code.

2. The postponement of the Court sessions must be recorded in minutes. Duration of the postponement of the Court sessions must not exceed 01 month from the day on which the trial panels make decisions to postpone the Court sessions. When such time expires, if the reasons for the postponement do not exist anymore, the trial panels shall resume the Court sessions; otherwise, the trial panels shall make decisions to suspend the resolution of the lawsuits. The trial panels must send written notification to procedure participants and the procuracies of the same levels about the time for resuming the Court sessions.

#### **Article 260. Order for making arguments**

1. At the end of the inquiring process, the Trial Panels shall move on to the arguments in Court sessions. The order for making arguments shall be as follows:
  - a) The defense counsels of the plaintiffs' legitimate rights and interests shall make their presentations. The plaintiff shall be entitled to give additional opinions. In cases where agencies or organizations initiate lawsuits, the representatives of such agencies or organizations shall present their opinions. The persons having their rights and interests protected may give additional comments;
  - b) Defense counsels of the defendants' legitimate rights and interests shall present counter-arguments. The defendant shall be entitled to give additional opinions.
  - c) Defense counsels of the legitimate rights and interests of persons with related interests and duties shall make presentations. The persons with related interests and duties shall be entitled to give additional opinions;
  - d) Involved shall present their arguments and counter-arguments according to the control of the presiding Judges;
  - dd) When it is deemed necessary, the trial panels may request involved parties to make additional argument about specific matters that are used as grounds for the resolution of the cases.
2. In cases where the plaintiffs, the defendants or persons with related interests and duties have no one to defend their legitimate rights and interests, they shall themselves make presentations during the arguments.

3. If any of the involved parties or other participants is absent, the presiding Judges of the Court sessions shall publicly disclose his/her testimonies so that involved parties present at the courtroom could make arguments and responses.

#### **Article 261. Presentations during arguments and responses**

When making presentations on the assessment of evidences or expressing their views on the resolution of cases, persons participating in the arguments must base themselves on documents and evidences that have been collected, examined and verified in Court sessions as well as results of the inquiring process in Court sessions. They may respond to the opinions of others.

#### **Article 262. Presentations of procurators**

When procedure participants have present their arguments and responses, the procurators shall give opinions about the compliance of the Judges, trial panels, Court reporters and other procedure participants with procedure law during the course of resolution of the cases, from the acceptance to the deliberation and about the case resolution.

Immediately when the Court sessions finish, the procurators must send the writings containing their opinions to the Courts so that the Courts save such documents to the case files.

#### **Article 263. Resuming inquiries and arguments**

Through arguments, if deeming that details of the cases have not been considered, or have been considered insufficiently, or it is necessary to additionally examine evidences, the trial panels shall decide to resume the inquiring process.

### **Section 4. DELIBERATION AND PRONOUNCEMENT OF JUDGMENTS**

#### **Article 264. Deliberation**

1. At the end of arguments, the trial panels enter the deliberation rooms to deliberate the cases.
2. Only members of the trial panels are allowed to participate in the deliberation. During the deliberation, the trial panel members must base themselves on materials and evidences examined at the Court sessions, the results of arguments at the Court sessions and law provisions; if the cases are of cases specified in clause 2 Article 4 of this Code, the trial members must also base themselves on customs The People's Jurors shall vote first while the presiding Judges shall vote last. The minority may express their opinions in writing which shall be recorded in the case files.
3. Deliberation must be recorded in minutes specifying all opinions discussed and decisions of the trial panels. The deliberation records must be signed at the deliberation rooms by all members of the trial panels before the judgments are pronounced.
4. Where the cases involve many complicated circumstances and the deliberation requires a longer time, the trial panels may decide on the deliberation time limit which, however, shall not exceed 05 working days since the end of arguments in Court sessions.

The trial panels must inform all persons present in Court sessions and the absent procedure participants of the hours, date and place where the judgments shall be pronounced. If the trial panels have made the notification while some proceeding participants are absent, the trial panels shall still proceed with the pronouncement of judgments as provided for in Article 267 of this Code.

#### **Article 265. Resumption of inquiries and arguments**

Through deliberation, if deeming that details of the cases have not been considered, the inquiries have not been sufficient or evidences should be further examined, the trial panels may decide to resume the inquiries and arguments.

### **Article 266. First-instance judgments**

1. Courts shall render judgments in the name of the Socialist Republic of Vietnam.
2. A judgment shall contain an introduction, contents of the case and assessment of the court, and the court's decision. To be specific:
  - a) The introduction section of the judgment must clearly state the name of the first-instance court; the serial number and date of the case acceptance; the serial number of the judgment and the date of judgment pronouncement; full names of the members of the trial panel, the Court reporter, the procurators, expert-witnesses and interpreter; full names and addresses of the plaintiff, defendant, persons with related interests and duties; agencies, organizations or individuals initiating the lawsuit; the lawful representatives, the defense counsels of the legitimate rights and interests of the involved parties; matters under dispute; the serial number and date of the decision to bring the case to trial; form of trial: public trial or closed trial; time and place of trial;
  - b) The contents of the cases and assessment of the Court must contain the lawsuit petition of the plaintiff, lawsuit petition of agency/organization/individual; counter-claims and/or requests of the defendant; independent claims and/or requests of persons with related interests and duties.

The Court must base themselves on materials and evidences examined at the Court session and result of argument at the Court session to analyze and assess comprehensively and objectively details of the case and legal bases; if the case is of those specified in clause 2 Article 4 of this Code, the customs, the provisions applicable to same matters, basic principles of civil laws, legal precedents or the justice shall be based on when deciding to or to not approve the petitions/requests of the involved parties or representatives of their legitimate rights and interests and resolving relevant matters.

c) The court's decision must state legal grounds, decisions of the trial panel on each matter to be resolved in the case, on the application of provisional emergency measures, Court fees, procedural charges and right to appeal against the judgment; in cases where there are decisions which must be executed immediately, such decisions must be clearly stated.

3. When retrying cases of which judgments or decisions have been partial or wholly cancelled according to cassation/reopening decisions, the Court shall resolve all issues pertaining to properties and/or duties that have been executed (if any) according to legally effective judgments and decisions that are cancelled; such shall be recorded in the judgment.

### **Article 267. Pronouncing judgments**

The Trial panels shall pronounce the judgments in the presence of involved parties, representatives of agencies/organizations/individuals initiating lawsuits. If the involved parties are present during the Court session but are absent at the time of pronouncing judgments or in cases specified in clause 4 Article 264 of this Code, the judgment shall be still pronounced by the trial panels.

Upon the pronouncement of a judgment, all people in the courtroom must rise up, except for special cases permitted by the presiding Judge. The presiding Judge or another member of the

trial panel reads out the judgment and may give further explanation of the judgment execution and the right to appeal.

If Court conducts the trial behind closed doors as prescribed in clause 2 Article 15 of this Code, the trial panel shall publicly pronounce only the beginning and the decisions in the judgment.

If the involved parties need interpreters, the interpreters shall interpret the parts of judgment that are publicly pronounced.

#### **Article 268. Amendment or supplementation of judgments**

1. A judgment, once pronounced must not be amended or supplemented, except where obvious mistakes in spelling, in data due to confusion or miscalculation are detected.

2. If the judgment needs to be amended or supplemented as prescribed in clause 1 of this Article, the Judge shall cooperate with People's Jurors being members of the trial panel making such judgment to issue a decision on amendment and/or supplement of the judgment and immediately send it to the involved parties, agencies/organizations/individuals initiating the lawsuit, procuracy of the same level and civil judgment-executing bodies if the judgment has been sent to such civil judgment-executing bodies.

In cases where the Judge in charge of the case no longer hold the Judge's position at the Court making such judgment, the courts' Chief Justices shall carry out such amendment or supplementation.

#### **Article 269. Supplying judgment extracts and judgments**

1. Within 03 working days after the end of a Court session, the involved parties, agencies, organizations or individuals initiating the lawsuits shall be supplied with judgment extracts by the court.

2. Within 10 days as from the date of judgment pronouncement, the Court shall hand over or send the judgment to the involved parties, agencies, organizations or individuals initiating the lawsuit and the procuracy of the same level.

3. An effective first-instance judgment of the Court about resolution of civil lawsuit pertaining to interests of consumers initiated by a social organization protecting interests of consumers must be publicly posted at the office of the Court and must be publicly posted on one of central or local dailies for three consecutive issues.

An effective first-instance judgment of the Court relevant to the compensation responsibility of the State must be sent to State management agencies competent in state compensation by the Court.

An effective first-instance judgment of the Court relevant to the change of civil status of an individual must be notified by the Court in writing enclosed with judgment extracts to People's Committee where such individual registered for civil status as prescribed in the Law on civil status.

Time limit for public disclosure, posting or delivery of judgments and notices prescribed in this clause is 05 working days from the day on which the judgment takes legal effect.

4. Effective first-instance judgments of the Court shall be posted on e-portal of the Court (if any), except for court's judgments/decisions containing information specified in clause 2 Article 109 of this Code.

### **PART THREE**

#### **PROCEDURES FOR RESOLUTION OF CASES AT APPELLATE COURTS**

##### **Chapter XV**

#### **NATURE OF APPELLATE TRIAL AND THE APPEAL AGAINST JUDGMENTS, DECISIONS OF FIRST-INSTANCE COURTS**

##### **Article 270. Nature of appellate trial**

Appellate trial means the re-trial by the appellate Court of a case with the first-instance court's judgment or decision having not yet taken legal effect and being appealed against.

##### **Article 271. Persons having the right to appeal**

The involved parties or their representatives, agencies, organizations or individuals initiating lawsuits shall have the right to lodge their appeals against judgments or decisions of the first-instance Courts to suspend or terminate the resolution of lawsuits in order to request the appellate Courts to conduct re-trials according to the appellate procedures.

##### **Article 272. Application for an appeal**

1. When exercising his/her right to appeal, the appellant shall formulate an application for appeal. An application for an appeal must have the following principal contents:

- a) Date on which the application is made;
- b) Name, address; phone number, fax number, e-mail address (if any) of the appellant;
- c) The section of judgment or decision of the first-instance Court which has not yet taken legal effect and is appealed;
- d) The reason(s) for appealing and the appellant's claims.
- dd) Signature or fingerprint of the appellant.

2. Any appellant being individual who has fully civil procedure act capacity may formulate application for appeal himself/herself. Regarding the blanks for name and address of the appellant on the application form, full name, address, phone number, fax number, e-mail address (if any) of the appellant must be written. At the end of the application form, the appellant must append his/her signature or fingerprint.

3. For appellant specified in clause 2 of this Article, if the appellant cannot apply for appeal himself/herself, he/she may authorize a representative to conduct the application for appeal. Regarding the blanks for name and address of the appellant on the application form, full name and address of the proxy representative of the appellant; phone number, fax number, e-mail address (if any) of the appellant must be written and the written authorization for conduct application for appeal must be enclosed therewith. At the end of the application form, the proxy representative of appellant must append his/her signature or fingerprint.

4. Lawful representatives of involved parties being agencies or organizations may make appeal themselves. Regarding the blanks for name and address of the appellant on the application form,

names, addresses, phone numbers, fax numbers, e-mail addresses (if any) of the involved parties being agencies, organizations and full names and positions of the lawful representatives of the involved parties being must be written. At the end of the application form, the lawful representatives must append signature and affix seal of such agencies/organizations; if the appellant is an enterprise, the seal shall be used according to provisions of the Law on Enterprise.

If the lawful representatives of involved parties being agencies/organizations authorize other persons to conduct appeal, at the blanks for name and address of the appellant on the application form, full names and addresses of the lawful representatives of such agencies/organizations; phone numbers, fax numbers, e-mail addresses (if any) of the agencies/organizations; full names, positions of lawful representatives of such agencies/organizations must be written and written authorizations must be enclosed therewith. At the end of the application form, the proxy representative of appellant must append his/her signature or fingerprint.

5. The lawful representatives of the involved parties being minors or legally incapacitated persons may formulate application for appeal by themselves. At the blanks for name and address of the appellant on the form, full names and addresses of the lawful representatives; full names and addresses of involved parties being minors or legally incapacitated persons must be written. At the end of the application form, the proxy representatives of appellant must append their signatures or fingerprints.

If the lawful representatives of involved parties authorize other persons to conduct appeal, at the blanks for name and address of the appellant on the application form, full names and addresses of the authorized representatives; full names and addresses of the lawful representatives of the involved parties; full names and addresses of involved parties being minors or legally incapacitated persons must be written and the written authorization must be enclosed therewith. At the end of the application form, the proxy representatives of appellant must append their signatures or fingerprints.

6. The authorization specified in clauses 3, 4 and 5 of this Article must be carried out under written authorizations that are lawfully notarized and authenticated, except for cases where such authorizations are formulated under the witness of the Judges or persons assigned by the Chief Justices. The written authorizations must contain the contents of the judgments/decisions on suspension/termination of the cases issued by the first-instance Courts that the involved parties authorized the proxy representatives to file appeals against.

7. The appeal application must be filed with the first-instance Court which rendered the first-instance-judgment or decision being appealed against. Where the appeal application is filed with the appellate Court, the appellate Court must transfer the application to the first-instance Court for carrying out necessary procedures and sending the case file to the appellate Court as provided for in this Code.

8. The appeal application must be accompanied with additional materials and/or evidences (if any) to prove that their appeals are well-grounded and lawful.

### **Article 273. Time limit for an appeal**

1. The time limit for an appeal against the first-instance court's judgment is 15 days as from the date of judgment pronouncement; for the involved parties or representatives of agencies/organizations/individuals initiating lawsuits being absent from the Court sessions or absent when the Court pronounces the judgment with good and sufficient reason, the time limit

for an appeal shall be counted from the date the judgment is handed to them or publicly posted up.

For cases where involved parties, representatives of agencies/organizations/individuals initiating lawsuits are present in Court sessions but absent when the Court pronounces the judgment without good and sufficient reason, time limit for an appeal shall be counted from the date of judgment pronouncement.

2. The time limit for an appeal against the first-instance court's decision on to suspend or terminate the resolution of the case is 07 days counting from the day on which the involved parties and the agencies, organizations and individuals initiating lawsuits receive the decision or from the day on which the decision is posted up as prescribed in this Code.

3. For cases where the appeal applications are sent by post, time limit for an appeal shall be determined pursuant to the date written on the post seal of the sending post office. If the appellant is incurring a detainment, the date of appeal shall be the day on which the appeal application is certified by the prison officers.

#### **Article 274. Examination of appeal applications**

1. After receiving the appeal applications, the first-instance Courts must examine their validity as provided for in Article 272 of this Code.

2. In case of overdue appeals, the first-instance Courts shall request the appellants to further explain the reasons therefor and provide materials and/or evidences (if any) to prove that the reasons for late submission of their appeal applications are plausible.

3. Where the appeal applications are made not in compliance with the provisions of Article 272 of this Code, the first-instance Courts shall request the appellants to amend or supplement them.

4. An appeal application shall be returned by the Court in the following cases:

a) The appellant is not entitled to file an appeal;

b) The appellant fails to make another appeal application or fails to amend or supplement the appeal application at the request of the Court as prescribed in clause 3 of this Article.

c) Cases specified in clause 2 Article 276 of this Code.

#### **Article 275. Overdue appeals and consideration for overdue appeals**

1. Appeals that are not made within the time limit stipulated in Article 273 of this Code shall be the overdue appeals. After receiving overdue appeal applications, the first-instance Courts must forward the applications and the appellants' explanation of the reasons for late filing the appeals, materials and/or evidences (if any) to the appellate Courts.

2. Within 10 days after receiving the overdue appeal applications and the accompanied materials and/or evidences, the Courts of appeal shall set up a Panel consisting of three Judges to consider the overdue appeals. The meetings for considering overdue appeals must be under the presence of representatives of the procuracies of the same level and the overdue appeal applicants. If the appellants and/or the procurators are absent, the meetings shall be still carried on by the Court.

3. Pursuant to materials and evidences related to the overdue appeals, opinions of the overdue appeal applicants and representatives of the procuracies at the meetings, the overdue-appeal-considering Panel shall issue decisions under the majority rule on the acceptance or refusal of the

overdue appeals that contain explanation for such acceptance or refusal. The appellate Courts must send their decisions to the overdue appeal applications, the first-instance Courts and the procuracies of the same level. If the appellate Courts accept the overdue appeals, the first-instance Courts shall carry out procedures stipulated in this Code.

#### **Article 276. Notification of payment of appellate Court fee advance**

1. After accepting the valid appeal applications the first-instance Courts must notify the appellants thereof so that they pay the appellate Court fee advances as required by law, if they do not fall cases of being exempt from, or having not to pay, the appellate Court fee advances.

2. Within 10 days as from the day on which the courts' notifications of payment of the appellate Court fee advances are received, the appellants must pay the Court fee advances and submit to the first-instance Courts the receipts of the payment of Court fee advances. After such time limit, if the appellants fail to pay the appeal fee Court advances, they shall be deemed to have given up their appeals, unless they have plausible reasons therefor.

If the appellants pay submit the Court the receipts of the payment of Court fee advances after 10 days as from the day on which the courts' notifications of payment of the appellate Court fee advances are received without explanation, the first-instance Courts shall request the appellant to send a writing presenting reasons for the lateness of submission of such receipts to the first-instance Courts within 03 working days from the day on which the courts' notifications are received to be recorded in the case files. Such cases shall be settled according to the overdue appeal consideration procedures.

#### **Article 277. Notice of appeal**

1. After receiving the valid appeal applications, the first-instance Courts must notify such in writing to the procuracies of the same level and the involved parties, enclosed with copies of the appeal applications and additional materials and evidences that the appellants enclosed with the appeal applications.

2. Involved parties relevant to the appeal who are notified of the appeals shall be entitled to send to the appellate Courts documents expressing their opinions on the appealed matters. Such documents shall be included in the case files.

#### **Article 278. Appeal by procuracies**

The head of the procuracy of the same level or the immediate superior level shall be entitled to appeal against the first-instance court's judgments or decisions to suspend or terminate the resolution of the cases in order to request the immediate superior Court to directly settle the cases according to the appellate procedures.

#### **Article 279. Appeal decisions of procuracies**

1. The procuracies' appeal decisions must be made in writing and contain the following principal contents:

- a) Issuing date and serial number of the appeal decision;
- b) Name of the procuracy that issues the appeal decision;
- c) Appealed sections of parts or the whole first-instance court's judgments or decisions which have not yet taken legal effect;

d) Reason(s) for such appeal and the procuracy's claims.

dd) Full name of the person signing the appeal decision and seal of the procuracy issuing the appeal decision.

2. The appeal decisions must be immediately sent to the first-instance Courts that have rendered the appealed judgments or decisions so that such Courts shall carry out procedures stipulated by this Code and send the case files to the appellate Courts as provided for in Article 283 of this Code.

3. Enclosed with the appeal decisions shall be additional documents and/or evidences (if any) to prove that the procuracies' appeals are well grounded and lawful.

#### **Article 280. Time limit for an appeal**

1. The time limit for making an appeal against a first-instance court's judgment shall be 15 days for the procuracy of the same level and 1 month for the immediate superior procuracy, counting from the date of judgment pronouncement. In cases where the procurators do not attend the Court sessions, the appeal time limit shall be counted from the day on which the procuracy of the same level receives the judgment.

2. The time limit for making an appeal against the first-instance court's decision on suspension or termination of the resolution of the case shall be 07 days for procuracy of the same level and 10 days for immediate superior procuracy, counting from the day on which the procuracy of the same level receives such decision.

3. If the Court receives the appeal decision from the procuracy after the time limit prescribed in clauses 1 and 2 of this Article, the first-instance Court shall request the procuracy to provide explanation in writing.

#### **Article 281. Notification of appeals**

1. The procuracy issuing an appeal decision must promptly send the appeal decision to the parties relating to the appeal.

2. Persons who are notified of the appeal shall be entitled to send to the appellate Court documents expressing their views on the appealed matters. Such documents shall be included in the case files.

#### **Article 282. Effects of an appeal**

1. First-instance courts' judgments/decisions or parts thereof that are appealed against shall not be enforced, except where the law requires the immediate enforcement thereof.

2. The first-instance courts' judgments/decisions or parts thereof which are not appealed against shall take legal effect as from the day on which the appeal time limit expires.

#### **Article 283. Forwarding case files and appeals**

The first-instance Courts must forward case files, appeals and accompanying materials and evidences to the appellate Courts within 05 working days from the date:

1. The time limit for an appeal expires;

2. The appeal time limit expires and the appellant has submitted the receipt of the payment of appellate Court fee advance to the first-instance court.

## **Article 284. Modifying, supplementing, withdrawing appeals**

1. If the time limit for appeal specified in Article 273 of this Code has not expired, the appellant is entitled to modify or supplement the appeal regardless of the scope of the original appeal.

If the time limit for appeal specified in Article 280 of this Code has not expired, the procuracy shall be entitled to modify or supplement the appeal regardless of the scope of the original appeal.

2. Before the opening of appellate Court sessions or in appellate Court sessions, the appellants may modify or supplement their appeals and the procuracies issuing appeal decisions may modify or supplement their appeals, provided that the modification or supplementation must not go beyond the scope of the original appeals or appeals, if the appeal or appeal time limit has expired.

3. Before the opening of appellate Court sessions or in appellate Court sessions, the appellants may withdraw their appeals and the procuracies issuing appeal decisions or the immediate superior procuracy may withdraw their appeals.

The appellate Courts shall terminate the appellate trial over parts of the cases against which the appellants have withdrawn their appeals or the procuracies have withdrawn their appeals.

The termination of the appellate trials before the opening of the appellate Court sessions shall be decided by the presiding Judges of the Court sessions; the termination of the appellate trials in the Court sessions shall be decided by the trial panels.

4. The modification, supplementation or withdrawal of appeals before the opening of appellate Court sessions must be made in writing and sent to the appellate courts. The appellate Courts must notify involved parties of the modification, supplement or withdrawal of appeals and notify the procuracies of the same level of the modification, supplement or withdrawal of the appeals.

The modification, supplementation or withdrawal of appeals in Court sessions must be recorded in the minutes of the Court sessions.

## **Chapter XVI**

### **PREPARATION FOR AN APPELLATE TRIAL**

#### **Article 285. Acceptance of appellate trial**

1. Immediately after receiving the case files, appeals and accompanying materials and evidences, the appellate Courts must record them to the acceptance books.

Within 03 working days from the date of judgment acceptance, the Court shall send written notifications to involved parties, agencies, organizations and individuals initiating lawsuits and procuracy of the same level informing that it has accepted the petition; such information shall be also posted on e-portal of the Court (if any).

2. The Chief Justice of the appellate Court shall set up an appellate trial panel and assign a Judge to be the presiding Judge of the Court session.

#### **Article 286. Time limit for preparation for appellate trials**

1. Within 02 months as from the day on which the petition is accepted, the competent Court shall, on a case-by-case basis, issue one of the following decisions:

- a) To suspend the appellate trial over the cases;
- b) To terminate the appellate trial over the cases;
- c) To bring a case to appellate trial.

Regarding complicated cases or due to force majeure events or objective obstacles, the Chief Justices of the appellate Courts may issue decisions to extend the time limit for preparation for appellate trial for not exceeding 01 month.

2. Within 01 month form the day on which the decision to bring a case to trial is issued, the Court shall open an appellate Court session; if there is good and sufficient reason, such period shall be 02 months.

3. If there is a decision to suspend the appellate trial over the case, time limit for preparation for the appellate trial shall be calculated from the day on which the decision to resume the lawsuit settlement issued by the Court takes legal effect.

4. Time limit prescribed in this Article shall not be applicable to cases that are appealed according to simplified procedures and cases involving foreign elements.

#### **Article 287. Provision of materials and evidences during the preparation for appellate trial**

1. Involved parties are entitled to supplement the following materials and evidences during the preparation for appellate trial:

- a) Materials and evidences requested by the first-instance Court that have not been provided by the involved parties due to good and sufficient reason;
- b) Materials and evidences not requested by the first-instance Court or

2. Procedures for supplying materials and/or evidences shall be conformable with provisions of Article 96 of this Code.

#### **Article 288. Suspension of the appellate trial**

1. If the appellate Court issues a decision to suspend the appellate trial over a case, the effects of such suspensions and the resumption of appellate trial shall conform to provisions of Articles 214, 215 and 216 of this Code.

2. A decision to suspend the appellate trial over a case shall be effective immediately and shall be immediately sent to involved parties, agencies/organizations/individuals initiating the lawsuit and the procuracy of the same level.

#### **Article 289. Termination of the appellate trial**

1. The appellate Court shall issue a decision to suspend the appellate trial over a case or a part of a case in the following cases:

- a) Cases specified in points a and b clause 1 Article 217 of this Code;
- b) The appellant withdraw the whole appeal or the procuracy withdraw the whole appeal;
- c) The appellant withdraw a part of the appeal or the procuracy withdraw a part of the appeal;
- d) Other cases as prescribed by law.

2. If the appellant withdraws the whole appeal or the procuracy withdraws the whole appeal before the appellate Court issues the decision to bring a case to appellate trial, the decision to terminate the appellate trial shall be issued by the Judge assigned to preside the Court session; if the appellant withdraws the whole appeal or the procuracy withdraws the whole appeal when the Court has issued the decision to bring a case to appellate trial, the decision to terminate the appellate trial shall be issued by the appellate trial panel.

In such cases, first-instance judgments/decisions shall take legal effect from the day on which the appellate Courts issue the decisions to terminate the appellate trial.

3. If the appellant withdraws a part of the appeal or the procuracy withdraws a part of the appeal, the appellate trial panel shall consider such withdrawal and issue a decision on termination of a part of the appeal in the appellate judgment.

4. A decision to terminate the appellate trial over a case shall be effective immediately and shall be immediately sent to involved parties, agencies/organizations/individuals initiating the lawsuit and the procuracy of the same level.

#### **Article 290. Decision to bring a case to appellate trial**

1. A decision to bring a case to appellate trial shall consist of the following principal contents:

a) Information specified in points a, b, c, d, g, h and I clause 1 Article 220 of this Code;

b) Full name of the Judge, Court clerk; full name of alternate Judge (if any);

c) Full name, procedural capacity of the appellant;

d) Procuracy lodging appeal (if any);

dd) Full name of the procurator participating in the Court session; full name of the alternate procurator (if any).

2. A decision to bring a case to appellate trial must be sent to involved parties and procuracy of the same level within 03 working days from the day on which it is issued.

#### **Article 291. Decision to apply, change or cancel provisional emergency measures**

Within the preparation for appellate trials, appellate Courts shall be entitled to issue decisions to apply, change or cancel provisional emergency measures prescribed in Chapter VIII of this Code.

#### **Article 292. Forwarding the case files to the procuracies for study**

1. Appellate Courts must forward the case files and decisions to bring the case to trial to procuracies of the same levels for study.

2. The procuracies shall study the files within 15 days as from the day on which such case files are received; upon the expiry of such time limit, the procuracies must return the case files to the Courts.

### **Chapter XVII**

#### **APPELLATE TRIAL PROCEDURES**

##### **Section 1. PROCEDURES FOR OPENING AN APPELLATE COURT SESSION**

#### **Article 293. Scope of appellate trial**

The appellate Courts shall only review the parts of the first-instance judgments/decisions, which are appealed against or related to the review of the appealed contents.

#### **Article 294. Participants in appellate Court sessions**

1. The appellants, the involved parties, agencies/organizations/individuals that are related to the resolution of the appeals and the defense counsels of the involved parties' legitimate rights and interests must be summoned to the appellate Court sessions. The Courts can summon other procedure participants to Court sessions if they deem it necessary for the resolution of the appeals.

2. Procurators of the procuracy of the same level shall participate in the appellate Court session.

#### **Article 295. Suspension or termination of appellate trials in Court sessions**

At appellate Court sessions, the suspension or termination of the appellate trial of cases shall comply with the provisions of Articles 288 and 289 of this Code.

#### **Article 296. Postponement of appellate Court sessions**

1. If the procurators assigned to participate in the appellate Court sessions are absent, the trial panels shall not postpone the Court sessions and shall carry on the trial, unless the procuracy lodge appeals.

2. If people who file appeals, people who do not file appeals but have interests and duties related to the appeals or defense counsels of their legitimate rights and interests are absent at the first time they are duly summoned, the Court sessions must be postponed. If they apply for trial in their absence, the Judge shall carry out the appellate Court sessions according to procedures for trial in their absence.

3. If the appellants who have been duly summoned twice but are still absent, they shall be considered having waived their appeals and the Courts shall issue decisions to stop the appellate trial over the appeals of such appellants; if such appellants apply for trials in their absence, the Court shall carry out the appellate Court sessions in their absence.

If the appellants are absent due to force majeure events or objective obstacles, the Court sessions must be postponed.

If there are more than one appellants and any of whom has been duly summoned twice but are still absent without application for trials in their absence, he/she shall be considered having waived their appeals and the Court shall bring the case to trial. In the decision of the judgment, the Court shall terminate the appellate trial for the appeal of such absent appellant.

If people who do not file appeals but have interests and duties related to the appeals and other participants who have been duly summoned twice by the Courts but still absent, the Court shall carry on the trial.

4. The duration for postponement of, and the decisions to postpone, the appellate Court sessions shall comply with the provisions of Article 233 of this Code.

#### **Article 297. Preparation for the opening of appellate Court sessions and procedures for starting the appellate Court sessions**

The preparation for the opening of appellate Court sessions and the procedures for starting the appellate Court sessions shall comply with the provisions of Articles 237, 239, 240, 241 and 242 of this Code.

**Article 298. Asking about the appeals and processing of change of appeals in Court sessions**

1. After the conclusion of the procedures for opening an appellate Court session, a member of the trial panel shall announce the contents of the case, the decision of the first-instance judgment and the appealed contents.
2. The presiding Judge shall ask the following issues:
  - a) Whether or not the plaintiff wishes to withdraw his/her/its lawsuit petition or not;
  - b) Whether or not the appellant or the procurator wishes to change, supplement or withdraw their appeal;
  - c) Whether or not the involved parties can reach mutual agreements on the resolution of the case.
3. If the appellant withdraws a part of the appeal or the procuracy withdraws a part of the appeal, Court shall accept such withdrawal. If the appellant or the procuracy supplement contents that exceed the original scope of appeal, the Court shall not consider such contents.

**Article 299. Plaintiffs withdraw lawsuit petitions before the opening of, or in, appellate Court sessions**

1. If the plaintiffs withdraw their lawsuit petitions before the opening of, or in, appellate Court sessions, the appellate Trial Panels must ask the defendants whether they agree therewith or not and may settle on a case-by-case basis as follows:
  - a) Disapproving the withdrawal of lawsuit petitions by the plaintiffs if the defendants disagree;
  - b) Approving the withdrawal of lawsuit petitions by the plaintiffs if the defendants agree. The Appellate Trial Panels shall issue decisions to abrogate first-instance judgments and terminate the resolution of the cases. In this case, the involved parties are still required to pay the first-instance Court fees as decided by the first-instance Courts and half of the appellate Court fees as provided for by law.
2. In cases where the Appellate Trial Panels issue decisions to terminate the resolution of the cases as prescribed in point b clause 1 of this Article, the plaintiffs shall be entitled to re-institute the cases according to the procedures prescribed by this Code.

**Article 300. Recognizing the agreement of the involved parties in appellate Court sessions**

1. In appellate Court sessions, if the involved parties can reach mutual agreement on the resolution of their cases and their agreements are voluntary and not contrary to law or social ethics, the appellate trial panels shall render appellate judgments to revise the first-instance Court judgments and recognize the agreement of the involved parties.
2. The involved parties may also reach agreement on the payment of the first-instance Court fees. If they fail to reach such agreement, the Courts shall make decision according to law provisions.

**Section 2. ORAL ARGUMENT IN APPELLATE Court SESSIONS**

**Section 301. Contents and forms of oral argument in appellate Court sessions**

Contents and forms of oral argument in appellate Court sessions shall comply with regulations in Article 247 of this Code.

### **Article 302. Presentations of the involved parties and procurators in appellate Court sessions**

If the involved parties maintain the appeals and the procuracies maintain the appeals, the presentations in appellate Court sessions shall be performed as follows:

1. Presentation of appeals:

a) Defense counsels of legitimate rights and interests of the appellant shall make presentation of the contents of appeals and grounds for the appeals. The appellants may give additional opinions.

In cases where all involved parties appeal, the presentations shall be made in the following order: the defense counsels of legitimate rights and interests of the appellants being plaintiffs and the plaintiffs; the defense counsels of legitimate rights and interests of the appellants being defendants and the defendants; the defense counsels of the legitimate rights and interests of the appellants being persons with related interests and duties and the persons with related interests and duties;

b) In case where only the procuracies file appeals, the procuracies shall make presentation of the appealed contents. In cases where there are both appeal, the involved parties shall present the appealed contents and the grounds therefore first, then the procurators shall present the appealed contents and the grounds therefor;

c) In cases where the involved parties have no defense counsels, they shall themselves present their opinions on the appealed contents as well as their proposals.

2. The defense counsels of legitimate rights and interests of other parties related to the appeal shall present their opinions on the appealed contents. The involved parties may give additional opinions.

3. In the appellate Court sessions, the involved parties and procurators may product additional evidences.

### **Article 303. Procedures for inquiries and publication of materials and evidences examination of exhibits in appellate Court sessions**

1. Procedures for inquiring participants and publishing materials and evidences, examining exhibits prescribed in Article 287 of this Code in appellate Court sessions shall be the same as those applicable in first-instance Court sessions.

2. The inquiry shall be made on matters falling within the scope of appellate trials as stipulated in Article 293 of this Code.

### **Article 304. Postponement of appellate Court sessions**

The postponement of appellate Court sessions shall comply with regulations in Article 259 of this Code.

### **Article 305. Arguments in appellate Court sessions**

1. In appellate Court sessions, involved parties and defense counsels of legitimate rights and interests of involved parties shall argue only about matters falling within the scope of appellate trials that have been inquired in appellate Court sessions.

2. Appellate arguments shall be conducted according to the following order:

- a) Defense counsels of legitimate rights and interests of the appellant shall make presentation. The appellants may give additional opinions;
- b) Defense counsels of legitimate rights and interests of the involved parties shall present arguments, question and answer. The involved parties may give additional opinions;
- c) When it is deemed necessary, the trial panel may request involved parties to present additional arguments about specific matters to form basis for the resolution of the case.

3. Appeal arguments shall be conducted according to the following order:

- a) Defense counsels of legitimate rights and interests of the involved parties shall present about the lawfulness and the groundedness of the appeal. The involved parties may give additional opinions;
- b) Procurators shall present opinions about matters presented by defense counsels of legitimate rights and interests of involved parties and/or involved parties.

4. If the involved parties have no defense counsels of legitimate rights and interests, they shall argue themselves.

5. If any of the involved parties or other participants is absent, the presiding Judge of the Court session must publish their testimonies, base on which the involved parties present in the Court session can argue and question and answer.

#### **Article 306. Presentations of the procurators in appellate Court sessions**

When the arguments and questioning and answering finish, the procurators shall present opinions of the procuracies on the compliance with law provisions during the resolution of civil lawsuits in appellate trial period.

Immediately when the Court sessions finish, the procurators must send the writing containing the procuracies' opinions to the Courts to be kept in the case files.

#### **Article 307. Deliberation and judgment pronouncement**

The deliberation, the inquiry resumption and arguments, the time for deliberation, pronouncement, amendment and supplementation of appellate judgments shall comply with the first-instance trial procedures.

#### **Article 308. Jurisdiction of the appellate trial panels**

The appellate trial panels shall have the power as follows:

1. To uphold the first-instance judgments;
2. To revise the first-instance judgments;
3. To repeal the whole or parts of first-instance judgments and transfer the case files to the first-instance Courts for retrial over the cases according to first-instance procedures;
4. To repeal the first-instance judgments and terminate the resolution of the cases;
5. To terminate the appellate trial;

6. To suspend the case resolution in case the Chief Justice of the Supreme People's Court recommend competent agencies to consider amending, supplementing or repealing legislative documents denoting contrary to provisions of Constitutions, laws, Resolutions of National Assembly, ordinances, Resolutions of the Standing committee of the National Assembly, legislative documents of superior regulatory agencies until the competent agencies respond in writing.

#### **Article 309. Amendment to first-instance judgments**

The appellate trial panels can revise part or whole of a first-instance judgment if the first-instance Court made a decision in contravention of law in the following cases:

1. The collection of evidences and proof has been carried out sufficiently and in accordance with the provisions of Chapter VII of this Code;
2. The collection of evidences and proof that have not been carried out sufficiently in first-instance Courts are completely supplemented in appellate Court sessions.

#### **Article 310. Repeal of the whole or parts of first-instance judgments and transfer of the case files to the first-instance Courts for retrial over the cases according to first-instance procedures**

The appellate trial panels shall repeal the whole or parts of first-instance judgments and transfer the case files to the first-instance Courts for retrial over the cases according to first-instance procedures in any of the following cases:

1. The collection of evidences and proof have failed to comply with the provisions of Chapter VII of this Code or have not yet been fully carried out while the supplementation thereof cannot be made in the appellate Court sessions;
2. The composition of the first-instance Trial Panels has fail to comply with the provisions of this Code or other serious procedural violations have been committed and affect lawful rights and interests of the involved parties.

#### **Article 311. Annulment of first-instance judgments and termination of case resolution**

The appellate trial panels shall annul first-instance judgments and terminate the case adjudication if during the resolution of the cases in the first-instance Court sessions, the cases fell under one of the circumstances stipulated in Article 217 or point b clause 1 Article 299 of this Code.

#### **Article 312. Termination of the appellate trial**

The appellate trial panels shall terminate the appellate trial and uphold the first-instance judgment in any of the following cases:

1. Cases specified in clause 2 Article 289 of this Code;
2. The appellant is absent though has been duly summoned twice as prescribed in clause 3 Article 296 of this Code, unless the case is appealed against by another appellant by the procuracy.

#### **Article 313. Appellate Court judgments**

1. The appellate trial panels shall, in the name of the Socialist Republic of Vietnam, render appellate Court judgments.

2. An appellate Court judgment shall be composed of:

- a) The introduction;
- b) The case contents, appeal, assessment;
- c) The Court decision.

3. The introduction section must clearly state the name of the appellate court; the code number and date of the case acceptance; the serial number of the judgment and the date of judgment pronouncement; full names of the members of the trial panel, Court reporter, procurator, expert-witness and interpreter; full names and addresses of the plaintiffs, defendants, persons with related rights and obligations; agencies or organizations initiating the lawsuit or their lawful representatives, the defense counsels of their legitimate rights and interests; appellants or appealing procuracy; public or closed trial, time and place of trial.

4. The section on the case contents, the appeal and assessment must summarize the contents of the case and decision of the first-instance court; content of the appeal.

The Court must base themselves on materials and evidences examined at the Court session and result of argument at the Court session to analyze and assess comprehensively and objectively the appeal, details of the case, the adjudication and resolution of the first-instance court, legal grounds applied by the Court, if the case is of the cases specified in clause 2 Article 4 of this Code, the Court shall also base themselves on customs, legal similarity, basic principles of civil law, precedent or the justice to decide to accept or not to accept the appeal and to resolve relevant matters.

The decision must state legal grounds, decisions of the trial panel on each matters to be resolved in the case, on the application of provisional emergency measures, first-instance court's fees, appellate court's fees and procedural charges (if any).

5. When retrying cases whose judgments or decisions have been partial or wholly repealed according to cassation/reopening decisions, the Court shall resolve all issues pertaining to properties and/or duties that have been executed (if any) according to legally effective judgments and decisions that are repealed; such shall be recorded in the judgment.

6. The appellate judgments shall take effect as from the date they are pronounced.

#### **Article 314. Procedures for appellate revision of decisions of the first-instance Courts which are appealed against**

1. When conducting appellate trial over first-instance courts' decisions, which are appealed against, the appellate trial panels shall not be required to open Court sessions nor summon the involved parties, except where it is necessary to hear their opinions before making decisions.

2. Within 01 month form the day on which the appeal against a decision of a first-instance Court is accepted, the Court shall open an appellate meeting to review such decision; if there is good and sufficient reason, such period shall be 02 months. Procurators of the procuracy of the same level shall participate in the appellate meeting. If the procurators are absent, the meetings shall be still carried on by the Court, unless the procuracy lodges an appeal.

3. One member of the appellate panel shall present the summarized contents of the first-instance judgments which are appealed against, the contents of the appeals and accompanying materials as well as evidences (if any).

4. The procurators shall state the procuracies' opinions on the resolution of the appeals before the appellate trial panels make decisions.
5. When reviewing the first-instance courts' decisions, which are appealed against, the appellate trial panels shall have the power to:
  - a) Uphold the first-instance courts' decisions;
  - b) Amend the first-instance courts' decisions;
  - c) Repeal the first-instance courts' decisions and transfer the case files to the first-instance Courts to continue the resolution of the cases.
6. The appellate decisions shall take effect as from the day on which they are issued.

#### **Article 315. Forwarding appellate judgments/decisions**

1. Within 15 days as from the day on which the appellate judgments or decisions are issued, the appellate Courts must forward the judgments and/or decisions to the Courts which conducted the first-instance trials, the procuracies of the same levels, the competent civil judgment-executing bodies, the appellants, persons whose rights and obligations are related to the appeals or their lawful representatives.

If the appellate trial is conducted by a Collegial People's Court, such time limit may be extended for not exceeding 25 days.

2. An appellate judgment/decision pertaining to interests of consumers initiated by a social organization protecting interests of consumers must be publicly posted at the office of the Court and must be publicly posted on one of central or local dailies for three consecutive issues.

An appellate judgment/decision relevant to the compensation responsibility of the State must be sent to State management agencies competent in state compensation by the appellate Court.

Regarding appellate judgments/decisions related to the change of civil statuses of individuals, within 05 working days from the day on which such judgments/decisions take legal effect, the appellate Courts shall send written notifications enclosed with copies of the judgments/decisions to People's Committees where such individuals registered civil statuses as prescribed in the Law on civil status.

3. The appellate judgments shall be posted on e-portal of the Court (if any), except for court's judgments containing information specified in clause 2 Article 109 of this Code.

### **PART FOUR**

#### **RESOLUTION OF CIVIL LAWSUITS ACCORDING TO SIMPLIFIED PROCEDURES**

##### **Chapter XVIII**

#### **RESOLUTION OF CIVIL LAWSUITS ACCORDING TO SIMPLIFIED PROCEDURES AT FIRST-INSTANCE TRIALS**

##### **Article 316. Scope of application of simplified procedures**

1. Simplified procedures are procedures that are applied to resolve civil lawsuits which fully satisfy conditions specified in this Code in simpler procedures than common civil lawsuit resolution procedures to resolve the cases quickly but still ensure the compliance with law.

2. Provisions of the Part shall be applied to resolve cases according to simplified procedures; cases other than those specified in this Part shall be resolved according to other provisions of this Code.

3. If there are other law provisions stating that a civil dispute shall be resolved according to simplified procedure, the resolution of such dispute shall be conducted according to procedures specified in this Part.

### **Article 317. Conditions for application of simplified procedures**

1. The Court shall resolve a case according to simplified procedure when all of the following conditions are satisfied:

a) The case has simple details, clear legal relationship and the involved parties have admitted their obligations; materials and evidences are sufficient, ensuring the sufficiency of grounds for the resolution of the case and the Court does not have to collect materials/evidences;

b) Addresses of residence and headquarters of all of involved parties are determined;

c) None of involved parties reside overseas and there are no properties being in dispute are in foreign countries, unless the involved parties residing overseas and the ones residing in Vietnam have reached agreements to request the Courts to resolve the cases according to simplified procedures or the involved parties have presented evidences about the legitimate right to ownership towards the properties and have reached agreements about the handling of the properties.

2. Regarding labor cases that have been accepted and settled according to simplified procedures, if the employers having foreign nationalities or their lawful representatives have left their residence/headquarter addresses that have been priorly declared without notification to other involved parties and the Courts, such entities shall be considered to conceal their addressees on purpose. The Courts shall continue resolving the cases according to simplified procedure specified in this Part.

3. During the preparation for the resolution of the cases according to simplified procedures, if any of the following details is detected and, as the result, the cases no longer eligible for resolution according to simplified procedures, the Courts shall make decisions to resolve the cases according to common procedures:

a) New details are found out but the involved parties cannot reach agreements and therefore such details need verification, more materials and evidences need to be collected and expertises need to be conducted;

b) Involved parties cannot reach agreements about the prices of the properties being in dispute and such properties shall be subject to price assessment/appraisal;

c) Cases where provisional emergency measures must be applied;

d) New persons with relevant interests and duties are found out;

dd) New counter-claims or independent claims are found out;

e) New involved parties who reside overseas, properties in dispute that are in foreign countries, requirements for verification or collection of evidences from foreign countries subject to request for judicial assistance, except for cases specified in point c clause 1 of this Article.

4. If the cases are transferred for resolution according to common procedures, the duration for preparation for the resolution of the cases shall be re-counted from the day on which the decisions to transfer the cases for resolution according to common procedures are issued.

**Article 318. Decisions to bring cases to trial for resolution according to simplified procedures**

1. Within 01 month from the day on which the cases are accepted according to regulations in clauses 3 and 4 Article 195 of this Code, the Judge who are assigned to resolve the case must make decisions to bring the cases to trial for resolution according to simplified procedures and shall hold the trials within 10 days from the day on which the decisions are issued.

2. A decision to bring a case to trial for resolution according to simplified procedures shall include the following main contents:

a) Date of issuing the decision;

b) Name of the Courts making the decision;

c) The case that is brought to trial for resolution according to simplified procedure;

d) Names, addresses; phone numbers, fax numbers, e-mail addresses (if any) of the plaintiffs, the defendants or agencies, organizations or individuals initiating lawsuits specified in Article 187 of this Code and persons with relevant interests and duties;

dd) Full names of the Judge, the Court clerk; full name of the alternate Judge (if any);

e) Full name of the procurator; full name of the alternate procurator (if any);

g) Date, time and place of holding the Court session;

h) Whether the session is open trial or closed trial;

i) Full names of persons summoned to the Court session.

3. The decisions to bring the case to trial for resolution according to simplified procedures shall be immediately sent to involved parties and procuracies of the same levels.

If the procuracies participate in the Court sessions according to regulations in clause 2 Article 21 of this Code, the Courts shall send the case files and the decisions to bring the cases to trial to procuracies of the same levels. Within 03 working days from the day on which the case files are received, the procuracies shall study the files and return them to the Courts.

**Article 319. Complaints, recommendations about decisions to bring cases to trial for resolution according to simplified procedures and resolution thereof**

1. Within 03 working days from the day on which the decisions to bring the cases to trial for resolution according to simplified procedures are received, involved parties may file complaints and the procuracies of the same levels may file recommendations to the Chief Justices of the Courts issuing such decisions.

2. Within 03 working days from the day on which the complaints/recommendations about the decisions to bring the cases to trial for resolution according to simplified procedures are received, the Courts shall issue one of the following decisions:

a) To uphold the decision to bring the case to trial for resolution according to simplified procedures;

b) To repeal the decision to bring the case to trial for resolution according to simplified procedure and transfer the case for resolution according to common procedures.

3. The decisions on resolution of complaints/recommendations issued by the Courts shall be the final ones and must be immediately sent to the involved parties and the procuracies of the same levels.

#### **Article 320. Court sessions conducting simplified procedures**

1. Involved parties, procurators of procuracies of the same levels must attend the Court sessions conducting simplified procedures. If the procurators are absent, the trial panels shall still hold the session. Involved parties may apply for trial in their absence.

If the defendants or the persons with relevant interests and duties are absent without good and sufficient reasons though have been duly summoned, the Court sessions shall be still carried out by the Judge.

2. The Judge shall carry out the opening of the Court sessions according to regulations in Article 239 of this Code.

3. When the Court sessions have been opened, the Judge shall conduct mediation process, except for cases must not be mediated specified in Article 206 and cases cannot be mediated specified in Article 207 of this Code. If the involved parties can reach agreements about matters to be resolved in the cases, the Judge shall issue decisions to recognize such agreements as provided for in Article 212 of this Code. If the involved parties fail to reach agreements about such matters, the Judge shall conduct the resolution process.

The presentation, argument, question and answer and suggestion about the resolution of the cases shall comply with regulations in Section 3 Chapter XIV of this Code.

4. If at the Court sessions, new details detected as prescribed in clause 3 Article 317 of this Code make the cases no longer eligible for resolution according to simplified procedures, then the Judge shall consider issuing decisions to transfer the cases for resolution according to common procedures. In these cases, time limit for preparation for the resolution of the cases shall be counted according to regulations in clause 4 Article 317 of this Code.

#### **Article 321. Effect of judgments/decisions made according to simplified procedures**

1. First-instance judgments/decisions of the Courts made according to simplified procedures can be appealed against according to appellate procedures to request the first-instance Courts to re-settle the cases according to appellate simplified procedures.

2. Judgments/decisions made according to simplified procedures can be appealed against according to cassation/reopening procedures as provided for in this Code.

### **Chapter XIX**

#### **RESOLUTION OF CIVIL LAWSUITS ACCORDING TO SIMPLIFIED PROCEDURE AT APPELLATE TRIALS**

#### **Article 322. Time limit for appeal against judgments/decisions made according to simplified procedures**

1. Time limit for filing appeal against a judgment/decision of first-instance Court issued according to simplified procedures shall be 07 days from the day on which the judgment is

pronounced. Regarding involved parties who were absent from the Court sessions, time limit for them to appeal against judgments/decisions shall be counted from the day on which such judgments/decisions are received or the day on which such judgments/decisions are posted.

2. Time limit for filing appeal against a judgment/decision of the first-instance Court issued according to simplified procedure shall be 07 days (applicable to appeals made by procuracies of the same levels) or 10 days (applicable to appeals made by the immediately superior procuracies) from the day on which such judgment/decision is received.

### **Article 323. Time limit for preparation for appellate trials conducted according to simplified procedures**

1. Within 01 month from the day on which the cases are accepted, for specific cases, the Judge assigned to resolve the cases according to appellate procedures shall issue one of the following decisions:

- a) To suspend the appellate process of the case;
- b) To terminate the appellate process of the case;
- c) To bring the case to appellate trial.

2. The decisions to bring cases to trial shall contain the information specified in clause 1 Article 290 of this Code. The decisions to bring cases to trial must be immediately sent to persons related to the appeal process and the procuracies of the same level, enclosed with the file cases for study.

Time limit for the procuracies to study the case files shall be 05 working days counting from the day on which the case files are received; when such time limit expires, the procuracies must return them to the Courts.

3. If a decision to terminate the appellate process for the case is issued, time limit for preparation for the appellate trial shall be re-counted from the day on which the Court resume the appellate trial process when the reasons for suspension are resolved.

4. If new details are found out as prescribed in clause 3 Article 317 of this Code, the Courts shall issue decisions to transfer the cases for resolution according to common procedures. In these cases, time limit for preparation for the resolution of the cases shall be counted according to regulations in clause 4 Article 317 of this Code.

### **Article 324. Appellate simplified procedures for judgments/decisions of first-instance Courts that are appealed against**

1. Within 15 days from the day on which decisions to bring cases to appellate trial are issued, the Judges shall hold the appellate Court sessions.

2. Involved parties, procurators of procuracies of the same levels must attend the appellate Court sessions. If the procurators are absent, the trial panels shall still carry out the trials, unless the procuracies file appeals. Involved parties may apply for trial in their absence.

If the involved parties who do not file appeals are absent without good and sufficient reasons though have been duly summoned, the Judges shall still carry out the trials.

3. The Judge shall present briefly the contents of the first-instance judgments/decisions that are appealed against, contents of the appeals and the enclosed materials/evidences (if any).

4. Defense counsels of legitimate rights and interests of the involved parties shall make presentation and the involved parties shall supplement opinions about the contents of the appeals, present arguments, questions, answers and opinions about the resolution of the cases.

5. When the argument, questioning and answering finish, the procurators shall express the procuracies' opinions about the compliance with law during the resolution of the civil lawsuits in the appellate stage.

Immediately when the Court sessions finish, procurators must send the writings containing procuracies' opinions to the Courts to be kept in the case files.

6. When reviewing judgments/decisions of first-instance Courts that are appealed against, the Judges shall be entitled to:

a) Uphold the judgments/decisions of first-instance Courts;

b) Modify judgments/decisions of first-instance Courts;

c) Repeal the judgments/decisions of first-instance Courts and transfer the case files to first-instance Courts so that the cases could be resolve again according to simplified procedure, or according to common procedures in cases conditions for resolution according to simplified procedures are not fully satisfied;

d) Repeal the first-instance judgments and terminate the resolution of the cases;

dd) Terminate the appellate trials and uphold the first-instance judgments.

7. Appellate judgments/decisions shall be legally effective from the day on which the judgments/decisions are issued.

## **PART FIVE**

### **PROCEDURES FOR REVIEWING LEGALLY EFFECTIVE JUDGMENTS/DECISIONS**

#### **Chapter XX**

##### **CASSATION PROCEDURES**

###### **Article 325. Nature of cassation**

Cassation means the review of courts' legally effective judgments or decisions, which are appealed against when there are grounds specified in Article 326 of this Code are satisfied.

###### **Article 326. Grounds and conditions for appeal according to cassation procedures**

1. A legally effective judgment/decision of the Court shall be appealed against according to cassation procedures when there is one of the following grounds:

a) Conclusion in the judgment/decision is incompatible with the objective details of the cases, causing damage to legitimate rights and interests of the involved parties;

b) There are serious violations against procedures that prevent involved parties from executing their procedural rights and obligations, as the result, their legitimate rights and interests are not protected as prescribed in law;

c) There are mistakes in the application of law leading to the issuance of wrong judgments/decisions, causing bad effect to legitimate rights and interests of involved parties, infringing upon public benefits, State benefits, legitimate rights and interests of the third parties.

2. Persons competent to lodge appeals specified in Article 331 of this Code shall lodge appeals against Courts' judgments/decisions that are legally effective when there is one of the grounds specified in clause 1 of this Article and shall file applications as provided for in Article 328 of this Code or make notifications/recommendations as prescribed in clauses 2 and 3 Article 327 of this Code. If the judgments/decisions infringe upon public benefits, State benefits, legitimate rights and interests of the third parties, the applications are not required.

**Article 327. Discovering legally effective judgments or decisions of Courts which need to be reviewed according to cassation procedures**

1. Within 01 year from the day on which the Court's judgments/decisions takes legally effect, if any legal violations in the judgments/decisions is discovered, involved parties are entitled to submit written applications to persons competent to lodge appeal specified in Article 331 of this Code for consideration according to cassation procedures.

2. If the Courts, the procuracies or other agencies/organizations/individuals discover legal violations in the Courts' judgments/decisions that are legally effective, written notifications must be sent to persons competent to lodge appeals provided for in Article 331 of this Code.

3. Chief Justices of People's Courts of provinces shall file recommendations to Chief Justices of Collegial People's Courts/Supreme People's Courts, the Chief Justices of Collegial People's Courts shall file recommendations to Chief Justices of Supreme People's Courts, to review the appeals against Courts' judgments/decisions that are legally effective according to cassation procedures if any ground specified in clause 1 Article 326 of this Code is discovered.

**Article 328. Application for reviewing legally effective judgments or decisions according to cassation procedures**

1. An application for reviewing Courts' judgments/decisions which are legally effective according to cassation procedures must have the following principal details:

a) Date of making the application;

b) Name and address of the applicant;

c) Name of the Court's legally effective judgment/decision subject to reviewing according to cassation procedures;

d) Reasons for the application, requests of the applicant;

dd) Signature or fingerprints, applicable to applicants being individuals, or signature and seal of lawful representatives, applicable to applicants being agencies or organizations, in the end of the application. If the applicant is an enterprise, the use of the seal shall comply with provisions of the Law on Enterprise.

2. Enclosed with the application shall be Courts' legally effective judgments/decisions and materials and evidences (if any) to prove that the applicants' requests are well-grounded and lawful.

3. The application and materials and/or evidences shall be sent to persons competent to lodge appeals provided for in Article 331 of this Code.

**Article 329. Procedures for receiving applications for reviewing courts' legally effective judgments or decisions according to cassation procedures**

1. Courts/procuracies shall receive applications that are submitted by the involved parties directly at the Courts/procuracies or by post and shall record to the application registers and issue receiving slips for involved parties. Date of sending of application shall be calculated from the day on which the involved parties submit the application at the Courts/procuracies or the sending date written on the post seal.

2. Courts/procuracies shall accept the applications only when all provisions specified in Article 328 of this Code are satisfied. If the applications do not satisfy conditions specified in Article 328 of this Code, the Courts/Procuracies shall request the applicants to submit application for amendment/supplement within 01 month from the day on which the requests from the Courts/Procuracies are received. Upon the expiry of such period, if the applicants fail to conduct amendment/supplement, the Courts/Procuracies shall return the applications enclosed with explanation and note such cases in the application registers.

3. Persons competent to file appeals according to cassation procedures shall assign persons to study the petitions, notifications, recommendations and case files then request the persons competent to file appeals to consider and make decisions. If the petitions are rejected, written notifications containing explanation shall be sent to involved parties, agencies, organizations and individuals that have sent the notifications/recommendations.

The Chief Justice of the Supreme People's Court shall assign Judges of the Supreme People's Court, the Chairperson of the Supreme People's Procuracy shall assign procurators of the Supreme People's Procuracy to study the petitions, notifications, recommendations, case files and report them to the Chief Justice of the Supreme People's Court and the Chairperson of the Supreme People's Procuracy for considering and making decisions on appeal. If the petitions are rejected, the Chief Justice of the Supreme People's Court, the Chairperson of the Supreme People's Procuracy shall, by themselves or authorize the Judge of the Supreme People's Court and procurators of the Supreme People's Procuracy to send written notifications containing explanation to the involved parties and individuals that have sent the notifications/recommendations.

### **Article 330. Supplement, verification of materials and evidences in cassation procedures**

1. Involved parties shall be entitled to provide materials and evidences for persons competent to file appeals according to cassation procedures if such materials and evidences have not been supplied to the first-instance Courts or the appellate Courts because such Courts had not required or because the involved parties failed to supplied due to good and sufficient reasons or because the involved parties did not know about such materials and evidences during the resolution of the cases.

2. During the resolution of petitions for consideration of the legally effective judgments/decisions of Courts according to cassation procedures, persons competent to file appeals according to cassation procedures shall be entitled to request the petitioners to supplement materials and evidences or inspect and verify the materials and evidences by themselves if necessary.

### **Article 331. Persons competent to appeal according to cassation procedures**

1. The Chief Justice of the Supreme People's Court and the Chairperson of the Supreme People's Procuracy shall be competent to appeal according to cassation procedures against the legally effective judgments or decisions of the Collegial People's Court; legally effective judgments or

decisions of other Courts when it is deemed necessary, except for cassation decisions of the Council of Judges of the Supreme People's Court.

2. The Chief Justices of the Collegial People's Courts and the chairpersons of the shall be entitled to appeal according to the cassation procedures against legally effective judgments or decisions of People's Courts of provinces or People's Courts of districts within territorial competence.

### **Article 332. Postponement and suspension of enforcement of legally effective judgments or decisions**

1. Persons who are competent to appeal against legally effective judgments or decisions of Courts may request the postponement of enforcement of judgments or decisions in order to consider the appeals according to cassation procedures. The postponement of enforcement of judgments shall comply with law regulations on civil judgment execution.

2. Persons who have appealed according to cassation procedures legally effective judgments or decisions shall have the right to decide on the suspension of enforcement of such judgments or decisions until the cassation decisions are made.

### **Article 333. Decisions to appeal according to cassation procedures**

A decision to appeal according to cassation procedures shall consist of the following principal contents:

1. Date and number of the appeal decision;
2. Position of the person who makes the appeal decision;
3. Number and date of the legally effective judgment or decision being appealed against;
4. Decisions of the legally effective judgment or decision being appealed against;
5. Comments, analysis of the violations or errors of the legally effective judgment or decision being appealed against;
6. Legal grounds for making the appeal decision;
7. Whether the appeal is against parts or whole of the legally effective judgment or decision;
8. Name of the Court that is competent to conduct cassation of such case;
9. Proposals of the appellant.

### **Article 334. Time limit for appeal according to cassation procedures**

1. Persons competent to appeal according to cassation procedures are entitled to lodge the appeal within 03 year from the day on which the Court's judgments/decisions takes legally effect, except for cases specified in clause 2 of this Article.

2. If the time limit for appeal prescribed in clause 1 of this Article expires such time limit shall be extended by 02 years from the day on which such time limit expires if the following conditions are satisfied:

a) The involved parties have submitted applications provided for in clause 1 Article 328 of this Code and maintain the application when the time limit for appeal provided for in clause 1 of this Article has expired;

b) Courts' legally effective judgments/decisions are contrary to law as prescribed in clause 1 Article 326 of this Code, seriously affecting legitimate rights and interests of involved parties and/or third parties, public benefits, State benefits and are subject to appeal to eliminate faults in such legally effective judgments/decisions.

### **Article 335. Modification, supplementation, withdrawal of appeals according to cassation procedures**

1. Persons who have appealed according to cassation procedures shall be entitled to modify or supplement the appeals if the appeal time limit prescribed in Article 334 of this Code has not yet expired. Such modification/supplement must be made under decisions. Decisions to modify/supplement appeals must be sent according to provisions of Article 336 of this Code.

2. Persons who have appealed shall be entitled to withdraw parts or whole of the appeal decisions before the opening of Court sessions or in cassation Court sessions. Such withdrawal must be made under decisions.

3. After receiving decisions to withdraw whole of the appeal, the cassation Courts shall issue decisions to terminate the cassation trial.

### **Article 336. Forwarding decisions to appeal according to cassation procedures**

1. Decisions to appeal according to cassation procedures must be immediately sent to the Courts that have issued the legally effective judgments/decisions being appealed against, the involved parties, the competent civil judgment-executing agencies and persons whose interests and duties are related to the appealed contents.

2. In cases where the Chief Justices of the Supreme People's Court or the Chief Justices of the Collegial People's Courts appeal, the appeal decisions and the case files must be immediately sent to the Procuracies of the same level. The procuracies shall study the files within 15 days as from the day on which the case files are received; upon the expiry of such time limit, the procuracies must transfer the case files to the Courts competent to hear the cases according to cassation procedures.

3. In cases where the Chairperson of the Supreme People's Procuracy or the heads of the Collegial People's procuracies appeal, the appeal decisions must be immediately sent to the Courts competent to hear the cases according to cassation procedures.

### **Article 337. Jurisdiction to review cases according to cassation procedures**

1. The Committee of Judges of the Collegial People's Courts shall review according to cassation procedures legally effective judgments/decisions of the provincial-level people's Courts or district-level people's courts, which are appealed against, within competence as follows:

a) The Committee of Judges of the Collegial People's Courts shall review according to cassation procedures, through trial panels composed of 3 Judges, legally effective judgments/decisions of the provincial-level people's Courts or district-level people's Courts which are appealed against:

b) If courts' legally effective judgments/decisions prescribed in point a of this clause are complicated, or judgments/decisions have been reviewed according to cassation procedures by Committee of Judges of Collegial People's Courts, through trial panels composed of 3 Judges, but no agreement is reached upon the vote on the decisions on case resolution, then the whole of

Committee of Judges of Collegial People's Courts shall review such judgments/decisions according to cassation procedures.

2. The Council of Judges of the Supreme People's Court shall review according to cassation procedures legally effective judgments/decisions of Collegial People's Courts which are appealed against as follows:

a) The Council of Judges of the Supreme People's Court shall review according to cassation procedures, through trial panels composed of 5 Judges, legally effective judgments/decisions of Collegial People's Courts that are appealed against according to cassation procedures;

b) If courts' legally effective judgments/decisions prescribed in point a of this clause are complicated, or judgments/decisions have been reviewed according to cassation procedures by the Council of Judges of the Supreme People's Court, through trial panels composed of 5 Judges, but no agreement is reached upon the vote on the decisions on case resolution, then the whole of Council of Judges of Supreme People's Courts shall review such judgments/decisions according to cassation procedures.

3. Complicated cases mentioned in point b clause 1 and point b clause 2 of this Article are the following cases:

a) Law provisions applicable to matters to be resolved in the case are unclear or are not applied consistently;

b) There is argument over the assessment of evidences and application of law provisions;

c) The case resolution is related to public benefits, State benefits, human's right protection, civil right protection that are specially concerned.

4. Chief Justices of Collegial People's Courts shall consider deciding to conduct cassation trials for cases specified in clause 1 of this Article. Chief Justices of Supreme People's Courts shall consider deciding to conduct cassation trials for cases specified in clause 2 of this Article.

5. If legally effective judgments/decisions are on the same civil lawsuits and within the competence to review according to cassation procedures of both Collegial People's Courts and the Supreme People's Court, then the Supreme People's Court shall have the competence to review according to cassation procedures for the whole of the case.

#### **Article 338. Participants in cassation review Court sessions**

1. The cassation review Court sessions must be with the participation of the Procuracies of the same level.

2. If it is deemed necessary, the Court shall summon involved parties or their representatives and defense counsels of their rights and interests or other participants related to the appeal to the cassation review Court session; if any of them is absent from the Court session, the cassation review trial panel shall still carry on the session.

#### **Article 339. Time limit for opening of cassation review Court sessions**

Within 04 months as from the day on which the appeals and the enclosed case files are received, the Courts competent to cassation review must open Court sessions to review cases according to cassation procedures.

#### **Article 340. Preparations for cassation review Court session**

The Chief Justice of the Court shall assign a Judge to prepare written explanation of the case at the Court session. The written explanation shall summarize the case contents and the judgments/decisions of the Courts of different levels as well as the appealed contents. The explanation must be forwarded to members of the Cassation Review panel not later than 07 days before the opening of the cassation review Court sessions.

#### **Article 341. Trial procedures at cassation review Court sessions**

1. After the presiding Judge opens the Court session, a member of the Cassation Review Panel shall present the brief contents of the case, the case handling process, decisions of the legally effective judgments/decisions being appealed against, grounds for the appeal, viewpoint of the appeal and proposals of the appellant. If the appeal is lodge by a procuracy, the procuracy must present the appealed contents.

2. Involved parties, their representatives and defense counsels of their rights and interests or other participants shall be summoned to the cassation review Court by the Court to present opinions about matters requested by the cassation review panel. If any of such persons is absent but has sent his/her written opinions before, the cassation review panel shall pronounce his/her opinions.

3. The representative of the procuracy shall present the opinions of the procuracy on the resolution of the case.

Immediately after the Court session, the representative of the procuracy shall send the writing containing opinions to the Court to be save in the case files.

4. Members of the Cassation Review Panel shall express their opinions and discuss. The Cassation review panel shall conduct deliberation and vote on the resolution of the case and pronounce the decision on the resolution of the case at the court. The deliberation must be conducted according to rules specified in Article 264 of this Code.

5. If the cassation review Court is conducted by the Committee of Judges of Collegial People's Court as prescribed in point a clause 1 Article 337 of this Code, decisions of the trial panel must be approved by all members of the panel.

For cassation review trial conducted as prescribed in point b clause 1 Article 337 of this Code, the Court session of the whole of the Committee of Judges of the Collegial People's Court must be under the presence of at least two-thirds of present members of the committee; decisions of the Judge committee must be approved by more than a haft of members of the committee.

6. If the cassation review Court is conducted by the Committee of Judges of the Supreme People's Court as prescribed in point a clause 2 Article 337 of this Code, decisions of the trial panel must be approved by all members of the panel.

For cassation review trial conducted as prescribed in point b clause 2 Article 337 of this Code, the Court session of the whole of the Committee of Judges of the Supreme People's Court must be under the presence of at least two-thirds of present members of the committee; decisions of the Judge committee must be approved by more than a haft of members of the committee.

#### **Article 342. Scope of the cassation review**

1. The Cassation Review Panels shall only review parts of legally effective judgments/decisions being appealed against or related to the review of the appealed contents.

2. The Cassation Review Panels shall be entitled to review the decisions of the legally effective judgments/decisions which are neither appealed against nor related to the review of the appealed contents, if these parts infringe upon the public interests, interests of the State, or the interests of the third parties other than the involved parties in the cases.

#### **Article 343. Jurisdiction of the Cassation Review Panels**

The Cassation Review Panels shall have the following powers:

1. To reject the appeals and uphold the court's legally effective judgments/decisions;
2. To repeal the legally effective judgments/decisions of Courts and uphold the lawful judgments/decisions of the subordinate courts, which have been annulled or amended;
3. To repeal parts or the whole of courts' legally effective judgments/decisions to retry according to first-instance procedures or appellate procedures;
4. To repeal legally effective judgments/decisions and terminate the resolution of the cases;
5. To modify parts or the whole of the legally effective judgments/decisions.

#### **Article 344. Upholding the subordinate courts' lawful judgments or decisions which have been annulled or amended**

The Cassation Review Panels shall issue decisions to repeal legally effective judgments/decisions being appealed and uphold the judgments/decisions rendered legally by subordinate Courts but partially or entirely annulled or amended by legally effective judgments/decisions being appealed.

If the judgments/decisions are partially or entirely enforced, the cassation review panel shall resolve the consequences of such enforcement.

#### **Article 345. Repealing parts or the whole of courts' legally effective judgments/decisions to retry according to first-instance procedures or appellate procedures**

The Cassation Review Panels shall issue decisions to repeal partially or entirely courts' legally effective judgments/decisions being appealed against for re-trials according to the first-instance or appellate procedures in the following cases:

1. The collection of evidences and proof have been carried out insufficiently or unconformably with the provisions of Chapter VII of this Code;
2. The decisions in the judgments or decisions do not conform to the objective details of cases or serious errors are committed in the application of law;
3. The composition of the first-instance or appellate trial panel is not conformable with the provisions of this Code or other serious procedural violations have been committed affecting lawful rights and interests of involved parties.

#### **Article 346. Repealing legally effective judgments and/or decisions and termination of case resolution**

The Cassation Review Panels shall issue decisions to annul legally effective judgments/decisions and terminate the case resolution if the cases fall under one of the circumstances stipulated in Article 217 of this Code.

If the judgments/decisions are partially or entirely enforced, the cassation review panel shall resolve the consequences of such enforcement.

**Article 347. Modification of parts or the whole of the legally effective judgments/decisions**

1. The Cassation Review Panels shall issue decisions to repeal parts or the whole of courts' legally effective judgments/decisions if all the following conditions are met:

- a) Materials and/or evidences in the case files are sufficient, clear and well-grounded to clarify details in the cases;
- b) The modification of judgments/decisions which are appealed against does not affect rights and obligations of other agencies, organizations and individuals.

2. If the judgments/decisions are partially or entirely enforced, the cassation review panel shall resolve the consequences of such enforcement.

**Article 348. Cassation review decisions**

1. The Cassation Review Panels shall issue decisions in the name of the Socialist Republic of Vietnam.

2. A cassation review decision must contain the following principal contents:

- a) Date and place of opening the Court session;
- b) Full names of members of the Cassation Review Panel. In cases where the Cassation Review Panel is the Committee of Judges of a Collegial People's Court or the Council of Judges of the Supreme People's Court, the full name and title of the presiding Judge and the number of members participating in the trial shall be specified;
- c) Full names of the Court clerk and the procurator participating in the Court session;
- d) Name of the case that has been brought to cassation review trial by the Panel;
- dd) Full names and addresses of the involved parties in the case;
- e) Summary of the contents of the case, decisions of the legally effective judgment or decision being appealed against;
- g) Decision to appeal; grounds for making the appeal;
- h) Assessment of the Cassation Review Panel where opinion about the resolution of the case must be analyzed and grounds for acceptance or non-acceptance of the appeal must be specified;
- i) Points, clauses or articles of the Civil Procedure Code and/or other legislative documents on which the Cassation Review Panel bases to make decision;
- k) Decision of the Cassation Review Panel.

3. Decisions of the Cassation review panels of Councils of Judges of the Supreme People's Court must contain argument to prove that provisions of law can be also understood in different ways; legal matters and facts must be explained and reasons and resolution for such matters and legal provisions to be applied (if any) must be specified.

**Article 349. Effect of the cassation review decisions**

The cassation review decisions shall take legal effect as from the date the Cassation Review Panels issue them.

#### **Article 350. Forwarding the cassation review decisions**

1. Within 05 working days from the day on which a cassation review decision is issued, the cassation review trial panel shall send it to the following agencies, organizations and individuals:
  - a) The involved parties and other persons with related interests and obligations under the cassation review decisions;
  - b) The Courts which have rendered legally effective judgments/decisions being appealed against;
  - c) The procuracy of the same level, the competent civil judgment-executing agencies.
2. Cassation review decisions shall be posted by Courts competent to review on their e-portals (if any), except for decisions containing information specified in clause 2 Article 109 of this Code.

### **Chapter XXI**

#### **REOPENING PROCEDURES**

##### **Article 351. Nature of reopening procedures**

Reopening means the review of legally effective judgments/decisions which are appealed against due to the appearance of newly detected details which may substantially change the contents of the judgments/decisions and about which the Courts and involved parties did not know when the Courts rendered such judgments or decisions.

##### **Article 352. Grounds for appeal according to reopening procedures**

Legally effective judgments/decisions shall be appealed against according to reopening procedures when there is one of the following grounds:

1. Important details of the case were newly discovered which the involved parties could not have known in the course of resolving the case;
2. There are grounds to prove that the conclusions of the expert witnesses and translations of interpreters were untruthful or evidences were falsified;
3. Judges, People's Jurors or procurators intentionally diverted the case files or deliberately made unlawful conclusions;
4. The criminal, administrative, civil, marriage and family, business, commercial or labor judgments/decisions of Courts or decisions of State agencies on which the Courts based themselves to resolve the cases had already been annulled.

##### **Article 353. Notice and verification of newly discovered details**

1. The involved parties, agencies, organizations or individuals shall be entitled to discover new details of cases and notify them in writing to the persons competent to appeal defined in Article 354 of this Code.
2. In cases where new details of cases are discovered, the procuracies and the Courts must notify them in writing to the persons entitled to appeal defined in Article 354 of this Code.

##### **Article 354. Persons competent to appeal according to reopening procedures**

1. The Chief Justice of the Supreme People's Court and the Chairperson of the Supreme People's Procuracy shall be competent to appeal according to reopening procedures against the legally effective judgments/decisions of the Collegial People's Court; legally effective judgments/decisions of other Courts when it is deemed necessary, except for cassation decisions of the Council of Judges of the Supreme People's Court.

2. The Chief Justices of the Collegial People's Courts and the chairpersons of the shall be competent to appeal according to the reopening procedures against legally effective judgments/decisions issued by People's Courts of provinces or People's Courts of districts within competence.

3. Persons who have appealed against legally effective judgments/decisions shall have the power to suspend the enforcement of such judgments/decisions until the reopening decisions are made.

#### **Article 355. Time limit for appeal according to reopening procedures**

The time limit for appeal according to reopening procedures shall be 01 year counting from the day on which the persons competent to appeal acquire grounds for appeal according to reopening procedures prescribed in Article 305 of this Code.

#### **Article 356. Jurisdiction of the Reopening trial Panels**

The reopening trial Panels shall have the following powers:

1. To reject the appeals and uphold the legally effective judgments or decisions;
2. To repeal legally effective judgments/decisions for first-instance retrial according to the procedures prescribed by this Code;
3. To repeal legally effective judgments/decisions and terminate the resolution of the cases.

#### **Article 357. Application of the regulations on reopening procedures**

Other regulations on reopening procedures shall comply with the regulations on cassation procedures prescribed in this Code.

### **Chapter XXII**

#### **SPECIAL PROCEDURES FOR REVIEWING DECISIONS OF THE COUNCIL OF JUDGES OF THE SUPREME PEOPLE'S COURT**

#### **Article 358. Requests, recommendations and applications for reviewing decisions of the Council of Judges of the Supreme People's Court**

1. When there are grounds to prove that decisions of the Council of Judges of the Supreme People's Courts are seriously contrary to law or there are newly discovered important details which might basically change the contents of the decisions that are unknown to Councils of Judges of the Supreme People's Court and involved parties when such decisions are issued, if there are requests of the Standing committee of the National Assembly, recommendations of National Assembly's Judiciary Committee; recommendations of Chairperson of the Supreme People's Procuracy or at the requests of the Chief Justice of the Supreme People's Court, then such decisions shall be reviewed by the Council of Judges of the Supreme People's Court.
2. If it is requested by the Standing committee of the National Assembly, the Chief Justice of the Supreme People's Court shall report such requests to the Council of Judges of the Supreme

People's Court for reviewing the decisions of the Council of Judges of the Supreme People's Court.

3. If there are recommendations by the National Assembly's Judiciary Committee and/or recommendations of the Chairperson of the Supreme People's Procuracy or the Chief Justice of the Supreme People's Court when new violations or details are discovered, then the Chief Justice shall report such to the Council of Judges of the Supreme People's Court for considering such recommendations/requests.

4. Meetings of the Council of Judges of the Supreme People's Court for considering recommendations/requests specified in clause 3 of this Article must be attended by the Chairperson of the Supreme People's Procuracy.

### **Article 359. Procedures for reviewing decisions of the Council of Judges of the Supreme People's Court**

1. When requests of the Standing Committee of the National Assembly, recommendations of National Assembly's Judiciary Committee have been received or when the Chief Justice of the Supreme People's Court have issue written requests for reviewing decisions of the Council of Judges of the Supreme People's Court provided for in clauses 2 and 3 Article 358 of this Code, the Supreme People's Court shall send to the Supreme People's Procuracy copies of such requests or recommendations enclosed with the case files so that the Supreme People's Procuracy studies and prepares for presentations at the meetings for considering recommendations/requests. Within 15 days from the day on which the case files are received, the Supreme People's Procuracy must return them to the Supreme People's Court.

2. Within 01 month from the day on which recommendations of the National Assembly's Judiciary Committee or recommendations of the Chairperson of the Supreme People's Procuracy are received or from the day on which the Chief Justice of the Supreme People's Court make written requests, the Council of Judges of the Supreme People's Court must hold meetings for considering such recommendations/requests.

The Supreme People's Court shall notify in writing the time of opening of meetings for considering recommendations/requests to the Chairperson of the Supreme People's Procuracy.

Representatives of the National Assembly's Judiciary Committee shall be invited to attend the meetings of the Council of Judges of the Supreme People's Court to consider the recommendations of the National Assembly's Judiciary Committee.

3. The Council of Judges of the Supreme People's Court shall consider the recommendations/requests according to the following order:

a) The Chief Justice of the Supreme People's Court shall, by themselves or by assigning a member of the Council of Judges of the Supreme People's Court, present briefly the contents of the cases and the processing of the cases;

b) Representatives of the National Assembly's Judiciary Committee, the Chairperson of the Supreme People's Procuracy, the Chief Justice of the Supreme People's Court which submitted recommendations/requests for reviewing decisions of the Council of Judges of the Supreme People's Court shall present the contents of the recommendations/requests; grounds for such recommendations/requests; analysis and assessment of details of the cases, old evidences and additional evidences (if any) to clarify the serious violations against law in the decisions of the

Council of Judges of the Supreme People's Court or new important details which can basically change the contents of such decisions;

c) In case of reviewing the recommendations of the National Assembly's Judiciary Committee or reviewing requests of the Chief Justice of the Supreme People's Court, the Chairperson of the Supreme People's Procuracy shall present his/her viewpoints and reasons for agreement or disagreement with such recommendations/requests.

Opinions of the Chairperson of the Supreme People's Procuracy must be presented in writing that bear the signature of the Chairperson of the Supreme People's Procuracy and must be sent to the Supreme People's Court within 05 working days from the day on which the meetings finish;

d) The Council of Judges of the Supreme People's Court shall discuss and vote under the majority rule on the agreement or disagreement with the recommendations/requests for reviewing its decisions;

dd) If the recommendations of the National Assembly's Judiciary Committee, the recommendations of the Chairperson of the Supreme People's Procuracy or the requests of Chief Justice of the Supreme People's Court are agreed with, the Council of Judges of the Supreme People's Court shall make decisions on the holding of meetings for reviewing its decisions and request the Chief Justice of the Supreme People's Court to study the files before reporting such cases to the Council of Judges of the Supreme People's Court to consider and make decisions at the meetings for reviewing its decisions.

If the recommendations/requests are not agreed with, the Council of Judges of the Supreme People's Court must notify such in writing to individuals and agencies proposing recommendations/requests and clearly state the reasons;

e) All happenings at the meetings for considering recommendations/requests and decisions approved at the meetings must be recorded in the meeting minutes and included in the recommendation/request-considering files;

g) Within 05 working days from the day on which the meetings for considering recommendations/requests for reviewing its decisions, the Council of Judge of the Supreme People's Court shall send to the Chairperson of the Supreme People's Procuracy and the National Assembly's Judiciary Committee notifications of its agreement or disagreement with such recommendations/requests.

4. Upon receiving requests of Standing Committee of the National Assembly or decisions of the Council of Judges of the Supreme People's Court on the opening of meetings for reviewing its decisions as prescribed in point dd clause 3 of this Article, the Chief Justice of the Supreme People's Court shall conduct the study of the case files and the verification and collection of materials and evidences when necessary.

The study of case files, the verification and collection of materials and evidences must clarify whether there are serious violations against law or new important details which may basically change the contents of decisions of the Judicial Council of the Supreme People's Court.

5. Within 04 months from the day on which requests of the Standing Committee of the National Assembly specified in clause 2 Article 358 of this Code or from the day on which the decisions of the Council of Judges of the Supreme People's Court specified in point dd clause 3 of this

Article are received, the Council of Judges of the Supreme People's Court shall hold meetings with the participation of all the Judges of the Supreme People's Court to review its decisions.

The Supreme People's Court shall send the Supreme People's Procuracy written notifications of time of opening the meetings for reviewing decisions of the Council of Judges of the Supreme People's Court enclosed with the case files. Within 15 days from the day on which the case files are received, the Supreme People's Procuracy must return them to the Supreme People's Court.

The meetings held by the Council of Judges of the Supreme People's Court must be attended by the Chairperson of the Supreme People's Procuracy. If it is deemed necessary, the Supreme People's Court may invite relevant agencies, organizations and individuals to attend the meetings.

6. The Chairperson of the Supreme People's Procuracy must attend the meetings for reviewing decisions of the Council of Judges of the Supreme People's Court and express his/her viewpoints on whether or not there are serious violations against law or new important details which can basically change the contents of the decisions of the Council of Judges of the Supreme People's Court and his/her opinions about the resolution of the cases.

Opinions of the Chairperson of the Supreme People's Procuracy must be presented in writing that bear the signature of the Chairperson of the Supreme People's Procuracy and must be sent to the Supreme People's Court within 05 working days from the day on which the meetings finish.

7. Within 01 month from the day on which the Council of Judges of the Supreme People's Court make decisions specified in clause 1 Article 360 of this Code, the Supreme People's Court shall send such decisions to the Standing Committee of the National Assembly, the National Assembly's Judiciary Committee, the Supreme People's Procuracy and People's Court which have been in charge of resolving the cases and involved parties.

### **Article 360. Competence to review decisions of the Council of Judges of the Supreme People's Court**

1. After listening to the reports of the Chief Justice of the Supreme People's Court and opinions of the Chairperson of the Supreme People's Procuracy and of relevant agencies, organizations and individuals that are invited to attend the meetings (if any) and when deeming that decisions of the Council of Judges of the Supreme People's Court are seriously contrary to law or have new important details that basically change the contents of such decisions; or when deeming that legally effective judgments/decisions of inferior Courts are seriously contrary to law or have new important details that basically change the contents of such decisions, then on a case-by-case basis, the Council of Judges of the Supreme People's Court shall make decisions to:

a) Repeal decisions of the Council of Judges of the Supreme People's Court, repeal legally effective judgments/decisions and decisions on contents of the cases;

b) Repeal decisions of the Council of Judges of the Supreme People's Court, repeal legally effective judgments/decisions and determine responsibility of the Supreme People's Court for compensation for damages caused to involved parties as the result of the unconformable decisions that are repealed or determine responsibility for reimbursing the value of properties according to law;

c) Repeal decisions of the Council of Judges of the Supreme People's Court, repeal legally effective judgments/decisions to transfer the case files to the inferior Courts to resolve according to law.

2. Decisions of the Council of Judges of the Supreme People's Court must be approved by at least three-fourths of its members to be effective.

## **PART SIX**

### **PROCEDURES FOR RESOLUTION OF CIVIL MATTERS**

#### **Chapter XXIII**

#### **GENERAL REGULATIONS ON PROCEDURES FOR RESOLUTION OF CIVIL MATTERS**

##### **Article 361. Scope of application**

Civil matters mean a situation where agencies, organizations or individuals have no disputes but request Courts to recognize or not to recognize a legal event which serves as a basis for the rise of civil, marriage and family, business, commercial or labor rights and obligations of their own or of other agencies, organizations or individuals; or request Courts to recognize their civil, marriage and family, business, commercial or labor rights.

Provisions of this Part shall be applied for the resolution of civil matters specified in clauses 1, 2, 3, 4, 6, 7, 8, 9 and 10 Article 27, clauses 1, 2, 3, 4, 5, 6, 7, 8, 10 and 11 Article 29, clauses 1, 2, 3 and 6 Article 31, clauses 1, 2 and 5 Article 33 of this Code. If the civil matters are not specified in this Part, other provisions of this Code shall be applicable.

##### **Article 362. Petitions for the Court resolution of civil matters**

1. Persons requesting Courts to resolve civil matters must send their petitions to competent Courts defined in Section 2 Chapter III of this Code.

Any enforcers requesting the Courts to resolve civil matters according to provisions of the Law on enforcement of civil judgments shall have rights and obligations of persons requesting resolution of civil matters provided for in this Code.

2. A petition shall contain the following principal contents:

a) Date of making the petition;

b) Name of the Court that is competent to handle the petition;

c) Name, address; phone number, fax number, e-mail address (if any) of the petitioner;

d) Specific issues requested to be resolved by the court; reasons, purposes and bases of the request for Court resolution of such civil matters;

dd) Names and addresses of persons who are related to the resolution of such civil matters (if any);

e) Other information that are deemed by the petitioner to be necessary for the resolution of his/her petition;

dd) Signature or fingerprints, applicable to petitioners being individuals, or signature and seal of lawful representatives, applicable to applicants being agencies or organizations, in the end of the

application. If the petitioner is an enterprise, the use of the seal shall comply with provisions of the Law on Enterprise.

3. The petition must be accompanied by materials and/or evidences to prove that the petitions are well-grounded and lawful.

### **Article 363. Procedures for receiving and processing petitions**

1. Procedures for receiving petitions shall comply with regulations in clause 1 Article 191 of this Code.

Within 0 working days from the day on which the petition and accompanied materials and evidences are received, the Chief Justice of the Court shall assign a Judge to handle the petition.

2. If the petition does not contain sufficiently information specified in clause 2 Article 362 of this Code, the Judge shall request the petitioner to amend or supplement it within 07 days from the day on which the request is received. Procedures for amending and supplementing the petition shall comply with regulations in clause 1 Article 193 of this Code.

3. When the petition is satisfactory, the Judge shall carry out the procedures for acceptance of the civil matters.

Upon the expiry of the time limit specified in clause 2 of this Article, if the petitioner fails to amend/supplement the petition, the Judge shall return the petition and the accompanied materials and evidences to the petitioner.

4. If the petition and accompanied materials and/or evidences are deemed satisfactory to be accepted, the Judge shall carry out as follows:

a) The Court shall notify the petitioner about the payment of charge for civil matter resolution within 05 working days from the day on which the notice of charge payment is received, unless such petitioner is exempted from the charge as prescribed in law on fees and charges;

b) The Court shall accept the petition when the petitioner submit to the Court the receipt of civil-matter resolution charge;

c) If the petitioner is exempted from or does not have to pay the charge, the Judge shall accept the civil matter from the day on which the petition is received.

### **Article 364. Returning petitions**

1. The petition shall be returned from the Court in the following cases:

a) The petitioner is not entitled to file the petition or does not have sufficient civil procedure act capacity;

b) The matter has been yet resolved by the Court or a competent agency;

c) The civil matter does not fall within the competence of the Court;

d) The petitioner fails to amend/supplement the petition within the time limit specified in clause 2 Article 363 of this Code;

dd) The petitioner fails to pay charge within the time limit specified in point a clause 4 Article 363 of this Code, unless he/she is exempted from or does not have to pay charge or the charge is paid late due to force majeure events or objective obstacles;

- e) The petitioner withdraw the petition;
  - g) Other cases provided for in law.
2. When returning the petition and accompanied materials and evidences, the Court shall notify in writing containing explanation.
  3. The complaints about the return of the petition and resolution thereof shall comply with regulations in Article 194 of this Code.

#### **Article 365. Notices on the acceptance of petitions**

1. Within 03 working days from the day on which the petition is accepted, the Court shall notify the petitioner, person with interests and duties relevant to the civil matter resolution and the procuracy of the same level in writing of the acceptance of the petition.
2. A notice must contain the following principal details:
  - a) Date of making of the notice;
  - b) Name and address of the Court accepting the petition;
  - c) Name and address of the involved parties;
  - d) Specific matters that the involved parties request the Court to resolve;
  - dd) List of materials and evidences that are accompanied by the petition;
  - e) Time limit for person with relevant interests and duties to provide opinions in writing to the Court about the petition and accompanied materials and evidences (if any);
  - g) Legal consequences of cases where the person with relevant interests and duties fail to submit the Court their opinions in writing for the petition for civil matter resolution.

#### **Article 366. Preparation for petition consideration**

1. Time limit for preparation for petition consideration shall be 01 month from the day on which the Court accept the petition, unless there are other provisions in this Code.
2. During the time limit for preparation for petition consideration, the Court shall carry out the following activities:
  - a) If the materials and evidences are not sufficient to serve as basis for the Court to resolve the matter, the Court shall request the involved parties to supplement materials and evidences within 05 working days from the day on which the request is received;
  - b) Upon the request of the involved parties or when it is deemed necessary, the Judge shall issue decision to request agencies, organizations and individuals to provide materials and evidences; summon witnesses, request property expertise and price assessment. If the time limit for preparation for petition consideration specified in clause 1 of this Article expires but the property expertise and/or price assessment results have not been produced, such time limit shall be extended for not exceeding 01 month;
  - c) Issue decision to terminate the consideration of petition and return the petition and accompanied materials and evidences if the petitioner withdraws the petition;
  - d) Issue decision to open a meeting to resolve civil matter.

3. The Courts must immediately send the decision to open the meeting to resolve civil matter and the dossiers on the civil matter to the procuracy of the same level for study. The procuracy must study them within 07 days from the day on which the dossier is received; when this time limit expires, the procuracy must return it to the Court for holding a meeting to resolve the civil matter.

4. The Court shall open a meeting to resolve civil matter within 15 days from the day on which the decision to open the meeting is issued.

#### **Article 367. Participants in meetings for resolving civil matters**

1. Procurators of the procuracies of the same level must attend the meetings. In cases where they are absent, the Court shall still conduct the meeting.

2. The petitioner or their lawful representatives or defense counsels of their rights and interests must participate in the meeting according to the summon of the court.

If the petitioner is absent for the first time, the Court shall postpone the meeting, unless the petitioner request the Court to resolve the civil matter in their absence. If petitioner has been duly summoned twice but is still absent, he/she shall be deemed to waive his/her petition and the Court shall issue decision to terminate the resolution of the civil matters; in this case, the right to request the Court to resolve the civil matter according to the procedures prescribed by this Code shall still be guaranteed.

3. Person with relevant interests and duties or their lawful representatives or defense counsels of their rights and interests must participate in the meeting according to the summon of the court. In case of necessity, the Court may summon witnesses, expert-witnesses and/or interpreters to attend the meetings. If any of them is absent, the Court shall decide to postpone the meetings or to proceed with the meetings.

#### **Article 368. Decision on replacement of presiding officers in the process of resolution of civil matters**

1. Before opening the meeting, the replacement of the Judge or clerk of meeting shall be decided by the Chief Justice of the Court being in charge of such civil matter; if the to be-replaced is the Chief Justice of the Court being in charge of the civil matter, the replacement shall be decided by the Chief Justice of the immediately superior court.

2. In the meeting for resolution of civil matters, the replacement of Judges or clerks of meeting shall be carried out as follows:

a) If the civil matter is handled by a Judge, the replacement of Judge or clerk of meeting shall be decided by the Chief Justice of the Court being in charge of such civil matter; if the to be-replaced is the Chief Justice of the Court being in charge of the civil matter, the replacement shall be decided by the Chief Justice of the immediately superior court;

b) If the civil matter is handled by a civil matter-resolving councils composed of 3 Judges, the replacement of members of the Council or the clerk of meeting shall be decided by the civil matter-resolving council.

3. Before opening the meeting, the replacement of procurator shall be decided by the chairperson of the procuracy of the same level.

In the meeting, the replacement of the procurator shall be decided by the Judge or the civil matter-resolving council. If the procurator must be replaced, the Judge or the civil matter-resolving council shall issue decisions to postpone the meeting and notify such replacement to the procuracy.

The appointment of a procurator to take place of the replaced one shall be decided by the chairperson of the procuracy of the same level. If the to be-replaced procurator is the chairperson of the procuracy, the replacement shall be decided by the chairperson of the immediately superior procuracy.

### **Article 369. Procedures for conducting meetings to resolve civil matters**

1. A meeting to resolve civil matters shall be conducted in the following order:

- a) The clerk of meeting shall report to the Judge and civil matter-resolving council about the presence or absence of participants in the meeting;
- b) The Judge shall open the meeting; check the presence or absence of persons who are summoned to the meeting and their identity cards, introduce and explain rights and obligations of participants in the meeting;
- c) Defense counsel of rights and interests of the petitioner, the petitioner or his/her lawful representative shall present specific issues that are requested to be dealt with by the court; reasons, purposes and grounds for requesting the Court resolution of such civil matters;
- d) Related persons or their lawful representatives shall express their opinions on matters pertaining to their rights and obligations in the resolution of the civil matters;
- dd) Witnesses shall present their opinions; or expert-witnesses shall present their conclusions and explain issues which remain unclear or contradictory (if any);
- e) The Judge and the civil matter-resolving council shall review the materials and evidences;
- g) The procurator shall present the procuracy's views on the resolution of the civil matters and shall send the writing containing opinions for the Court to save in the civil matter files when the meeting finishes;
- h) The Judge and the civil matter-resolving council shall consider and decide to accept or not to accept the request for resolution of the civil matters.

2. If any person summoned by the Court to the meeting is absent, the Judge or the Civil matter-resolving council shall pronounce the testimonies, materials and evidences provided by such person before reviewing materials and evidences.

### **Article 370. Decision on resolution of civil matters**

1. A decision to resolve civil matters shall contain the following principal contents:

- a) Date of making the decision;
- b) Name of the Court that issues the decision;
- c) Full names of the Judge, procurator, meeting clerk;
- d) Full name and address of the petitioner for the resolution of civil matters;
- dd) Specific matters requested to be resolved by the court;

- e) Names and addresses of persons with relevant interests and duties;
- g) Assessment of the Court and grounds for accepting or not accepting the petition;
- h) Legal bases for resolution of civil matters;
- i) Court's decisions;
- k) Court fees to be paid.

2. Decisions to resolve civil matters must be forwarded to the procuracies of the same level, the petitioners for the resolution of civil matters and person with interests and duties relevant to the resolution of civil matters within 05 working days from the day on which the decisions are issued.

The forwarding of decisions to resolve civil matters to enforcement authorities shall comply with provisions of the Law on enforcement of civil judgments.

3. Legally effective courts' decisions to resolve civil matters that are relevant to the change of civil statuses of individuals must be sent to People's Committees where such individuals registered for civil statuses according to provisions of the Law on civil status.

4. Legally effective courts' decisions to resolve civil matters shall be published on e-portal of the Courts (if any), except for decisions containing information specified in clause 2 Article 109 of this Code.

#### **Article 371. Appeal and appeal against civil matter-resolving decisions**

Petitioners and persons with interests and duties relevant to civil matter resolution shall be entitled to appeal, the procuracies of the same level and immediate superior procuracy shall be entitled to appeal against civil matter-resolving decisions in order to request the immediate superior Court to re-settle them according to the appellate procedures, except for those prescribed in clause 7 Article 27, Clauses 2 and 3, Article 29 of this Code.

#### **Article 372. Appeal time limits**

1. The petitioners and persons with interests and duties relevant to the resolution of civil matters may appeal against the civil matter-resolving decisions within 10 working days from the day on which the decisions are issued. In cases where they are not present at the civil matter-resolving meetings, such time limit shall be counted from the day on which they receive the civil matter-resolving decisions or the day on which such decisions are announced or posted up.

2. The procuracies at the same level shall be entitled to appeal against civil matter-resolving decisions within 10 days, the immediate superior procuracies shall be entitled to appeal within 15 days as from the day on which the Courts issue such decisions.

#### **Article 373. Consideration of appeals, appeals**

1. Time limit for preparation for consideration of appeals shall be 15 days from the day on which the Courts receive the appeals.

2. Within the time limit for preparation for consideration of appeals, the Courts shall conduct the following activities:

a) If materials and evidences are not sufficient to serve as basis for the Courts to resolve the case, the Courts shall request the involved parties to supplement materials and evidences within 05 working days from the day on which the requests are received;

b) Upon the request of the involved parties or when it is deemed necessary, the Judge shall issue decisions requesting agencies, organizations and individuals to supply materials and evidences; summon witnesses, request expertise and price appraisal. If the time limit specified in clause 1 of this Article expires but the expertise/price appraisal results have not been produced, the time limit for preparation for consideration of appeals may be extended for not exceeding 15 days;

c) Within the time limit for preparation for consideration of appeals, if all the appellants withdraw their appeal petitions or the procuracies withdraw their appeal petitions, the Courts shall issue decisions to terminate the consideration of petitions according to appellate procedures. In these cases, civil matter-resolving decisions according to first-instance procedures shall effective from the days on which the appellate trial Courts issue the termination decisions;

d) The Courts shall decide to open the appellate meeting for the resolution of civil matters.

3. The Courts must immediately send such decisions to open appellate meetings to resolve civil matters and the civil matter files to the procuracies of the same level for study. The procuracies must study them within 07 days from the day on which the files are received; after this time limit, the procuracies must return the files to the Courts for holding meetings to resolve the civil matters.

4. Within 15 working days from the day on which the decision to open a meeting is issued, the Judge must open an appellate meeting resolve the civil matter.

#### **Article 374. Participants in appellate meetings to resolve civil matters**

1. The procurators of procuracies of the same level shall participate in the appellate meeting to resolve civil matters; if the procurators are absent, the Court shall still hold the meeting, unless a procuracy appeals against the appeal review.

2. Persons applying appeal petitions, their lawful representatives and defense counsels of their rights and interests must participate in meetings according to the subpoena of the Court.

If the appellant is absent for the first time due to plausible reasons, the Court shall postpone the civil matter-resolving appellate meeting, unless the appellant request for resolution in their absence. If the appellant has been summoned twice but is still absent, he/she shall be deemed to waive their appeal and the Court shall issue decisions to terminate the appeal review of civil matter in the appeal, unless he/she apply for resolution in their absence or due to force majeure events or objective obstacles.

3. Persons with relevant interests and duties, their lawful representatives and defense counsels of their rights and interests shall be summoned by the Court to participate in the meeting. In case of necessity, the Court may summon witnesses, expert-witness and/or interpreters to attend the meetings. If any of them is absent, the Courts shall decide to postpone the meetings or to proceed with the meetings.

#### **Article 375. Procedures for conducting appellate meetings to resolve civil matters**

1. An appellate meeting to resolve civil matters shall be conducted in the following order:

a) The meeting clerk shall report on the presence or absence of meeting participants;

b) The Judge shall open the meeting; check the presence or absence of persons who are summoned to the meeting and their identity cards, introduce and explain rights and obligations of participants in the meeting;

c) Defense counsel of rights and interests of the appellant, the appellant or his/her lawful representative shall present about the appealed contents and grounds for such appeal;

If there is only appeal from the procuracy, the procurator shall present about the appealed contents and grounds for such appeal. If there is both appeal and appeal, involved parties shall present about the appealed contents and grounds for such appeal, then the procurator shall present about the appealed contents and grounds therefor. If the procuracy does not appeal, the procurator shall express their opinions of the procuracy about the handling of the appeal before the appellate panel makes decision.

Right after the meeting finishes, the procurator shall send the written opinion to the Court to be recorded in civil matter files;

d) Defense counsel of rights and interests of person with relevant interests and duties, persons with relevant interests and duties or their lawful representatives shall express their opinions on matters pertaining to their rights and obligations in the appealed contents;

dd) Witnesses shall present their opinions; or expert-witnesses shall present their conclusions and explain issues which remain unclear or contradictory.

2. If any person summoned by the Court to the meeting is absent, the Judge shall pronounce the testimonies, materials and evidences provided by such person.

3. The appellate panel shall consider the decision of the first-instance Court that is appealed against and relevant materials and evidences and issue one of the following decisions:

a) To uphold the decision on resolution of civil matter issued by the first-instance Court;

b) To modify the decision on resolution of civil matter issued by the first-instance Court;

c) To repeal the decision on resolution of civil matter issued by first-instance Court to re-settle according to first-instance procedures;

d) To repeal the decision on resolution of civil matter issued by the first-instance Court and terminate the resolution of the civil matter;

dd) Terminate the consideration of the petition according to appellate procedures if in the meeting all the appellants withdraw their appeal petitions and the procuracy withdraw the appeal petition.

4. Decisions to conduct appellate review of civil matter resolution shall take effect from the day on which they are issued and shall be sent to agencies, organizations and individuals as prescribed in clauses 2 and 3 Article 370 of this Code.

5. Legally effective decisions to conduct appellate review of civil matter resolution shall be posted on e-portal of the Court (if any), except for decisions containing information specified in clause 2 Article 109 of this Code.

## **Chapter XXIV**

**PROCEDURES FOR RESOLUTION OF PETITIONS FOR DECLARING A PERSON LACKING CIVIL ACT CAPACITY, HAVING LIMITED CIVIL-ACT CAPACITY OR HAVING LIMITED COGNITION OR BEHAVIOR CONTROL**

**Article 376. Right to file petitions for declaring a person lacking civil act capacity, having limited civil-act capacity or having limited cognition or behavior control**

1. People with relevant rights and interests and concerned agencies and organizations may file petitions to Courts for declaring a person lacking civil act capacity, having limited civil-act capacity or having limited cognition or behavior control.
2. Adult people having limited cognition due to physical and mental conditions but do not lack civil capacity may file petitions to Courts for declaring them having limited cognition or behavior control according to provisions of the Civil Code.

**Article 377. Preparation for consideration of petitions**

Within the time when the petitions are considered, at the request of petitioners, Courts may request health assessment for the persons requested to be declared having limited civil-act capacity or forensic psychiatric assessment for the persons requested to be declared lacking legal capacity or having limited cognition or behavior control. In such cases, when the assessment results are received, Courts shall make decisions to open meetings for consideration of petitions.

**Article 378. Decisions to declare a person lacking civil act capacity, having limited civil-act capacity or having limited cognition or behavior control**

If the petitions are accepted, Courts shall issue decisions to declare a person lacking civil act capacity, having limited civil-act capacity or having limited cognition or behavior control.

In the decision to declare a person having limited capacity of exercise, the Court shall determine lawful representative of the person with limited capacity of exercise and scope of representation.

In the decision to declare a person having limited cognition or behavior control, the Court must appoint his/her guardian and determine rights and duties of such guardian.

**Article 379. Right to file petitions for repealing decisions to declare a person lacking civil act capacity, having limited civil-act capacity or having limited cognition or behavior control**

When a person who is declared by a Court to be lacking of legal capacity, having limited civil-act capacity or having limited cognition or behavior control is no longer in the declared conditions, then such person or persons with relevant rights and interests or concerned agencies or organizations may file petitions to the Court for issuing a decision to repeal the decision to declare the lack of legal capacity or limited civil-act capacity or limited cognition or behavior control.

**Article 380. Decisions of the Courts in case of accepting the petitions for repealing decisions to declare a person lacking civil act capacity, having limited civil-act capacity or having limited cognition or behavior control**

If the petitions are accepted, the Courts shall issue decisions to repeal the decisions to declare a person lacking civil act capacity, having limited civil-act capacity or having limited cognition or behavior control.

## **Chapter XXV**

### **PROCEDURES FOR RESOLUTION OF PETITIONS FOR ISSUING NOTICES ON SEARCH OF PERSONS ABSENT FROM THEIR RESIDENCE PLACES**

#### **Article 381. Petitions for issuing notices on search of persons absent from their residence places**

1. Persons with related rights and interests shall be entitled to request Courts to issue notices on search of persons absent from their residence places when such persons are absent for 06 consecutive months or more, and at the same time request Courts to apply measures for management of the properties of the absent persons under the provisions of the Civil Code.
2. Enclosed with the petitions for issuing notices on search of persons absent from their residence places, the petitioners shall send materials and evidences to prove that such persons are absent for 06 consecutive months or more. In case of petitions for the Courts to take measures to manage the properties of the absent persons, the petitioners must provide materials and evidences on the situation of properties of the absent persons, the management of the existing properties as well as the list of the absent persons' relatives.

#### **Article 382. Preparation for consideration of petitions for issuing notices on search of persons absent from their residence places**

Within the above-mentioned time limit, the Courts may issue decisions to terminate the petition consideration if the persons on search notice return and request the Courts to terminate the consideration of the petitions.

#### **Article 383. Decisions to issue notices on search of persons absent from their residence places**

In case of accepting a petition the Court shall issue a notice on search of a person absent from his/her residence place. If a petition for the Court to take necessary measures to manage the properties of the absent person is accepted, the court's decision to accept the petition must also decide on the application of measures to manage the properties of such person according to the provisions of the Civil Code.

#### **Article 384. Notices on search of persons absent from their residence places**

A notice on search of a person absent from his/her residence place must contain the following principal contents:

1. Date of issuance of the notice;
2. Name of the Court that issues the notice;
3. Serial number and date of the court's decision to issue a notice on search of a person absent from his/her residence place;
4. Full name and address of the petitioner;
5. Full name, date of birth or age of the person to be searched for and the address of his/her latest residence place before his/her absence.
6. Addresses of agencies, organizations and individuals for contacts by the person to be searched for or other persons having information on the person to be searched for.

**Article 385. Announcement of notices on search of persons absent from their residence places**

1. Within 01 month from the day on which the Court issues decision to issue a notice on search of a person absent from his/her residence place, such decision must be posted on one of central dailies for three consecutive issues, e-portal of the Court and/or People's Committee of province (if any) and broadcasted on the central radio or television channels three times for 03 consecutive days.
2. All expenses for the publication or broadcasting of notices on search of persons absent from their residence places shall be borne by the petitioners.

**Article 386. Effect of decisions on issuance of notices on search of persons absent from their residence places**

Decisions on issuance of notices on search of persons absent from their residence places prescribed in Article 383 of this Code shall automatically expire in cases where the persons to be searched for return.

**Chapter XXVI**

**PROCEDURES FOR RESOLUTION OF PETITIONS FOR DECLARING A PERSON MISSING**

**Article 387. Petition for declaring a person missing**

1. Persons with related rights and interests shall be entitled to request the Court to declare a person missing under the provisions of the Civil Code.
2. The petitions must be accompanied by materials and evidences to prove that the persons who are requested to be declared missing have been absent for 02 consecutive years or more without reliable information on whether they are still alive or dead and prove that the petitioners have taken sufficient measures for search notices. In cases where the Courts have issued decisions on notice on search of the persons absent from their residence places, copies of such decisions must also be submitted.

**Article 388. Preparation for consideration of petition for declaring a person missing**

1. Within 20 days as from the date of receiving a petition for declaring a person missing, the Court shall issue a decision on a notice on search of the person who is requested to be declared missing.
2. The content of such a notice and the announcement of the notice shall comply with the provisions of Articles 384 and 385 of this Code. The time limit for such a search notice shall be 04 months from the day on which such notice is posted or broadcasted for the first time.
3. Within the time limit for announcing a notice, if the petitioner withdraws his/her petition or the person who is requested to be declared missing returns and requests the Court to stop considering the petition, the Court shall issue a decision to terminate the consideration of the petition for declaring that person missing.
4. Within 10 days from the day on which the time limit for search notice prescribed in clause 2 of this Article expires, the Court must open meeting for considering the petition.

**Article 389. Decision to declare a person missing**

In case of accepting a petition, the Court shall issue a decision declaring a person missing. In cases where the Court is requested to take measures to manage properties of the person who is declared missing and the request is accepted, the decision declaring a person missing must also indicate specific measures to be taken to manage properties of that person according to the provisions of the Civil Code.

**Article 390. Annulment of a decision to declare a person missing**

1. The person who returns after being declared missing or persons with related rights and interests is entitled to request the Court to annul the decisions to declare a person missing as provided for in the Civil Code.
2. In case of accepting a petition, the Court shall issue a decision to annul the decision that has declared a person missing, deciding on the legal consequences of the annulment of the decision declaring such person missing under the provisions of the Civil Code.

**Chapter XXVII**

**PROCEDURES FOR RESOLUTION OF PETITIONS FOR DECLARING PERSONS DEAD**

**Article 391. Right to file petition for declaring a person dead**

1. Persons with related rights and interests may request the Court to declare a person dead according to the provisions of the Civil Code.
2. The petitions must be accompanied by materials and evidences to prove that the persons who are requested to be declared dead are of the cases specified by the Civil Code.

**Article 392. Preparation for consideration of petition for declaring a person dead**

1. Within 20 days as from the date of receiving a petition for declaring a person dead, the Court shall issue a decision on a notice on search of the person who is requested to be declared dead.
2. The content of such a notice, the announcement of the notice and the time limit for announcement shall comply with the provisions of Articles 2 and 388 of this Code.
3. Within the time limit for announcing a notice, if the petitioner withdraws his/her petition or the person who is requested to be declared dead returns and notify the Court, the Court shall issue a decision to terminate the consideration of the petition for declaring that person dead.
4. Within 10 days from the day on which the time limit for announcement of notice expires, the Court shall open a meeting to consider the petition.

**Article 393. Decision to declare a person dead**

In case of accepting a petition, the Court shall issue a decision declaring a person dead. In such decision, the Court shall determine the day on which that person died and the legal consequences of declaring a person dead according to the provisions of the Civil Code.

**Article 394. Petitions to annul decisions that have declared persons dead**

1. In cases where the person who is declared dead returns or where there is reliable information affirming that such person is still alive, that person or persons with related rights and interests may request the Court to issue decision to annul the decision that has declared such person dead.

2. The petitions must be accompanied by materials and evidences to prove that the persons who are declared dead have returned or are still alive.

#### **Article 395. Decisions to annul decisions that have declared persons dead**

In case of accepting a petition, the Court shall issue a decision to annul the decision that has declared a person dead. In the latter decision, the Court must determine the legal consequences of the annulment of the decision declaring a person dead according to the provisions of the Civil Code.

### **Chapter XXVIII**

#### **PROCEDURES FOR RESOLUTION OF PETITIONS FOR RECOGNITION OF VOLUNTARY DIVORCES AND AGREEMENTS ON CHILD CUSTODY AND PROPERTY DIVISION UPON DIVORCES**

#### **Article 396. Petitions for recognition of voluntary divorces and agreements on child custody and property division upon divorces**

1. Any person requesting for recognition of voluntary divorces and agreements on child custody and property division upon divorces must submit petitions. A petition must include information specified in clause 2 Article 362 of this Code.
2. Any person requesting for recognition of voluntary divorces and agreements on child custody and property division upon divorces must submit petitions. In such cases, both husbands and wives shall be considered the petitioners.
3. Enclosed with the petitions shall be materials and evidences proving that agreements on voluntary divorces and agreements on child custody and property division upon divorces are well-grounded and lawful.

#### **Article 397. Mediation and recognition of voluntary divorces and agreements on child custody and property division upon divorces**

1. Within the time for preparation for recognition of petitions, before conducting mediations to unify husbands and wives, when it is deemed necessary, Judges may ask for opinions of family affair authorities and/or children affair authorities about conditions of families of such husbands and wives, reasons for the rising of contradictions and expectation of husbands, wives and children related to the cases.
2. Judges must conduct mediations to unify husbands and wives; explain about rights and obligations between wife and husband, parents and children and between members of family and rights and obligations in providing alimonies and other matters related to marriage and family.
3. If after the mediations, the wives and the husbands decide to reunite, Judges shall issue decisions to terminate the resolution of their petitions.
4. If the mediations are not successful, the Judges shall make decisions to recognize the voluntary divorces and agreements between involved parties as provided for in Article 212 of this Code in the following conditions are fully satisfied:
  - a) The two sides really volunteer to divorce;
  - b) The two sides have reached agreements on whether or not to divide the common properties, on the care, rearing and education of their children;

c) Such agreements ensure the legitimate interests of the wives and their children.

5. If the mediations for reunification are not successful and involved parties cannot reach agreements about the division of properties and the care, rearing and education of children, then the Courts shall terminate the settlement of civil matters pertaining to recognition of voluntary divorces and agreements on child custody and property division and accept the cases for resolution. The Courts are not required to make notifications of the acceptance of the cases or to assign other Judges to take charge of the cases. The settlement of the cases shall be conducted according to common procedures prescribed in this Code.

## **Chapter XXIX**

### **PROCEDURES FOR RESOLUTION OF PETITIONS FOR DECLARATION OF NOTARIZED DOCUMENTS TO BE INVALID**

#### **Article 398. Petitions for declaration of notarized documents to be invalid**

1. Notaries who have carried out notarization, requesters for notarization, witnesses, persons with related rights and interests and competent state agencies may request Courts to declare notarized documents invalid when they have grounds to believe that the notarization was performed against the law on notarization.

2. A petition for a Court to declare a notarized document invalid must contain the details prescribed in Clause 2, Article 362 of this Code.

3. Accompanying the petition for a Court to declare a notarized document invalid must be materials and evidences to prove that such petition is well-grounded and lawful.

#### **Article 399. Preparation for consideration of petitions for declaration of notarized documents to be invalid**

1. The time limit for preparing for consideration of a petition for declaration of a notarized document to be invalid shall be 01 month, counting from the day on which the Court accepts such petition. Past this time limit, the Court shall issue a decision to open a meeting to consider the petition.

2. After accepting a petition for declaration of a notarized document to be invalid, the competent Court shall immediately notify such to the notary bureau, notary office or notary that has performed the notarization, notarization requester, persons with related rights and interests, competent state agencies and same-level procuracies.

3. Within the time limit for preparing for consideration of a petition, if the petitioner withdraws his/her petition, the Court shall issue a decision to terminate the consideration of the petition.

4. Within 15 days after issuing a decision to open a meeting, the Court shall open the meeting to consider the petition.

#### **Article 400. Decisions to declare notarized documents invalid**

1. The Court may accept or not accept petitions for declaration of notarized documents to be invalid.

2. In case of accepting a petition, the Court shall issue a decision to declare a notarized document invalid. In this decision the Court shall decide on legal consequences of its declaration as prescribed by law.

## **Chapter XXX**

### **PROCEDURES FOR RESOLUTION OF PETITIONS FOR DECLARATION OF LABOR CONTRACTS/COLLECTIVE BARGAINING AGREEMENTS TO BE INVALID**

#### **Article 401. Petitions for declaration of a labor contract/collective bargaining agreement to be invalid**

1. Employees, employers, representative organizations of employees' collectives and competent agencies may request competent Court to declare a labor contract/collective bargaining agreement to be invalid when they have grounds provided for in the Labor Code.
2. A petition of an employee/employer/representative organization of employees' collective and a written request of competent agencies must contain the details specified in clause 2 Article 362 of this Code.

#### **Article 402. Consideration of petitions for declaration of a labor contract/collective bargaining agreement to be invalid**

1. The time limit for preparing for consideration of a petition for declaration of a labor contract to be invalid shall be 10 days, declaration of a collective bargaining agreement to be invalid, counting from the day on which the Court accepts such petition. Past this time limit, the Court shall issue a decision to open the meeting for considering the petition.
2. After accepting the petition for declaration of a labor contract or a collective bargaining agreement to be invalid, the Court shall send the notification of acceptance to the petitioner, the employer, the employee collective's representative organizations and the procuracy of the same level.
3. Within the time limit for preparing for consideration of a petition or a written request, if the petitioner withdraws his/her petition, the Court shall issue a decision to terminate the consideration of such petition/request.
4. Within 05 working days after issuing the decision to open a meeting, the Court shall open the meeting to consider the petition for declaration of a labor contract to be invalid.

Within 10 working days after issuing the decision to open a meeting, the Court shall open the meeting to consider the petition for declaration of a collective bargaining agreement to be invalid.

5. When considering the petition, the Judge may accept or not accept the request for declaration of labor contract or collective bargaining agreement to be invalid.

If the request is accepted, the Judge shall issue a decision to declare the labor contract/collective bargaining agreement to be invalid. In this decision, the Judge shall settle the legal consequence of the declaration of the labor contract/collective bargaining agreement to be invalid.

6. The decision to declare a labor contract/collective bargaining agreement to be invalid must be sent to the petitioner or requester, the employer, the employee collective's representative organization and the labor affair authority of the area where the enterprise is headquartered and labor affair authorities of the same level, applicable to cases pertaining to enterprises do not have main headquarters in Vietnam.

## **Chapter XXXI**

### **PROCEDURES FOR CONSIDERING THE LEGITIMACY OF A STRIKE**

#### **Article 403. Requesting a Court to consider the legitimacy of a strike**

1. During a strike or within 03 months from the day on which the strike comes to an end, either the employer or the employee collective's representative organization may request the Court to consider the legitimacy of a strike.
2. Person requesting the Court to consider the legitimacy of a strike must send the request to the Court in writing. Such written request must contain the following principal details:
  - a) Details specified in clause 2 Article 362 of this Code;
  - b) Name and address of the organization that led the strike;
  - c) Name and address of the employer of the employees' collective on strike.
3. The request must be enclosed with copies of the decision to go on strike, decision or mediation record of a competent agency or organization engaged in the settlement of the collective labor dispute, materials and evidences related to the consideration of the legitimacy of the strike.

#### **Article 404. Procedures for sending a written request to a Court for consideration of the legitimacy of a strike**

Procedures for sending and receiving a written request and performing the obligation to provide materials and evidences for a Court for the consideration and decision on the legitimacy of a strike at the Court shall be conformable to provisions of this Code.

#### **Article 405. Jurisdiction to consider the legitimacy of a strike**

1. The People's Court of province where the strike takes place shall have the jurisdiction to consider the legitimacy of the strike.
2. Collegial People's Courts shall have the jurisdiction to settle the appeals against the decisions of People's Courts of provinces on the legitimacy of the strikes within their territorial competence.

#### **Article 406. Composition of the panel in charge of considering the legitimacy of a strike**

1. A People's Court of province shall consider the legitimacy of a strike through a panel comprised of 3 Judges.
2. A Collegial People's Court shall settle an appeal against a decision on the legitimacy of a strike through a panel comprised of 3 Judges.

#### **Article 407. Participants in a meeting for considering the legitimacy of a strike**

1. The panel in charge of considering the legitimacy of the strike chaired by one Judge; the Court clerk for recording the meeting minute.
2. Procurators of the procuracy of the same level.
3. Representatives of the employee collective's representative organization and the employer.
4. Representatives of other agencies and organizations as requested by the Court.

#### **Article 408. Postponement of a meeting for considering the legitimacy of a strike**

1. A meeting for considering the legitimacy of a strike shall be postponed according to regulations in Article 233 of this Code provided for the postponement of a Court session.
2. The postponement of a meeting for considering the legitimacy of a strike must not exceed 03 working days from the day on which the decision to postpone the meeting is made.

#### **Article 409. Termination of the consideration of the legitimacy of a strike**

The Court shall terminate the consideration of the legitimacy of a strike in the following cases:

1. The petitioner withdraw his/her petition;
2. Parties have reached agreement on the settlement of the strike and request in writing to the Court for not settling the strike;
3. The petitioner is absent though has been duly summoned twice, except for force majeure events or objective obstacles.

#### **Article 410. Procedures for processing a written request for consideration of the legitimacy of a strike**

1. Upon the receipt of a petition, the Chief Justice of People's Court of province shall decide to establish a Panel to consider the legitimacy of the strike and assign one Judge to take main charge of settling such petition.
2. Within 05 working days from the day on which the petition is received, the Judge assigned to preside over the settlement of the petition must make a decision to hold a meeting for considering the legitimacy of the strike. The decision to hold a meeting for considering the legitimacy of the strike must be immediately sent to the representative organization of employees' collective, the employer, the procurator of the same level and relevant agencies and organizations.
3. Within 05 working days from the day on which the decision to hold a meeting for considering the legitimacy of a strike is issued, the Panel in charge of considering the legitimacy of the strike must hold a meeting for considering the legitimacy of the strike.

#### **Article 411. Process of a meeting for considering the legitimacy of a strike**

1. The Judge presiding over the meeting for considering the legitimacy of the strike announces the decision to hold a meeting for considering the legitimacy of the strike and summarize the petition.
2. Representative of the employee collective's representative organizations and representative of the employer present their opinions.
3. The Judge presiding the meeting for considering the legitimacy of the strike may request representatives of agencies and organizations participating in the meeting to express their opinions.
4. The procurator presents opinions of the procuracies about the consideration of the legitimacy of the strike.

Immediately when the meeting finishes, the procurator shall send the opinions in writing to the Court for recording in the civil-matter files.

5. The panel considering the legitimacy of the strike discusses and makes decision under the majority rule.

#### **Article 412. Decision on the legitimacy of a strike**

1. A decision of the Court on the legitimacy of a strike must clearly state the reason and grounds to conclude on the legitimacy of the strike.

The decision of the Court on the legitimacy of a strike must be publicly announced at the meeting and must be immediately sent to the employee collective's representative organization, the employer and the procuracy of the same level. The employees, collective and the employer shall be responsible for implementing the decision of the Court but may also file appeals and the procuracy may file appeals against such decision.

2. When the decision of the Court on the legitimacy of the strike has been announced, if the strike is ruled to be illegal, the employees on strike must immediately stop goin on strike and return to work.

#### **Article 413. Order and procedures for settling appeals against the decisions on the legitimacy of a strike**

1. Immediately when the appeallate petition or the appeal decision against the legitimacy of a strike is received, the Collegial People's Court shall request in writing the Court that has considered the legitimacy of the strike to forward the files of the case to it for consideration/settlement.

2. Within 03 working days from the day on which the petition is received, the Court that has issued the decision on the legitimacy of the strike must forward the case files to the Collegial People's Court for considering and settling.

3. Within 02 working days from the day on which the case file is received, the Chief Justice of the Collegial People's Court shall make decisions to formulate an Appellate Panel to consider the legitimacy of the strike and assign a Judge to preside over the study of files.

Within 05 working days from the day on which the Collegial People's Court receives the case files, the Appellate Panel shall consider the appeal against the decision on the legitimacy of the strike.

The decision of the Appeallate Panel on the legitimacy of the strike shall be the final one.

### **Chapter XXXII**

#### **PROCEDURES FOR RESOLUTION OF CIVIL MATTERS RELATING TO COMMERCIAL ARBITRATION ACTIVITIES IN VIETNAM**

#### **Article 414. Civil matters relating to Vietnamese commercial arbitration activities that fall under the jurisdiction of the court**

1. Appointment or change of arbitrators;
2. Application, change or cancellation of provisional emergency measures.
3. Annulment of arbitral award.
4. Resolution of complaints against decisions of the arbitral tribunal about invalid arbitration agreements, inexecutable arbitration agreements or jurisdiction of arbitral tribunal.

5. Collection of evidences.
6. Summoning witnesses.
7. Registration of arbitral award.
8. Other civil matters prescribed by the legislation on Vietnamese commercial arbitration.

#### **Article 415. Resolving procedures**

Procedures for resolution of civil matters pertaining to Vietnamese commercial arbitration activities shall comply with the provisions of the legislation on Vietnamese commercial arbitration.

### **Chapter XXXIII**

#### **PROCEDURES FOR RECOGNITION OF SUCCESSFUL OUT-OF-COURT MEDIATION RESULTS**

#### **Article 416. Recognition of successful out-of-Court mediation results**

The Court shall consider issuing the decision to recognize the result of an out-of-Court mediation in a dispute between agencies, organizations and individuals that is conducted by a competent agency, organization or individual according to law regulations on mediation to be a successful mediation result.

#### **Article 417. Conditions for recognition of successful out-of-Court mediation result**

1. Parties of the mediation agreement have sufficient civil act capacity.
2. Parties of the mediation agreement are persons who have rights and obligations towards the mediation contents. If the successful mediation contents are related to rights and obligations of a third party, such mediation must be agreed by such party.
3. Either or both parties file application to the Court for recognition of the mediation.
4. Contents of the successful mediation are totally voluntary and are not contrary to law, not contrary to social ethics nor for evasion of obligations towards the State or the third party.

#### **Article 418. Application for recognition of successful out-of-Court mediation results**

1. Any person applying for successful out-of-Court mediation results must submit his/her application to the Court within 06 months from the day on which the successful mediation agreement between parties are reached.

An application must contain the following principal details:

- a) Those specified in points a, b, c, dd, e and g clause 2 Article 362 of this Code;
  - b) Name and address of individual/organization conducting the mediation;
  - c) The contents of successful mediation agreement to be recognized by the Court.
2. Enclosed with the application shall be documents about the successful mediation result according to relevant law provisions.

#### **Article 419. Procedures for recognition of successful out-of-Court mediation results**

1. Procedures for receiving and processing a successful out-of-Court mediation result shall comply with regulations specified in Article 363, 364 and 365 of this Code.
2. The time limit for preparing for consideration of an application shall be 15 days from the day on which it is accepted by the Court; past this time limit, the Court shall issue decisions to hold a meeting for considering the application.

The time limit for opening a meeting for considering the application shall be 10 days from the day on which the Court issues the decision to open the meeting.

3. Within the time limit for preparing for consideration of the application, the Judge assigned to consider the application shall have the following rights:

- a) To request the parties in the mediation and persons with relevant interests and duties to express opinions about the request of the applicant for recognition of successful mediation result and/or to clarify the request or supplement materials if necessary;

- b) To request agencies, organizations or individuals having jurisdiction to conduct mediation to supply the Court materials to serves as the basis for the consideration of application of involved parties if it is deemed necessary.

Agencies, organizations and individuals receiving the requests of the Court shall respond within 05 working days from the day on which such requests are received.

4. Participants in the meeting for consideration of the application and procedures for consideration of the application shall comply with regulations in Article 367 and Article 369 of this Code.

5. The Judge shall make decisions to recognize the successful out-of-Court mediation result when conditions specified in Article 417 of this Code are fully satisfied. A decision of the Court must contain the details specified in Article 370 of this Code.

6. The Judge shall make decisions to not recognize the successful out-of-Court mediation result when conditions specified in Article 417 of this Code are not fully satisfied.

The refusal to recognize the successful out-of-Court mediation result shall not affect the contents and legal value of such out-of-Court mediation result.

7. The decision to recognize or to not recognize a successful out-of-Court mediation result shall be sent to the parties of the mediation agreement, persons with relevant interests and duties and the procuracy of the same level.

8. The decision to recognize or to not recognize a successful out-of-Court mediation result shall immediately take effect and shall not be appealed against according to appellate procedures.

9. The decision to recognize or to not recognize the successful out-of-Court mediation result shall be enforced according to law regulations on enforcement of civil judgments.

## **Chapter XXXIV**

### **PROCEDURES FOR SETTLEMENT OF CIVIL MATTERS RELATED TO THE ARREST OF AIRCRAFTS OR SEAGOING VESSELS**

**Article 420. Right to request the Court to arrest an aircraft or a seagoing vessel**

1. Any agencies, organizations or individuals shall be entitled to request the Court to arrest an aircraft at an airport or an airfield to ensure the benefits of the creditor, owner or the third party who suffer damage on the surface or other people with rights and interests towards the aircraft or to enforce a civil judgment according to law regulations on Vietnam's civil aviation.
2. Any agencies, organizations or individuals may request the Court to arrest a seagoing vessel to ensure the settlement of maritime complaints to enforce a civil judgment or to provide Judicial assistance.

#### **Article 421. Jurisdiction of the Court to arrest an aircraft or a seagoing vessel**

1. The People's Court of province where is the location of the airport/airfield where the aircraft which is requested to be arrested landed shall have jurisdiction to make a decision to arrest such aircraft.
2. The People's Court of province where is the location of the seaport/inland port where the seagoing vessel which is requested to be arrested is operating shall have the jurisdiction to make a decision to arrest such vessel. If such seaport is comprised of multiple wharves that are located in multiple provinces and central-affiliated cities, the People's Court of province where is the location of the wharf where the seagoing vessel which is requested to be arrested is operating shall have the jurisdiction to make a decision to arrest such vessel.

#### **Article 422. Procedures for arresting aircrafts or seagoing vessels**

Procedures for processing civil matters related to the arrest of an aircraft or a seagoing vessel shall comply with law regulations on arrest of aircrafts and/or seagoing vessels.

### **PART SEVEN**

## **PROCEDURES FOR RECOGNITION AND ENFORCEMENT IN VIETNAM OR NON-RECOGNITION OF CIVIL JUDGMENTS OR DECISIONS OF FOREIGN COURTS; RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARD**

### **Chapter XXXV**

## **GENERAL REGULATIONS ON PROCEDURES FOR RECOGNITION AND ENFORCEMENT IN VIETNAM OR NON-RECOGNITION OF CIVIL JUDGMENTS OR DECISIONS OF FOREIGN COURTS; RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARD**

#### **Article 423. Foreign courts' civil judgments or decisions which shall be recognized and enforced in Vietnam**

1. The following foreign courts' civil judgments/decisions shall be recognized and enforced in Vietnam:
  - a) Civil, marriage, family, trade, business, labor – related judgments/decisions, decisions on properties in criminal/administrative judgments/decisions of Courts of a foreign country are provided for in International treaty to which both Vietnam and such country are signatories;
  - b) Civil, marriage, family, trade, business, labor – related judgments/decisions; decisions on properties in criminal/administrative judgments/decisions of Courts of a foreign country which does not sign an International treaty with Vietnam that contains regulations on recognition and

enforcement of judgments and decisions of foreign Courts on the basis of principle of reciprocity;

c) Other judgments or decisions of foreign courts, which are recognized and enforced under Vietnamese law.

2. Decisions on personal identities, marriage and family of other foreign competent agencies shall be considered being recognized and enforced in Vietnam like civil judgments and decisions of foreign Court provided for in clause 1 of this Article.

#### **Article 424. Foreign arbitrators' award which shall be recognized and enforced in Vietnam**

1. The following foreign arbitrators' award shall be considered being recognized and enforced in Vietnam:

a) Arbitral award of a foreign country which is a signatory to an International treaty about recognition and enforcement of foreign arbitral award together with Vietnam;

b) Foreign arbitral award other than those specified in point a of this clause on the basis of principle of reciprocity.

2. Foreign arbitral award specified in clause 1 of this Article shall be considered being recognized and enforced in Vietnam shall be the final ones of the arbitral tribunal that resolve all the contents of the dispute, finish the arbitral procedures and are effective.

3. Foreign arbitral, foreign arbitral award provided for in clause 1 of this Article shall be determined according to provisions of Vietnamese Law on commercial arbitration.

#### **Article 425. Right to apply for recognition and enforcement or non-recognition of civil judgments or decisions of foreign courts; recognition and enforcement of foreign arbitral award**

1. The judgment creditors or their lawful representatives may file petitions with Vietnamese Courts for recognition and enforcement of civil judgments or decisions of foreign Courts or foreign arbitral award if the judgment debtors being individuals reside or work in Vietnam, or the judgment debtors being agencies or organizations are headquartered in Vietnam or their properties related to the enforcement of the judgments or decisions of foreign Courts or foreign arbitral award exist in Vietnam at the time when the applications are filed.

2. Judgment debtors or their lawful representatives may request the Vietnamese Courts to refuse to recognize the civil judgments/decisions of foreign Courts.

3. The involved parties, persons with related legitimate rights and interests or their lawful representatives may file their petition requesting Vietnamese Courts not to recognize civil judgments or decisions of foreign Courts which are not requested for enforcement in Vietnam.

#### **Article 426. Ensuring the right to appeal**

The involved parties shall be entitled to appeal and People's Procuracies of provinces and the Supreme People's Procuracy shall be entitled to appeal against Court decisions to recognize and enforce or not recognize civil judgments or decisions of foreign Courts or decisions to recognize and enforce foreign arbitral award to request Collegial People's Court to review under the provisions of this Code.

**Article 427. Ensuring the effect of the decisions of Vietnam’s Courts on recognition and enforcement or non-recognition of civil judgments/decisions of foreign Courts; recognition and enforcement of foreign arbitrators’ award**

1. A civil judgment/decision of a foreign Court recognized and enforced in Vietnam by a Vietnamese Court shall be legally effective as a legally effective civil judgment/decision of a Vietnamese Court and shall be enforced according to procedures for enforcement of a civil judgment. Any civil judgment/decision of a foreign Court that has not been recognized by a Vietnamese Court shall not be legally effective in Vietnam, except for cases where such judgment/decision is automatically recognized as provided for in Article 431 of this Code.

2. Any award of a foreign arbitrator that is recognized and enforced in Vietnam shall be legally effective like an effective decision of Vietnamese Court and shall be enforced according to procedures for enforcement of a civil judgment.

3. A civil judgment/decision of a foreign Court or the award of a foreign arbitrator shall be enforced in Vietnam only when the decision of Vietnamese Court to recognize and enforce such civil judgment/decision and/or award takes legal effect.

**Article 428. Sending the decisions of Vietnam’s Courts on recognition and enforcement or on non-recognition of civil judgments/decisions of foreign Courts; recognition and enforcement of foreign arbitrators’ award**

The Court shall be responsible for sending directly or by post or through the Ministry of Justice its decision to the creditors and debtors of the civil judgment/decision of the foreign Court and/or the award of the foreign arbitrator or their lawful representatives, the procuracy and civil judgment-executing bodies according to provisions of this Code.

**Article 429. Ensuring the right to send money and properties from the enforcement of civil judgments/decisions of foreign Courts or foreign arbitrators’ award**

The State of Vietnam shall ensure the sending of money and property collected from the enforcement of civil judgments/decisions of foreign Courts or foreign arbitrators’ award that are recognized and enforced by Vietnamese Courts to the countries issuing such judgments/decisions. The sending of such money and properties shall comply with Vietnam’s law.

**Article 430. Fees and charges for consideration of application for recognition and enforcement or non-recognition of civil judgments/decisions of foreign Courts; recognition and enforcement of foreign arbitrators’ award**

1. Any person requesting a Vietnam’s Court to recognize and enforce or to not recognize in Vietnam a civil judgment/decision of a foreign Court; or to recognize and enforce a foreign arbitrator’s award must pay fees according to Vietnam’s law.

2. Requesters specified in clause 1 of this Article must bear the cost of delivery to foreign countries the procedural documents of Vietnamese Courts that are relevant to their requests.

**Article 431. Civil judgments/decisions of foreign Courts, decisions of other foreign competent agencies that are automatically recognized in Vietnam**

1. Civil judgments/decisions of foreign Courts and decisions of other foreign competent agencies which are not requested to be enforced or recognized in Vietnam specified in an International treaty to which the Socialist Republic of Vietnam is a signatory.
2. Judgments/decisions pertaining to marriage and family of foreign Courts, decisions on marriage and family of other competent agencies of countries which are not the co-signatories to an International treaty with Vietnam that are not requested to be enforced or recognized in Vietnam.

## **Chapter XXXVI**

### **PROCEDURES FOR CONSIDERATION OF APPLICATIONS FOR RECOGNITION AND ENFORCEMENT IN VIETNAM OF CIVIL JUDGMENTS OR DECISIONS OF FOREIGN COURTS; PROCEDURES FOR CONSIDERATION OF APPLICATION FOR NON-RECOGNITION OF CIVIL JUDGMENTS OR DECISIONS OF FOREIGN COURTS**

#### **Section 1. PROCEDURES FOR CONSIDERATION OF APPLICATIONS FOR RECOGNITION AND ENFORCEMENT IN VIETNAM OF CIVIL JUDGMENTS OR DECISIONS OF FOREIGN COURTS**

##### **Article 432. Prescriptive periods for filing applications for recognition and enforcement**

1. Within 03 years from the day on which the civil judgment/decision of a foreign Court takes legal effect, the judgment/decision creditors, persons with relevant legitimate rights and interests or their lawful representatives may submit their application to Vietnam's Ministry of Justice according to provisions of International treaty to which the Socialist Republic of Vietnam and home country of such foreign Court are co-signatories or to a competent Vietnam's Court specified in this Code to request recognition and enforcement in Vietnam of such civil judgment/decision.
2. In cases where the applicant can prove that he/she cannot submit the application within the time limit specified in clause 1 of this Article due to a force majeure event or an objective obstruct, the time periods when such force majeure event or objective obstruct occurs shall not be included in the time limit for submission of application.

##### **Article 433. Applications for recognition and enforcement**

1. An application for recognition and enforcement must contain the following principal details:
  - a) Full names and addresses of residence places or work places of the judgment creditors or their lawful representatives; if the judgment creditors are agencies or organizations, the full names and addresses of their head-offices must be fully inscribed;
  - b) Full names and addresses of residence places or work places of the judgments debtors; if the judgments debtors are agencies or organizations, the full names and addresses of their head-offices must be fully inscribed; in cases where the judgment debtors being individuals do not have residence places or work places in Vietnam or the judgment debtors being agencies or organizations do not have head-offices in Vietnam, their applications must also specify the addresses of the places where exist the properties and assorted properties relating to the enforcement in Vietnam of foreign courts' civil judgments/decisions;

c) Requests of judgment creditors; where foreign courts' judgments/decisions have been partly enforced, the judgment creditors must clearly state the executed parts and the remaining parts requested for recognition and continued enforcement in Vietnam.

2. Applications in foreign languages must be enclosed with their Vietnamese versions which are duly notarized or authenticated.

#### **Article 434. Papers and documents enclosed with the applications**

1. The applications shall be enclosed with papers and documents specified in the International treaties to which the Socialist Republic of Vietnam and the home countries of the Courts issuing the judgments/decisions are co-signatories. If the Socialist Republic of Vietnam and the home country of the Court issuing the judgment/decision are co-signatories of an International treaty having provisions for such matter, the application shall be enclosed with the following papers and documents:

a) Originals or certified true copies of the judgment/decision issued by the foreign Court;

b) Documents made by the foreign Court or other competent foreign agencies certifying that such judgment/decision has taken legal effect, has not expired and should be enforced in Vietnam, except where these details have already been clearly stated in the judgment/decision;

c) Documents made by the foreign Court or other competent foreign agencies certifying the lawful delivery of such judgment/decision to the judgment debtors who have to execute such judgments/decisions;

d) In cases the foreign Court issue the judgment in the absence of the judgment debtors or their lawful representatives, documents made by the foreign Court or other competent foreign agencies certifying that they have been duly summoned are required.

2. Papers and documents enclosed with the application that are in foreign languages must be enclosed with their Vietnamese versions which are duly notarized or authenticated.

#### **Article 435. Transferring of dossiers to Courts**

Within 05 working days after receiving the applications, papers and documents specified in clause 1 Article 434 of this Code, the Ministry of Justice must send the dossiers to competent Courts as provided for in Articles 37 and 39 of this Code.

#### **Article 436. Acceptance of dossiers**

Within 05 working days from the day on which the dossiers sent from the Ministry of Justice are received or from the day on which the applications and accompanying papers and documents sent from the applicants are received, the Courts shall base themselves on Article 363, 364 and 365 of this Code to consider and accept the dossiers and notify such to the applicants, the judgment debtors or their lawful representatives in Vietnam, the Procuracies of the same levels and the Ministry of Justice.

#### **Article 437. Preparation for consideration of applications**

1. Within the term of preparation for consideration of an application, the Court may request the judgment creditors to explain unclear matters in the application; request the foreign Court issuing the judgment/decision to explain unclear matters in the dossier.

2. The written request of the Court for explanation shall be sent to the judgment creditors or their lawful representatives in Vietnam and the foreign Court by post.

If the Vietnamese Court request the foreign Court to make explanation, the written request shall be translated in to the language specified in the International treaty to which the Socialist Republic of Vietnam is a signatory. If the Socialist Republic of Vietnam and the foreign country have not been the co-signatories to an International treaty, the dossier must be enclosed with the versions in the language of the country that is requested Judicial assistance or in a language agreed by the requested country. Applicants for recognition and enforcement in Vietnam of judgments/decisions of foreign countries must bear the cost for translation and the postage on the written request for explanation of Vietnam's Courts to the foreign Courts.

3. Time limit for preparation for consideration of an application shall be 04 months from the day on which it is accepted. Within such time limit, on a case-by-case basis, the Court shall issue one of the following decisions:

- a) To suspend the consideration of the application;
- b) To terminate the consideration of the application;
- c) To open a meeting for considering the application.

If a written request for explanation is sent by the Court as provided for in clause 1 of this Article, time limit for consideration of the application may be extended by not exceeding 02 months. Past such time limit, if the written explanation of the involved parties or the foreign Court has not been received by the Vietnam's Court, Vietnam's Court shall base itself on the documents in the dossier to resolve the application of the involved parties.

Within 01 days after issuing a decision to open a meeting for considering the application, the Court shall open the meeting.

Within 15 days before the meeting is opened, the Court shall transfer the dossier to the procuracy of the same level for study; past such time period, the procuracy shall return the dossier to the Court so that the meeting for considering the application can be opened.

4. The Court shall issue the decision to suspend the consideration of the application in any of the following circumstances:

- a) The judgment debtor being individual has died or the judgment debtor being agency/organization has been merged, amalgamated, divided or dissolved without an agency, organization or individual to inherit his/her/its procedural rights and obligations;
- b) The judgment debtor being individual lacks of legal capacity but his/her lawful representatives has not been determined;
- c) Legal representation of the judgment debtor has finished but the replacing person has not been assigned;
- d) The enforcement of the judgment/decision has been suspended at the home country of the Court issuing such judgment/decision;
- dd) Such judgment/decision is being re-considered or being waited for re-consideration according to procedures of the home country of the Court issuing such judgment/decision.

5. The Court shall issue the decision to terminate the consideration of the application in any of the following circumstances:

a) The judgment creditor withdraw his/her application or the judgment debtor has voluntarily enforce the judgment/decision of the foreign Court;

b) The judgment debtor being individual has died but his/her rights and obligations have not been inherited;

c) The judgment debtor being agency/organization has been dissolved or bankrupted but its rights and obligations have been settled according to Vietnam's law;

d) The judgment debtor being agency/organization has been dissolved or bankrupted but its procedural rights and obligations have not been inherited;

dd) The decision of the Court to open the bankrupt procedures for the judgment debtor has been issued;

e) The Court cannot determine the address of the judgment debtor and the place exists the properties related to the enforcement;

g) The jurisdiction to resolve the application belongs to another Court and the dossier has been forwarded to such Court for resolution;

h) The Court cannot determine the place exists the properties related to the enforcement in Vietnam in case the judgment debtor being agency/organization does not have head office in Vietnam or the judgment debtor being individual does not reside or work in Vietnam.

#### **Article 438. Meetings for considering applications**

1. The consideration of an application shall be conducted at a meeting by a Panel consisting of 3 Judges, one of whom shall act as the presiding Judge under the assignment of the Chief Justice of the Court.

2. The procurator of the procuracy of the same level shall attend the meeting; if the procurator is absent, the meeting shall be still conducted by the Court.

3. The meeting shall be conducted in the presence of the judgment creditors, judgment debtors or their lawful representatives; if any of them is absent for the first time, the meeting must be postponed.

The consideration of the application shall still proceed if the judgment creditors or their lawful representatives, or the judgment debtors or their lawful representatives have filed their applications to the Courts for consideration of the applications in their absence or if their lawful representatives have been duly summoned twice but are still absent.

The Panel shall issue decisions to terminate the consideration of the application if the judgment creditors or their lawful representatives have been duly summoned twice but are still absent or in any of the circumstances specified in clause 5 Article 437 of this Code.

4. When considering the application for recognition and enforcement, the Panel shall not conduct re-trial over the case when a foreign Court has issued judgment/decision for such case. The Court shall be only entitled to check and compare the civil judgment/decision of the foreign Court and accompanying papers and documents with provisions of Chapter XXXV and Chapter XXXVI of this Code, other relevant Vietnam's law provisions and International treaties to which the

Socialist Republic of Vietnam is a signatory to form the basis for the issuance of decision to recognize and enforce such judgment/decision.<sup>5</sup> After checking the application and accompanying papers and documents and listening to opinions of the summoned people and of the procurator, the Panel shall discuss and make decision under the majority rule.

The Panel shall be entitled to make a decision to recognize and enforce in Vietnam or decision to not recognize a civil judgment/decision of a foreign Court.

6. Within the time for preparation of the application, the first-instance Court shall be entitled to decide to apply, modify or repeal a provisional emergency measure specified in Chapter VIII of this Code.

### **Section 439. Civil judgments/decisions of foreign Court that shall not be recognized or enforced in Vietnam**

1. Civil judgments/decisions of foreign Courts that do not satisfy one of conditions for being recognized provided for in International treaties to which the Socialist Republic of Vietnam is a signatory.

2. Civil judgments/decisions that have not taken legal effect as provided for in law of the home countries of the Courts issuing them.

3. Judgment debtors or their lawful representatives are absent from the Court sessions of the foreign Courts because they have not been duly summoned or documents of the foreign Courts have not been delivered to them in a reasonable time period as prescribed in law of home country of such foreign Court so that such persons can exercise the right to self-defense.

4. The foreign Courts that have issued the judgments/decisions do not have jurisdiction to settle civil cases as prescribed in Article 440 of this Code.

5. Such civil cases have been settled in legally effective civil judgments/decisions of Vietnamese Courts, or before the foreign agencies in charge accepted such cases, they have been accepted and are being proceeded by Vietnamese Courts, or such civil cases have been settled with civil judgments/decisions issued by Courts of third countries which have been recognized and allowed to be enforced by Vietnamese Courts.

6. Time limit for enforcement of judgments prescribed in law of the home countries of the Courts issuing such judgments/decisions or in Vietnam's law on civil judgment enforcement has been exceeded.

7. The enforcement of the judgments/decisions has been canceled or terminated at the home country of the Court issuing such judgments/decisions.

8. The recognition and enforcement of civil judgments/decisions of foreign Courts in Vietnam are contrary to basic principles of law of the Socialist Republic of Vietnam.

### **Article 440. Foreign Courts having jurisdiction to settle disputes and requests**

Any foreign Court issuing a judgment/decision that is being considered to be recognized and enforced in Vietnam shall have jurisdiction to settle the civil case in the following cases:

1. The civil case does not fall within the exclusive jurisdiction of Vietnam's Courts specified in Article 470 of this Code;

2. The civil case falls in a case specified in Article 469 of this Code but has one of the following conditions:

a) The defendant participate in oral argument without appeal against the jurisdiction of such foreign Court;

b) Not any judgment/decision issued by a third country for such civil case is recognized and enforced by Vietnam's Court;

c) Such civil case has been accepted by a foreign Court before being accepted by a Vietnam's Court.

#### **Article 441. Sending of decisions of Courts**

1. Within 15 days from the day on which the decision specified in clause 5 Article 438 of this Code is issued, the Court shall send such to involved parties or their lawful representatives, the Ministry of Justice and the procuracy of the same level.

2. Within 05 working days from the day on which the decision to suspend or terminate the resolution of the application provided for in clauses 4 and 5 Article 437 of this Code is issued, the Court shall send such decision to involved parties or their lawful representatives, the Ministry of Justice and the procuracy of the same level.

3. Immediately when decisions to apply, modify or cancel a provisional emergency measure specified in clause 6 Article 438 of this Code is issued, the Court shall send such decision to involved parties or their lawful representatives, competent civil-judgment-executing bodies, the Ministry of Justice and the procuracy of the same level.

4. The sending of decisions of the Court to involved parties living overseas shall comply with methods specified in Article 474 of this Code.

#### **Article 442. Appeals**

1. Within 07 days from the day on which the Court issue the decision to suspend/terminate the consideration of the application, and 15 days from the day on which the Court issue the decision to recognize and enforce or to not recognize the judgment/decision of a foreign Court, involved parties and their lawful representatives may file an appeal against such decision; if the involved parties and their lawful representatives did not attend the meeting for considering the application, the time limit for filing an appeal shall be counted from the day on which they receive such decision. The appellate petition must clearly state the reasons for the appeal and the appellate requests.

In cases where there are force majeure events or objective obstacles that the involved parties or their lawful representatives can not file an appeal within such time limit, the time when the force majeure events or objective obstacles occur shall not be included in the time limit for appeal.

2. The Chairpersons of the People's Procuracies of provinces or Chairpersons of the Collegial People's Procuracies may file appeals against the decisions of Courts specified in clauses 4 and 5 Article 437 and clause 5 Article 438 of this Code.

Time limit for filing an appeal is 07 days (applicable to the People's Procuracies of provinces) or 10 days (applicable to Collegial People's Procuracies) from the day on which the procuracy receives the decision.

### **Article 443. Consideration of appeals**

1. Collegial People's Court shall consider the decision of the People's Court of province which is appealed against within its jurisdiction within 01 month from the day on which the documents are received; if explanation is required as prescribed in clauses 1 and 2 Article 437 of this Code, such time limit shall be extended for not exceeding 02 months.

2. Members of the Panel in charge of considering a decision that is appealed against shall be comprised of 3 Judges, one of which shall be the presiding Judge as assigned by the Chief Justice of Collegial People's Court.

A meeting for re-considering a decision that is appealed against shall be conducted as the one for considering the application specified in Article 438 of this Code.

3. The Panel for considering the decision being appealed against shall have the following powers:

a) To uphold the decision of the first-instance Court;

b) To modify partially or wholly the decision of the first-instance Court;

c) To suspend the settlement of the appeal;

d) To terminate the settlement of the appeal;

dd) To repeal the decision of the first-instance Court and forward the dossiers to such first-instance Court for re-settlement according to first-instance procedures;

e) To repeal the decision of first-instance Court and terminate the consideration of the application when existing any of circumstances specified in clause 5 Article 437 of this Code.

4. A decision of a Collegial People's Court shall take legal effect from the day on which it is issued and may be appealed according to cassation or reopening procedures according to provisions of this Code.

### **Section 2. PROCEDURES FOR CONSIDERATION OF APPLICATIONS FOR NON-RECOGNITION OF CIVIL JUDGMENTS OR DECISIONS OF FOREIGN COURTS**

#### **Section 444. Prescriptive periods for application for non-recognition in Vietnam of civil judgments/decisions of foreign Court**

1. Within 03 years from the day on which the civil judgment/decision of a foreign Court takes legal effect, the judgment debtors or their lawful representatives may request Vietnam's Court to not recognize such civil judgment/decision.

2. In cases where the applicant can prove that he/she cannot submit the application within the time limit specified in clause 1 of this Article due to a force majeure event or an objective obstruct, the time periods when such force majeure event or objective obstruct occurs shall not be included in the time limit for submission of application.

#### **Section 445. Application for non-recognition in Vietnam of civil judgments/decisions of foreign Court**

1. The applicant specified in clause 1 Article 444 of this Code must file an application. Such application must contain the following principal details:

- a) Full names and addresses of residence places or work places of the judgments debtors; if the judgments debtors are agencies or organizations, the full names and addresses of their head-offices must be fully inscribed; in cases where the judgment debtors being individuals do not have residence places or work places in Vietnam or the judgment debtors being agencies or organizations do not have head-offices in Vietnam, their applications must also specify the addresses of the places where exist the properties and assorted properties relating to the enforcement in Vietnam of foreign courts' civil judgments/decisions;
  - b) Full names and addresses of residence places or work places of the judgment creditors or their lawful representatives; if the judgment creditors are agencies or organizations, the full names and addresses of their head-offices must be fully inscribed;
  - c) Requests of judgment debtors; where foreign courts' judgments/decisions have been partly enforced, the application must clearly state the executed parts and the remaining parts requested for non-recognition in Vietnam.
2. Applications in foreign languages must be enclosed with their Vietnamese versions which are duly notarized or authenticated.

#### **Section 446. Application for non-recognition in Vietnam of civil judgments/decisions of foreign Court**

1. The applications shall be enclosed with papers and documents specified in the International treaties to which the Socialist Republic of Vietnam is a signatory. If the Socialist Republic of Vietnam and the home country of the Court issuing the judgment/decision have not been co-signatories of an International treaty having provisions for such matter, the application shall be enclosed with the originals or certified true copy of the judgment/decision issued by the foreign Court and papers and documents proving the request for non-recognition.
2. Papers and documents enclosed with the application that are in foreign languages must be enclosed with their Vietnamese versions which are duly notarized or authenticated.
3. Procedures for consideration of the application, the sending of decision of the Court, the filing of appeals and the consideration of the appeals shall be conducted according to regulations in corresponding articles in Section 1 of this Chapter.

#### **Section 3. PROCEDURES FOR NON-RECOGNITION OF CIVIL JUDGMENTS OR DECISIONS OF FOREIGN COURTS WHICH ARE NOT REQUESTED TO BE ENFORCED IN VIETNAM**

##### **Section 447. Prescriptive periods for application for non-recognition of civil judgments or decisions of foreign Courts which are not requested to be enforced in Vietnam**

1. Within 06 months from the day on which the civil judgment/decision of a foreign Court takes legal effect but there is no request for enforcement of such Judgment/decision in Vietnam, then involved parties and persons with relevant legitimate rights and interests or their lawful representatives may submit their application to Vietnam's Ministry of Justice according to provisions of International treaty to which the Socialist Republic of Vietnam and home country of such foreign Court are co-signatories or to a competent Vietnam's Court specified in this Code, in case the International treaty to which the Socialist Republic of Vietnam is a signatory does not provide for or there is no relevant International treaty provisions, to request the Court to not recognize such civil judgment/decision.

2. In cases where the applicant can prove that he/she cannot submit the application within the time limit specified in clause 1 of this Article due to a force majeure event or an objective obstruct, the time period when such force majeure event or objective obstruct occurs shall not be included in the time limit for submission of application.

#### **Section 448. Application for non-recognition of civil judgments or decisions of foreign Courts which are not requested to be enforced in Vietnam**

1. An application for non-recognition of a civil judgment/decision of a foreign Court which is not requested to be enforced in Vietnam must have the following principal details:

a) Full names and addresses of residence places or work places of the applicants; if the applicants are agencies or organizations, the full names and addresses of their head-offices must be fully inscribed;

b) Requests of the applicants.

2. Enclosed with the application shall be the originals or certified true copies of the civil judgment/decision of foreign Court and necessary papers and documents for proving that the request for unrecognition is well-grounded and lawful.

3. The application and accompanying papers and documents that are in foreign languages must be enclosed with their Vietnamese versions which are duly notarized or authenticated.

#### **Section 449. Procedures for acceptance and processing of application for non-recognition of a civil judgment/decision of a foreign Court which is not requested to be enforced in Vietnam**

1. The acceptance of application, the preparation for consideration of application and the meeting for considering the application for non-recognition of a civil judgment/decision of a foreign Court which is not requested to be enforced in Vietnam shall be conducted according to regulations in Articles 436, 437 and 438 of this Code.

2. The Panel considering the application may any of the following decisions:

a) To not recognize the civil judgment/decision of the foreign Court;

b) To reject the application for non-recognition.

3. A civil judgment/decision of a foreign Court which is not requested to be enforced in Vietnam shall not be recognized in cases specified in Article 439 of this Code.

#### **Article 450. Sending decisions of Courts and regulations on appeal**

The sending of decisions of Courts; the appeal and the consideration of an appeal shall comply with regulations in Article 441, 442 and 443 of this Code.

### **Chapter XXXVII**

#### **PROCEDURES FOR CONSIDERATION OF APPLICATIONS FOR RECOGNITION AND ENFORCEMENT IN VIETNAM OF FOREIGN ARBITRATOR'S AWARD**

#### **Article 451. Time limit for submission of applications for recognition and enforcement**

1. Within 03 months from the day on which the foreign arbitrator's award takes legal effect, the judgment creditors and persons with relevant legitimate rights and interests or their lawful representatives may submit their application to Vietnam's Ministry of Justice according to

provisions of International treaty to which the Socialist Republic of Vietnam is a signatory or to a competent Vietnam's Court specified in this Code, in case the International treaty to which the Socialist Republic of Vietnam is a signatory does not provide for or there is no relevant International treaty provisions, to request the Court to not recognize and enforce such award.

2. In cases where the applicant can prove that he/she cannot submit the application within the time limit specified in clause 1 of this Article due to a force majeure event or an objective obstruct, the time period when such force majeure event or objective obstruct occurs shall not be included in the time limit for submission of application.

#### **Article 452. Application for recognition and enforcement in Vietnam of foreign arbitrator's award**

1. An application for recognition and enforcement in Vietnam of foreign arbitrator's award must contain the following principal details:

a) Full names and addresses of residence places or work places of the judgment creditors or their lawful representatives in Vietnam; if the judgment creditors are agencies or organizations, the full names and addresses of their head-offices must be fully inscribed;

b) Full names and addresses of residence places or work places of the judgments debtors; if the judgments debtors are agencies or organizations, the full names and addresses of their head-offices must be fully inscribed; in cases where the judgment debtors being individuals do not have residence places or work places in Vietnam or the judgment debtors being agencies or organizations do not have head-offices in Vietnam, their applications must also specify the addresses of the places where exist the properties and assorted properties relating to the enforcement in Vietnam of foreign arbitrator's award;

c) Requests of the judgment creditors.

2. Applications in foreign languages must be enclosed with their Vietnamese versions which are duly notarized or authenticated.

#### **Article 453. Papers and documents enclosed with the applications**

1. The applications shall be enclosed with papers and documents specified in the International treaties to which the Socialist Republic of Vietnam is a signatory; in case where there is no International treaty or the International treaty does not provide for the case, the following papers and documents shall be enclosed with the application:

a) The originals or certified true copies of the foreign arbitrator's award;

b) The originals or certified true copies of arbitration agreements between parties.

2. Papers and documents enclosed with the application that are in foreign languages must be enclosed with their Vietnamese versions which are duly notarized or authenticated.

#### **Article 454. Forwarding dossiers to Courts**

1. Within 05 working days from the day on which the application and enclosed papers and documents specified in Article 453 of this Code, the Ministry of Justice shall forward them to the competent Court.

2. If the Ministry of Justice has forwarded the dossier to the Court and received notification from a competent agency of the foreign country informing that the case is being considered or the

enforcement of the foreign arbitrator's award has been canceled or terminated in such country, the Ministry of Justice must immediately notify in writing to the Court.

#### **Article 455. Acceptance of dossiers**

Within 05 working days from the day on which the dossiers sent from the Ministry of Justice are received or from the day on which the applications and accompanying papers and documents sent from the applicants are received, the competent Courts shall base themselves on Article 363, 364 and 365 of this Code to consider and accept the dossiers and notify in writing such to the judgment creditors, the judgment debtors or their lawful representatives in Vietnam, the Procuracies of the same levels and the Ministry of Justice.

#### **Article 456. Forwarding dossiers to other Courts, settlement of disputes about jurisdiction**

If after accepting the case, the Courts deem that the settlement of application for recognition and enforcement in Vietnam the foreign arbitrator's award falls within the jurisdiction of another Courts of Vietnam, then the Court which has accepted the case shall issue a decision to forward the dossier to the jurisdictional Court and cross out such request on its acceptance book. Such decision shall be immediately sent to the procuracy of the same level and the involved parties.

Involved parties may file an appeal or the procuracy may file an appeal against such decision within 03 working days from the day on which such decision is received. Order and procedures for processing the appeals or settling disputes about jurisdiction shall comply with regulations in Article 41 of this Code.

#### **Article 457. Preparation for consideration of applications**

1. Within 02 months from the date of acceptance, on a case-by-case basis, the Court shall issue one of the following decisions:

- a) To suspend the consideration of the application;
- b) To terminate the consideration of the application;
- c) To open a meeting for considering the application.

Within the time limit for preparation for considering the application, the Court may request the judgment creditors to explain the unclear information in the application. In such case, the time limit for preparation for considering the application shall be extended for not exceeding 02 months.

Within 20 days after issuing a decision to open a meeting for considering the application, the Court shall open the meeting. Within 15 days before the meeting is opened, the Court shall transfer the dossier to the procuracy of the same level for study; past such time period, the procuracy shall return the dossier to the Court so that the meeting for considering the application can be opened.

2. The Court shall issue the decision to suspend the consideration of the application in any of the following circumstances:

- a) Foreign arbitrator's award is being re-considered by a competent agency of the country where the award is made;

- b) The judgment debtor being individual has died or the judgment debtor being agency/organization has been merged, amalgamated, divided or dissolved without an agency, organization or individual to inherit his/her/its procedure rights and obligations;
- c) The judgment debtor being individual lacks of legal capacity but his/her lawful representatives has not been determined;

Within the time period of termination, the Judge assigned to settle the case shall be still responsible for resolving the application.

When the decision to suspend the resolution of the application has been issued as prescribed in this clause, the Judge shall be responsible for supervising and expediting agencies, organizations and individuals to eliminate the causes for such suspension as soon as possible to promptly continue processing the application. When the causes for the suspension no longer exist, the Judge shall make a decision to continue processing the application.

3. The Court shall issue the decision to terminate the consideration of the application in any of the following circumstances:

- a) The judgment creditor withdraws his/her application or the judgment debtor has voluntarily enforce the foreign arbitrator's award;
- b) The judgment debtor being individual has died but his/her rights and obligations have not been inherited;
- c) The judgment debtor being agency/organization has been dissolved or bankrupted but its rights and obligations have been settled according to Vietnam's law;
- d) The judgment debtor being agency/organization has been dissolved or bankrupted but its procedure rights and obligations have not been inherited;
- dd) The Court cannot determine the places where exist properties in Vietnam of the judgment debtor according to the request of the judgment creditor of the arbitral award.

#### **Article 458. Meetings for considering applications**

1. The consideration of an application shall be conducted at a meeting by a Panel consisting of 3 Judges, one of whom shall act as the presiding Judge under the assignment of the Chief Justice of the Court.
2. The procurator of the procuracy of the same level shall attend the meeting; if the procurator is absent, the meeting shall be still conducted by the Court.
3. The meeting shall be conducted in the presence of the judgment creditors, judgment debtors or their lawful representatives; if any of them is absent for the first time with plausible reasons, the meeting must be postponed.

The consideration of the application shall still proceed if the judgment creditors or their lawful representatives, or the judgment debtors or their lawful representatives have filed their applications to the Courts for consideration of the applications in their absence or if their lawful representatives have been duly summoned twice but are still absent.

The Panel shall issue decisions to terminate the processing of the application if the judgment creditors or their lawful representatives have been duly summoned twice but are still absent or in any of the circumstances specified in clause 3 Article 457 of this Code.

4. When considering the application for recognition and enforcement, the Panel shall not conduct re-trial over the dispute when the foreign arbitrator's award has been issued. The Court shall be only entitled to check and compare the foreign arbitrator's award and accompanying papers and documents with provisions of Chapter XXXV and Chapter XXXVII of this Code, other relevant Vietnam's law provisions and International treaties to which the Socialist Republic of Vietnam is a signatory to form the basis for the issuance of decision to recognize and enforce such award.

5. After checking the application and accompanying papers and documents and listening to opinions of the summoned people and of the procurator, the Panel shall discuss and make decision under the majority rule.

The Panel shall be entitled to make a decision to recognize and enforce in Vietnam the foreign arbitrator's award or decision to not recognize a foreign arbitrator's award.

#### **Article 459. Cases of non-recognition**

1. The Court shall not recognize a foreign arbitrator's award when deeming that the evidences provided by the judgment debtors to the Court for appealing against the application for recognition are well-grounded and the arbitrator's award falls within one of the following cases:

- a) The parties of the arbitration agreement do not have capacity to conclude such agreement according to law applicable to each party;
- b) The arbitration agreement is not legally effective according to the law of a country which is chosen to be applied or according to the law of where the award is made in case the parties cannot choose a law to be applied to such agreement;
- c) The judgment debtors being agencies, organizations and individuals are not promptly and conformably notified of the appointment of arbitrator officer and of procedures for processing the disputes at foreign arbitrator, or due to other plausible reasons, such agencies, organizations and individuals cannot exercise their procedure rights;
- d) The foreign arbitrator's award over a dispute is not requested to be settled by any parties or exceeds the request of parties of the arbitration agreement. If it is able to separate the parts of the decision on the matter which are requested and not requested to be settled at foreign arbitrator, the decision on the matter requested to be settled may be recognized and enforced in Vietnam;
- dd) Compositions of foreign arbitrator and/or procedures for settlement of disputes conducted by foreign arbitrator is not conformable to the arbitration agreement or to the law of the country where the foreign arbitrator's award has been made, in case the arbitration agreement does not provide for such matters;
- e) The foreign arbitrator's award has not taken compulsory legal effect on parties;
- g) The enforcement of the foreign arbitrator's award has been canceled or terminated by a competent agency of the country where such award is made or the home country of the law that is applied.

2. The foreign arbitrator's award shall not be recognized is the Vietnam's Court deems that:

- a) According to Vietnam's law, the dispute shall not be settled according to arbitral procedures;
- b) The recognition and enforcement in Vietnam of foreign arbitrator's award are contrary to basic principles of law of the Socialist Republic of Vietnam.

### **Article 460. Sending of decisions of Courts**

1. Within 05 working days from the day on which the decision to suspend or terminate the resolution of the application provided for in clauses 2 and 3 Article 457 of this Code is issued, the Court shall send such decision to involved parties or their lawful representatives, the Ministry of Justice and procuracy of the same level.
2. Within 15 days from the day on which the decision to recognize and enforce or to not recognize in Vietnam the foreign arbitrator's award specified in clause 5 Article 458 of this Code is issued, the Court shall send such decision to involved parties or their lawful representatives, the Ministry of Justice and the procuracy of the same level. If the involved parties living overseas do not have lawful representatives in Vietnam and the Court has issued the decision in their absence according to regulations in clause 3 Article 458 of this Code, the Court shall send such decision to them by post or via the Ministry of Justice according to provisions of International treaty to which the Socialist Republic of Vietnam is a signatory.
3. The sending of decisions of the Court to involved parties shall comply with methods specified in Article 474 of this Code.

### **Article 461. Appeals**

1. Within 07 days from the day on which the Court issue the decision specified in clauses 2 and 3 Article 457 or clause 5 Article 458 of this Code, involved parties and their legal representatives may file an appeal against such decision; if the involved parties and their lawful representatives did not attend the meeting for considering the application, the time limit for filing an appeal shall be counted from the day on which they receive such decision. The appellate petition must clearly state the reasons for the appeal and the appellate requests.

In cases where there are force majeure events or objective obstacles that the involved parties or their lawful representatives can not file an appeal within such time limit, the time when the force majeure events or objective obstacles occur shall not be included in the time limit for appeal.

2. The Chairpersons of the People's Procuracies of provinces or Chairpersons of the Collegial People's Procuracies may file appeals against the decisions of Courts specified in clauses 2 and 3 Article 457 and clause 5 Article 458 of this Code.

Time limit for filing an appeal is 07 days (applicable to the People's Procuracies of provinces) or 10 days (applicable to Collegial People's Procuracies) from the day on which the procuracy receives the decision.

### **Article 462. Consideration of appeals**

1. Collegial People's Court shall re-consider the decision of the People's Court of province which is appealed against within 01 month from the day on which the documents are received; if explanation is required as prescribed in clause 1 Article 457 of this Code, such time limit shall be extended for not exceeding 02 months.
2. Members of the Panel in charge of considering a decision that is appealed against shall be comprised of 3 Judges, one of which shall be the presiding Judge as assigned by the Chief Justice of Collegial People's Court. A meeting for re-considering a decision that is appealed against shall be conducted as the one for considering the application specified in Article 458 of this Code.

3. The Panel for considering the decision being appealed against shall have the following powers:

- a) To uphold the decision of the first-instance Court;
- b) To modify partially or wholly the decision of the first-instance Court;
- c) To suspend the settlement of the appeal;
- d) To terminate the settlement of the appeal;
- dd) To repeal the decision of the first-instance Court and forward the dossiers to such first-instance Court for re-settlement according to first-instance procedures;
- e) To repeal the first-instance decision and terminate the processing of the application when existing any of circumstances specified in clause 3 Article 457 of this Code.

4. The Panel for considering the decision being appealed against shall terminate the processing of an appeal in the following cases:

- a) The involved party withdraws wholly his/her appeal or the procuracy withdraws wholly its appeal;
- b) The involved party filing the appeal has been duly summoned twice but is still absent without an application for resolution in his/her absence.

If the involved party filing appeal withdraws wholly his/her appeal or the procuracy withdraws wholly its appeal before the appellate Court make a decision to open a meeting for considering such appeal, the Judge assigned to preside over the meeting shall make a decision to terminate the resolution of such appeal. If the involved party filing appeal withdraws wholly his/her appeal or the procuracy withdraws wholly its appeal when the appellate Court has made a decision to open a meeting for considering such appeal, appeal consideration Panel shall make a decision to terminate the resolution of such appeal.

In the following cases, the decision of the first-instance Court shall take legal effect from the day on which the appellate Court issues the decision to terminate the consideration of the appeal.

5. The Panel in charge of considering the decision being appealed against shall repeal the decision of the first-instance Court and forward the dossiers to such first-instance Court for re-processing according to first-instance procedures in the following cases:

- a) The proving of the involved parties for protesting against the recognition of the foreign arbitrator's award or the grounds for the first-instance Court to make a decision to recognize or to not recognize the foreign arbitrator's award is unconformable to provisions of Chapter XXXV and Chapter XXXVII of this Code, other relevant provisions of Vietnam's law and of International treaties to which the Socialist Republic of Vietnam is a signatory;
- b) Members of the Panel in charge of considering the application of the first-instance Court is unconformable to provisions of Chapter XXXVII of this Code or is seriously contrary to regulations on procedures that affects lawful rights and interests of involved parties.

6. A decision of a Collegial People's Court shall take legal effect from the day on which it is issued and may be appealed according to cassation or reopening procedures according to provisions of this Code.

**Article 463. Termination of enforcement, repealing of decisions to recognize and enforce a foreign arbitrator' award**

1. Immediately when the written notification of a competent foreign agency of that the application for repealing or termination of the enforcement of foreign arbitrator's award is being considered sent by involved parties or the Ministry of Justice is received, the Court that has issued the decision to recognize and enforce in Vietnam such award shall request the Head of Civil judgment enforcement agency to issue decision to suspend the enforcement of the award.

Immediately when the request of the Court has been received, Head of the Civil judgment enforcement agency shall issue a decision to suspend the enforcement of the award and send such decision to the Court that has issued the decision to recognize and enforce in Vietnam the foreign arbitrator's award and to involved parties and persons with relevant interests and duties.

Head of the civil judgment enforcement agency may take security measures that are necessary for the continuing of the enforcement of foreign arbitrator's ward according to law on enforcement of civil judgment at the request of agencies, organizations and individuals being judgment creditors.

2. Immediately when the written notification of the foreign competent authority of the repealing or termination of the enforcement of a foreign arbitrator's award has been received, Vietnam's Court that has issued the decision to recognize and enforce in Vietnam such foreign arbitrator's award shall issue a decision to repeal such decision and send such decision to involved parties, persons with relevant interests and duties, and the civil judgment enforcement agency.

Immediately when the decision of the Court has been received, Head of the Civil judgment enforcement agency shall issue a decision to terminate the enforcement of the foreign arbitrator's award.

**PART EIGHT**

**PROCEDURES FOR SETTLEMENT OF CIVIL CASES INVOLVING FOREIGN ELEMENTS**

**CHAPTER XXXVIII**

**GENERAL PROVISIONS FOR PROCEDURES FOR SETTLEMENT OF CIVIL CASES INVOLVING FOREIGN ELEMENTS**

**Article 464. Principles of application**

1. This Part provides for jurisdiction, procedures for settlement of civil cases involving foreign elements; if a case is not provided for in this Part, other relevant provisions of this Code shall be applied.

2. A civil case involving foreign elements means a civil case falling in any of the following cases:

- a) At least one party is a foreign individual/agency/organization;
- b) All parties are Vietnamese citizens/agencies/organizations but the relationship is established, changed, developed or broken up in a foreign country;
- c) All parties are Vietnamese citizens, agencies and organizations but the parties of such civil relationship are overseas.

3. Judicial assistance activities in civil procedure shall be conducted according to regulations of law on Judicial assistance.

**Article 465. Procedural rights and obligations of foreigners, foreign agencies and organizations and branches or representatives offices of foreign agencies and organizations and international organizations or their representatives in Vietnam, States of foreign countries**

1. Foreigners, foreign agencies and organizations, international organizations, representative offices of international organizations in Vietnam may initiate lawsuits to Vietnamese Courts to request the protection of their legitimate rights and interests when being infringed upon or when being in dispute.

Foreigners, foreign agencies and organizations, international organizations, representative offices of international organizations in Vietnam may initiate lawsuits to Vietnamese Courts to request the protection of their legitimate rights and interests when being infringed upon or when being in dispute.

2. When participating in civil procedures, foreigners, foreign agencies and organizations and branches or representatives offices in Vietnam of foreign agencies and foreign organizations and international organizations or their representatives in Vietnam and States of foreign countries shall have rights and obligations to conduct procedures like Vietnamese citizens, agencies and organizations.

3. The Vietnamese State may apply the principle of reciprocity to restrict relevant civil procedural rights of foreigners, foreign agencies and organizations, branches or representative offices of foreign agencies and organizations, and international organizations or their representative agencies in Vietnam which the Courts of their countries have restricted towards Vietnamese citizens, agencies and organizations, and branches and representative offices of overseas Vietnamese agencies and organizations.

**Article 466. Civil-procedure legal capacity and civil-procedure act capacity of foreigners**

1. Civil-procedure legal capacity and civil-procedure act capacity of a foreigner shall be determined as follows:

a) Under the law of the country of which he/she is a citizen. For a stateless foreigner, his/ her civil-procedure legal capacity and civil-procedure act capacity shall be determined under the law of the country where he/she resides. For a stateless foreigner residing in Vietnam, his /her civil-procedure legal capacity and civil- procedure act capacity shall be determined under Vietnamese law;

b) If the foreigner has different foreign citizenships, his /her civil procedure legal capacity and civil-procedure act capacity shall be determined under the law of the one of the countries of which he/she is a citizens and where he/she resides.

For a foreigner who has different citizenships and resides in a country of which he/she is not a citizen, his/her civil-procedure legal capacity and civil-procedure act capacity shall be determined under the law of the country of which he/she is a citizen for the longest time;

c) Under Vietnamese law, if he/she has different citizenships including Vietnamese citizenship, or if he/she has a card for permanent residence or temporary residence in Vietnam.

2. A foreigner may have his/her civil-procedure act capacity recognized at a Vietnamese Court if he/she has such capacity in accordance with Vietnamese law in spite of not having it in accordance with the law of the relevant foreign country.

**Article 467. Civil-procedure legal capacity of foreign organizations, branches or representative offices in Vietnam of foreign agencies and organizations and international organizations and their representatives offices in Vietnam and of the State of foreign countries**

1. Civil-procedure legal capacity of a foreign agency or organization shall be determined in accordance with the law of the country where such agency or organization is established.

Civil-procedure legal capacity of a branch or representative office of a foreign agency or organization in Vietnam shall be determined in accordance with Vietnamese law.

2. Civil-procedure legal capacity of an international organization or its representative agency shall be determined under the International treaty based on which such organization is established, the working regulation of such organization, or the International treaty to which the Socialist Republic of Vietnam is a signatory.

If the international organization declares to waive its privileges or immunities, its civil-procedures legal capacity shall be determined in accordance with Vietnamese law.

**Article 468. Protection of legitimate rights and interests involved parties being foreigners, foreign agencies and organizations, branches or representative offices in Vietnam of foreign agencies and organizations and international organizations and their representative offices in Vietnam or the State of foreign countries**

The involved parties being foreigners, foreign agencies and organizations, branches or representative offices of foreign agencies and organizations, and international organizations or their representative agencies in Vietnam that participate in procedures at Vietnamese Courts may themselves, or ask lawyers to, defend their lawful rights and interests in accordance with Vietnamese law.

**Article 469. Common jurisdiction of Vietnamese Courts to resolve civil cases involving foreign elements**

1. Vietnamese Courts shall have the jurisdiction to resolve civil cases involving foreign elements in the following cases:

- a) The defendant is an individual who resides, works or lives for a long term in Vietnam;
- b) The defendant is an agency or organization which is headquartered in Vietnam or the defendant is an agency or organization has a branch or a representative office in Vietnam, applicable to cases related to the operation of the branch or representative office in Vietnam of such agency/organization;
- c) The defendant has properties in Vietnam;
- d) The divorce cases with the plaintiffs or the defendants being Vietnamese citizens or involved parties being foreigners who reside, work or live for a long term in Vietnam;
- dd) Civil cases related to civil relations which are established, changed or terminated in Vietnam, objects of which are properties in Vietnam or acts performed in Vietnam;

e) Civil cases related to civil relations which are established, changed or terminated in Vietnam but involve rights and obligations of Vietnamese agencies, organizations and individuals or agencies, organizations and individuals that are headquartered or reside in Vietnam.

2. When the jurisdiction of Vietnamese Courts have been determined according to provisions of this Chapter, the Court shall base themselves of provisions of Chapter III of this Code to determine their specific jurisdiction to resolve the civil case involving foreign elements.

#### **Article 470. Exclusive jurisdiction of Vietnamese Courts**

1. The following civil lawsuits involving foreign elements shall fall under the exclusive jurisdiction of Vietnamese courts:

- a) Civil lawsuits involving rights to properties being immovables in the Vietnamese territory;
- b) Divorce case between a Vietnamese citizen and a foreign citizen or a stateless person if both spouses reside, work or live permanently in Vietnam;
- c) Other civil lawsuits where parties are allowed to choose Vietnamese Courts to settle according to Vietnamese law or International treaties to which the Socialist Republic of Vietnam is a signatory and parties agreed to choose Vietnamese Courts.

2. The following civil cases involving foreign elements shall fall under the exclusive jurisdiction of Vietnamese courts:

- a) Claims without dispute arising from civil legal relationships specified in clause 1 of this Article;
- b) Claims for determination of a legal events occurring in Vietnam;
- c) Declaration of a Vietnamese citizen or a foreigner residing in Vietnam missing or death if such declaration is related to the establishment of their rights and obligations in Vietnam, except for cases where International treaties to which the Socialist Republic of Vietnam is a signatory otherwise prescribe;
- d) Declaration of foreigner residing in Vietnam having limited civil act capacity or lacking legal capacity if such declaration is related to the establishment of their rights and obligations in Vietnam;
- dd) Recognition of a property in Vietnam to be derelict, recognition of the right to ownership of the current manager over derelict immovables in Vietnam.

#### **Article 471. Not changing the jurisdiction of Courts**

Any civil case involving foreign elements which has been accepted for settlement by a Vietnamese Court under this Code's provisions on jurisdiction must be continually settled by such Court even though during the resolution process there appear changes of nationalities, residential places or addresses of involved parties or appear new details which make such civil case falls under the jurisdiction of another Vietnamese Court or foreign court.

**Article 472. Returning the lawsuit petitions or applications or terminating the resolution of civil cases involving foreign elements in case arbitration agreements and/or agreements on choosing foreign Courts have been concluded or in case such civil cases have been settled by foreign Courts or foreign arbitrators or other foreign competent authorities or the involved parties are eligible for legal exemption**

1. Vietnamese Courts shall return lawsuit petitions or applications or terminate the settlement of civil cases involving foreign elements if such civil cases fall in common jurisdiction of Vietnamese Courts but fall in any of the following cases:

a) Involved parties were agreed to choose dispute settlement methods according to law provisions applicable to civil relationships involving foreign elements and such involved parties have chosen foreign arbitrators or Courts to settle such cases/matters.

In case where the agreements to choose foreign arbitrators or Courts are replaced by agreements on choosing Vietnamese Courts, or the agreements to choose foreign arbitrators or Courts are annulled or cannot be executed, or where the foreign arbitrators or Courts refuse to accept the petitions, thus Vietnamese Courts shall have the jurisdiction to settle;

b) The civil cases do not fall within the exclusive jurisdiction of Vietnamese Courts specified in Article 470 of this Code and fall in the exclusive jurisdiction of relevant foreign Courts;

c) The civil cases do not fall within the exclusive jurisdiction of Vietnamese Courts specified in Article 470 of this Code and have been accepted for settlement by foreign arbitrators or Courts;

d) The civil cases are settled by judgments/decisions of the foreign Courts or by foreign arbitrators' awards.

If such judgments/decisions or awards are not recognized by Vietnamese Courts, Vietnamese Courts shall have jurisdiction to settle such cases;

dd) The defendants are eligible for legal exemption.

2. If the petitions are returned or the settlement of civil cases involving foreign elements specified in clause 1 of this Article is terminated, the Court fee and charge advances shall be settled according to provisions of this Code.

#### **Article 473. Requests for provision of information about record and determination of addresses of involved parties living overseas**

1. The petitions or written requests must state clearly full names, addresses and nationalities of involved parties living overseas enclosed with papers and documents authenticating full names, addresses and nationalities of such involved parties.

If full names, addresses and nationalities of involved parties living overseas are not fully specified, they must be completed within a time limit specified by the Courts; past such time limit, if such information are not fully provided, the Courts shall return such petitions/requests.

2. If addresses of the involved parties living overseas are not identifiable, the litigators/requesters may request Vietnamese Courts to request competent authorities of foreign countries to determine addresses of the involved parties or may request competent authorities to find the persons who are absent from their resident places or request Vietnamese Courts or foreign competent authorities to declare involved parties missing or death according to Vietnamese law or law of the foreign countries or International treaties to which the Socialist Republic of Vietnam is a signatory.

If the competent authorities of foreign countries respond to Vietnamese Courts that addresses of the involved parties living overseas are not identifiable or after 06 months from the day on with the petitions/requests are received, not any response are made, the Courts shall return such petitions/requests.

**Article 474. Methods of delivering and notifying courts' procedural documents to overseas involved parties**

1. The Court shall deliver or notify its procedural documents by any of the following methods:

a) Methods prescribed in International treaties to which the Socialist Republic of Vietnam is a signatory;

b/ Through the diplomatic channel, for involved parties residing in countries that are not a co-signatories with the Socialist Republic of Vietnam to a International treaty;

c) By post to addresses of involved parties currently residing in foreign countries if such methods are accepted by the laws of such countries;

d) By post to overseas representative missions of the Socialist Republic of Vietnam for being delivered to the involved parties being overseas Vietnamese citizens;

dd/ Through its representative office or branch in Vietnam in accordance with this provisions of this Code, applicable to foreign agencies or organizations having representative offices or branches in Vietnam;

e) By post to legal representatives or proxy representatives in Vietnam of involved parties living overseas.

2. Methods of delivery specified at Points a and b Clause 1 of this Article must comply with the law on Judicial assistance.

3. If the modes of delivery specified in Clause 1 of this Article are unsuccessfully applied, the Court shall post up the procedural document at the head office of the relevant overseas representative mission of the Socialist Republic of Vietnam, the Court currently processing the case, or the last place of residence of the involved party in Vietnam for 01 month and on the e-portal of the Court (if any) and the e-portal of the overseas representative mission of the Socialist Republic of Vietnam. In necessary cases, the Court may broadcast such on the central radio or television channels specialized for foreigners three times for 03 consecutive days.

**Article 475. Collection of evidences from foreign countries**

The Courts shall collect evidences in any of the following methods:

1. Those specified in points a and b clause 1 Article 474 of this Code;

2. Request by post involved parties being Vietnamese citizens residing overseas to send papers, materials and evidences to the Vietnamese Court.

**Article 476. Notification of acceptance of cases, date for opening meetings or Court sessions**

1. The Court shall send a notice of acceptance of the case to overseas involved parties, clearly stating the time and venue for holding the meeting for checking the handover of, access to, and disclosure of evidences and mediation (hereinafter referred to as the meeting), resumption of the meeting, and opening or resumption of the Court session.

2. The time limit for opening a Court session or a meeting for mediating shall be determined as follows:

a) A meeting for mediating shall be opened not earlier than 06 months and not later than 08 months after the issuance of a written notice of acceptance of the case. The date of resumption of

a mediation meeting (if any) shall be fixed within 01 month after the date of opening such meeting;

b) A Court session shall be opened not earlier than 09 months and not later than 12 months after the issuance of a written notice of acceptance of the case. The date of resumption of a Court session (if any) shall be fixed within 01 month after the date of opening such Court session, except for cases specified in Clause 4 Article 477 of this Code.

3. The Court shall send a notice of acceptance of the civil matter to overseas involved parties, clearly stating the time and venue for opening or resuming the meeting for settling a civil matter.

The meeting shall be opened not earlier than 06 months and not later than 08 months after the issuance of a written notice of acceptance of the civil matter. The date of resumption of a meeting for settling civil matter (if any) shall be fixed within 01 month after the date of opening the initial meeting.

**Article 477. Handling of results of delivery of Court's procedural documents to overseas involved parties and results of requesting of foreign competent authorities to collect evidences**

Upon receiving results of delivery of the court's procedural document and results of collection of evidences in a foreign country, the court, on the case-by-case basis, shall:

1. Not hold a mediation meeting when it has received the delivery results by one of the methods specified in Clause 1 Article 474 of this Code and the involved parties have provided sufficient testimonies, materials and evidences, and the civil lawsuit falls into the case where no mediation can be held prescribed in Article 207 of this Code;

2. Postpone the mediation meeting if it has received the notice of delivery completion but until the date of holding the m, it receives no testimonies, documents or evidences from the involved parties that do not ask for permitted absence from the mediation meeting. In case overseas involved parties are still absent on the day the mediation meeting is resumed, the Court shall consider it impossible for conducting the mediation;

3. Postpone the Court session in the following cases:

a) Overseas involved parties request in writing the postponement of the first Court session;

b) Overseas involved parties are absent from the first Court session, unless they make a written petition for trial to be conducted in their absence;

4. Postpone the Court session, if it receives no notice of delivery results or testimonies, materials or evidences of overseas involved parties and, on the date of opening the Court session, these involved parties are still absent and make no written request for trial to be conducted in their absence. Immediately after the postponement of the Court session, the Court shall request in writing the Ministry of Justice or overseas representative mission of the Socialist Republic of Vietnam to notify the delivery of the court's procedural document to the involved parties in case the Court makes the delivery via this mission by one of the methods prescribed in Points a, b and d Clause 1 Article 474 of this Code.

Within 01 month after receiving the court's request, the overseas representative mission of the Socialist Republic of Vietnam shall notify the Court of the result of delivery of the procedural document to the overseas involved parties.

Within 10 days after receiving the court's request, the Ministry of Justice shall request in writing the competent foreign authority to give a reply on the result of request for judicial assistance.

Within 5 working days after receiving the reply from the competent foreign authority, the Ministry of Justice shall give a reply to the court.

Past the 3-month time limit from the date of transferring the court's request to the competent foreign agency, if receiving no reply, the Ministry of Justice shall notify such to the Court for use as a ground for settlement of the case;

5. Conduct trial in the absence of overseas involved parties in the following cases:

a) It has received the result of delivery of the procedural document to the involved parties by one of the methods prescribed in Clause 1 Article 474 of this Code and the involved parties have provided sufficient testimonies, documents or evidences and requested the Court to conduct trial in their absence;

b) It has taken measures mentioned in Clause 3 Article 474 of this Code.

c) It receives no notice from the competent authority mentioned in Clause 4 of this Article regarding the delivery result;

6. If the Court receives a written notification of that the delivery cannot be completed because name and address of the involved party is inaccurate or the involved party has moved to another address that is unknown to the Court, then the Court shall:

a) Request the plaintiff and relatives in Vietnam of overseas involved party (if any) to provide it with correct or new address of the overseas involved party. Continue the delivery of the notice of acceptance to overseas involved party according to the address provided by the plaintiff or the relatives in Vietnam of the overseas involved party;

b) Make a decision to terminate the resolution of the case, in case the plaintiff or the relative in Vietnam of the involved party fails to or refuse to provide correct or new address of the overseas involved party or the overseas party does not have a relative in Vietnam. Concurrently, the Court shall explain to the litigator the right to request the Court to issue notice of finding an involved party absent from his/her residence or request the Court to declare an involved party missing or death;

c) If the plaintiff is a Vietnamese citizen who applies for divorcing a foreigner living overseas but fails to provide accurately such foreigner's full name or new address at the request of the Court though the plaintiff and/or his/her relatives or Vietnamese or foreign competent authorities have conducted verification of news and/or address of such foreigner, then the plaintiff shall request the Court to post the notification on its e-portal (if any), e-portal of the consular offices of the Socialist Republic of Vietnam in foreign countries. If it is deemed necessary, at the request of the plaintiff, the Court may make notification via central radio or television channels specialized for foreigners three times for 03 consecutive days.

In such case, the Court is not required to re-deliver the procedural documents to overseas involved party. Past the 1-month time limit from the day on which the notification is posted, the Court shall conduct the trial in the absence of the involved party.

**Article 478. Recognition of papers and materials sent by foreign agencies, organizations, or individuals to Vietnamese Courts**

1. Vietnamese Courts shall recognize papers and documents made, issued or certified by competent foreign agencies or organizations in the following cases:

a) Papers, materials and notarized or certified Vietnamese translations have been legalized by consular offices;

b) Papers and documents are exempt from consular legalization in accordance with Vietnamese law or International treaties to which the Socialist Republic of Vietnam is a signatory.

2. Vietnamese Courts shall recognize papers and materials made by overseas individuals in the following cases:

a) Foreign-language papers and documents already translated into Vietnamese are lawfully notarized or certified in accordance with the Vietnamese law;

b) Papers and documents made in a foreign country are notarized or certified in accordance with the law of that country and have been legalized by consular offices;

c) Papers and documents made in Vietnamese by overseas Vietnamese citizens with their signatures certified in accordance with Vietnamese law.

**Article 479. Time limit for appealing against Court judgments or decisions on trial of civil lawsuits involving foreign elements**

1. Involved parties present in Vietnam may appeal against a Court judgment or decision within the time limit specified in Article 273 of this Code.

2. For overseas involved parties who are absent from the Court session, the time limit for them to appeal against a Court judgment or decision is 01 month after such judgment or decision is duly delivered or posted up in accordance with law.

3. In case the Court conducts trial in the absence of overseas involved parties under Point b, Clause 5, Article 477 of this Code, the time limit for filing an appeal is 12 months since the judgment is pronounced.

**Article 480. Delivery or notification of procedural documents of appellate Courts to overseas involved parties and handling of delivery or notification results**

Appellate Courts shall deliver or notify procedural documents to overseas involved parties and handle delivery or notification results in accordance with Articles 474, 476 and 477 of this Code.

**Article 481. Determination and provision of foreign law for the Court to apply in the settlement of civil cases involving foreign elements**

If the Vietnamese Court apply a foreign law to settle a civil case involving foreign element according to provisions of Vietnamese law and/or of an International treaty to which the Socialist Republic of Vietnam is a signatory, the responsibility for determining and providing foreign shall be performed as follows:

1. If the involved party of a civil case is allowed to choose a foreign law to be applied, he/she shall provide the foreign law he/she has chosen for the Court being in charge of such case. The involved party shall be responsible for the accuracy and legitimacy of the foreign law he/she provides for the Court.

If involved parties fail to agreed with each other about the foreign law to be chosen or in necessary cases, the Court shall request the Ministry of Justice, the Ministry of Foreign Affairs,

consular offices of the Socialist Republic of Vietnam in foreign countries or request the diplomatic missions of foreign countries in Vietnam (via the Ministry of Foreign Affairs) to provide the foreign laws;

2. If Vietnamese law and/or International treaties to which the Socialist Republic of Vietnam is a signatory provide for that foreign laws shall be applied, the involved parties may provide foreign laws for the Court or the Court shall request the Ministry of Justice, the Ministry of Foreign Affairs or consular offices of the Socialist Republic of Vietnam in foreign countries to provide it with foreign laws;

3. The Court may request agencies, organizations and individuals professional in foreign laws to provide it with information about foreign laws;

4. Past the 06-month time limit from the date of request for provision of foreign laws as provided for in this Article, if there is no response, the Court shall apply Vietnamese law to settle the civil case.

## **PART NINE**

### **ENFORCING CIVIL JUDGMENTS/DECISIONS OF COURTS**

#### **Chapter XXXIX**

### **ENFORCING CIVIL JUDGMENTS/DECISIONS OF COURTS**

#### **Article 482. To be-enforced judgments/decisions of courts**

1. The to be-enforced civil judgments/decisions of Courts are those that already took effect, including:

a) Judgments/decisions or parts of judgments/decisions of the first-instance courts, which are not appealed against according to the appellate procedures;

b) Judgments/decisions of appellate Courts;

c) Cassation/reopening decisions of courts; decisions of Councils of Judges of the Supreme People's Court prescribed in Article 360 of this Code;

d) Civil judgments/decisions of foreign courts, foreign arbitral award, which have been recognized and permitted for enforcement in Vietnam.

2. The following judgments/decisions of first-instance Courts shall be immediately enforced though they may be appealed against or complained/recommended about:

a) Judgments/decisions on alimonies, remuneration, reinstatement of employees, wages, severance pays, compensation for loss of capacity for work, redundancy pays, social insurance, unemployment insurance, health insurance or compensations for loss of lives, health or mental damage suffered by citizens; decisions on lawfulness of labor strikes;

b) Decisions on application of provisional emergency measures.

#### **Article 483. Recording and explanation about the right to request the enforcement of civil judgment**

1. If the judgment/decision of the Court exists a decision to be enforced according to regulations in Article 482 of this Code, in the conclusion of such judgment/decision, the right to request the

enforcement of the judgment, the obligation to enforce the judgment and the prescriptive periods of enforcement shall be clearly stated.

2. When issuing a judgment/decision, the Court shall clearly explain the involved parties about their right to request the judgment enforcement, judgment enforcement obligation and prescriptive periods for requesting for the enforcement of the judgment according to provisions of the Law on enforcement of civil judgments.

#### **Article 484. Issuance of judgments/ decisions of Courts**

When a judgment/decision of the Court fails in cases subject to being enforced according to regulations in Article 482 of this Code, the Court which has issued such judgment/decision shall issue the judgment creditors and judgment debtors such judgment/decision with the words “Đề thi hành” (to be enforced) written on it.

#### **Article 485. Time limit for forwarding of judgments/decisions**

1. The Court that has issued the judgment/decision specified in clause 1 Article 482 of this Code must forward such judgment/decision to competent civil-judgment-executing bodies within 01 month from the day on which such judgment/decision takes legal effect, unless otherwise prescribed by law.

2. The Court that has issued the judgment/decision specified in point a clause 2 Article 482 of this Code must forward such judgment/decision to competent civil-judgment-executing bodies within 15 days from the day on which such judgment/decision takes legal effect.

3. The Court that has made the decision to apply provisional emergency measures or decision on the legitimacy of a strike must forward such decision to competent civil-judgment-executing bodies immediately when such decision has been issued.

4. If the competent agencies have distrained upon the properties, impounded the properties, confiscated the exhibits or other documents related to the enforcement of the judgments, when forwarding the judgments/decisions to the civil-judgment-executing bodies, the Court must enclose with them copies of minutes of the distraintment, impoundment or confiscation of exhibits and other relevant documents.

#### **Article 486. Explanation for and modification of judgments/ decisions of Courts**

1. Judgment creditors, judgment debtors, persons with relevant interests and duties to the enforcement of the judgment/decisions of the Court and judgment-executing bodies shall be entitled to request in writing the Court issuing such judgments/decisions to explain and modify unclear information in such judgments/decisions to enforce them.

2. The Judges that have made the decisions or the Judges being the presiding Judges of the Court sessions shall be in charge of explaining and modifying unclear information in the judgments/decisions of the Courts. If such Judges are no longer the Judges of the Courts, the Chief Justices of such Courts shall take their charge.

3. The explanation of judgments/decisions of the Courts shall base on the minutes of the Court session, of the meeting or the deliberation minutes. The modification of a judgment/decision of a Court shall comply with regulations in Article 268 of this Code.

#### **Article 487. Resolution of requests and recommendations about judgments/ decisions of Courts**

If a civil-judgment enforcement agency file a recommendation about the re-consideration of a judgment/decision of the Court according to cassation or reopening procedures, the competent Court shall make response within 03 months from the day on which the recommendation is received; if the case is too complicated, such time limit shall be 04 months from the day on which the recommendation is received.

**Article 488. Jurisdiction, procedures for consideration for exemption or reduction of judgment enforcement obligation regarding the amounts payable to the State budget by the Court**

1. Jurisdiction to consider the exemption or reduction of judgment enforcement obligation regarding the amounts payable to the State budget by the Court shall be determined as follows:

a) People's Courts of districts where the civil-judgment-executing bodies which are carrying out the enforcement of the judgment are headquartered shall be entitled to consider the applications for exemption or reduction of judgment enforcement obligation regarding the amounts payable to the State budget;

b) People's Courts of provinces shall be entitled to consider according to appellate procedures Court decisions on the exemption or reduction of judgment enforcement obligation regarding the amounts payable to the State budget which are appealed against by the procuracies;

c) Collegial People's Courts shall be entitled to consider according to re-opening procedures Court decisions on exemption or reduction of legally effective judgment obligation which are appealed against within their jurisdiction.

2. Order and procedures for consideration for exemption or reduction of judgment enforcement obligation regarding the amounts payable to the State budget shall be conformable to provisions of the Law on civil judgment enforcement.

**PART TEN**

**HANDLING ACTS OF OBSTRUCTING CIVIL PROCEEDINGS; COMPLAINTS AND DENUNCIATIONS IN CIVIL PROCEDURES**

**Chapter XL**

**HANDLING ACTS OF OBSTRUCTING CIVIL PROCEEDINGS**

**Article 489. Handling acts of obstructing the verification and collection of evidences by proceeding officers**

Those who commit one of the following acts shall, depending on the nature and severity of the violations, be disciplined, be imposed administrative penalties or face criminal prosecution as prescribed in law:

1. Forging or destroying important exhibits, thus obstructing the resolution of cases by courts;
2. Refusing to provide or provide untruthful testimonies or providing false materials when acting as witnesses;
3. Refusing to produce results of expertise or refusing to provide information without good and sufficient reason or produce untruthful expertise results;
4. Intentionally giving untruthful interpretation;

5. Failing to assign a person to join the Price Assessment Council at the request of the Court without a plausible reason; failing to perform the duties of the Price Assessment Council without a plausible reason;
6. Obstructing a procedure-conducting person to make on-site inspection and appraisal, conduct assessment and/or expertise or verify or collect other evidences in accordance with this Code;
7. Deceiving, bribing, threatening, forcing or using force to prevent a witness from giving testimonies, or compelling others to deceitfully act as a witness;
8. Deceiving, bribing, threatening, forcing, or using force to prevent an expert witness from performing his/her duty, or compelling him/her to make an untruthful conclusion;
9. Deceiving, bribing, threatening, forcing, or using force to prevent an interpreter from performing his/her duty or compelling him/her to give untruthful, biased or wrong interpretation.

**Article 490. Handling measures applicable to witnesses who are intentionally not present under courts' subpoenas**

1. In cases where witnesses or the interpreters have been duly summoned by Courts but have deliberately declined to go to Courts or to be present in Court sessions or meeting without plausible reasons and their absence caused obstacles to the collection and/or verification of evidences or the adjudication of cases, they shall face administrative sanction according to law provisions.
2. In cases specified in clause 1 of this Article, the Courts shall be entitled to issue decisions to escort the witness to the Court sessions or meetings, unless the witnesses are minors. Decisions on escorting witnesses must clearly state the time and places of their issuance; the full names and positions of the persons issuing the decisions; the full names, dates of birth and residence places of the witnesses, the time and places for the witnesses to be present.
3. The public security offices having the task to enforce the Court decisions shall be in charge of escorting witnesses. Executors of such decisions must read out and explain them to the to be-escorted persons and make records on the escort.

**Article 491. Handling of violations against the internal rules of Court sessions**

1. Persons committing violations against the internal rules of Court sessions specified in Article 234 of this Code shall, depending on nature and severity of the violations, face administrative penalties imposed by the presiding Judges according to law provisions.
2. The presiding Judges shall be entitled to make decisions to compel the violators specified in clause 1 of this Article to leave the courtroom. Public security offices having the task to protect Court sessions or persons having the task to protect the order of the Court sessions shall enforce the presiding Judges' decisions on forcible departures from Court rooms or administrative custody against persons who cause disturbance in Court sessions.
3. In cases where persons violate the internal rules of Court sessions to such an extent that they must be liable to criminal prosecution, the Courts shall be entitled to institute criminal cases according to regulations on criminal procedures.
4. Provisions of this Article shall be also applicable to persons who commit violations in the Court's meetings.

**Article 492. Actions against acts offending or injuring the solemn and/or prestige of the Court, honor, dignity or health of proceeding officers or other persons carrying out duties at the request of the Court**

Any person performing an act offending or injuring the solemn and/or prestige of the Court, honor, dignity or health of proceeding officers or other persons carrying out duties at the request of the Court shall, depending on nature and severity of the violations, be imposed administrative penalties or be liable to criminal prosecution according to law provisions.

**Article 493. Actions against the issuance, sending, receiving, delivery or notice of procedural documents of the Court**

Any person shall, depending on nature and severity of the violations, be imposed disciplinary penalties, administrative penalties or liable to criminal prosecution according to law provisions if he/she performs any of the following acts:

1. Fail to perform the issuance, sending, delivery or notice of procedural documents of the Court at the request of the Court without plausible reasons;
2. Destroy procedural documents of the Court that the Court assigned them to issue, deliver or notice;
3. Forge the results of the deliver or notice of procedural documents of the Court that are assigned;
4. Preclude the issuance, sending, Receiving, delivery or notice of procedural documents of the Court.

**Article 494. Actions against acts preventing representatives of agencies, organizations or individuals from participating in procedures as requested by Courts**

Those who threaten, assault, or take advantage of others' dependence to prevent representatives of agencies, organizations or individuals from attending Court sessions or meetings as summoned by the Courts shall, depending on the nature and severity of their violations, be administratively sanctioned or be liable to criminal prosecution according to law provisions.

**Article 495. Actions against acts of failing to executive Court decisions on provisions of documents and evidences to the Court or acts of reporting untruthful information in order to obstruct Court's settlement of cases**

1. Agencies, organizations or individuals that fail to execute the Court decision on provision of documents and evidences they are currently managing or keeping shall be administratively sanctioned in accordance with law.
2. Those who report untruthful information in order to obstruct the Court's settlement of the case shall, depending on the nature and severity of their violations, be administratively sanctioned, administratively sanctioned or be liable to criminal prosecution in accordance with law.

**Article 496. Actions against acts interfering in the settlement of civil cases**

Those who use their influence to exert impacts in any form on the Judge or another member of the Trial Panel in order to make the settlement of the case biased or unlawful shall, depending on the nature and severity of their violations, be imposed disciplinary measures, be administratively sanctioned or be liable to criminal prosecution in accordance with law.

**Article 497. Responsibilities of the procuracies in cases where the Courts institute criminal cases**

1. In cases where the Courts institute criminal cases as stipulated in Clauses 3 and 4 Article 491 of this Code, within 15 days from the day on which the institution decisions are issued, the Courts shall forward to the competent procuracies the institution decisions and materials and evidences substantiating the criminal acts.

2. The procuracies shall be responsible for considering and settling according to provisions of the Criminal Procedure Code.

**Article 498. Forms of penalty, competence, order and procedures for imposing penalties**

Forms of penalty, competence, order and procedures for imposing administrative penalties on acts that obstruct civil procedure activities shall comply with provisions of the Law on Actions against administrative violations and relevant law provisions.

**Chapter XLI**

**COMPLAINTS AND DENUNCIATIONS IN CIVIL PROCEDURES**

**Article 499. Decisions and acts in civil procedures which may be complained about**

1. Agencies, organizations or individuals shall be entitled to complain about procedural decisions or acts of civil proceeding authorities/persons when there are grounds for presuming that such decisions or acts are illegal or infringe upon their legitimate rights and interests.

2. For first-instance, appellate, cassation or reopening judgments/decisions of Courts or other procedural decisions issued by civil proceeding officers, if being appealed against, complained about or petitioned, they shall be settled not according to the provisions of this Chapter but according to the provisions of corresponding chapters of this Code.

**Article 500. Rights and obligations of complainants**

1. Complainants shall have the following rights:

- a) To lodge complaints by themselves or through their lawful representatives;
- b) To lodge their complaints at any stage of the resolution of the cases;
- c) To withdraw their complaints at any stage of the resolution of the cases;
- d) To receive written replies on the acceptance of their complaints; to receive the complaint-resolving decisions;
- dd) To have their legitimate rights or interests restored; to receive damages as provided for by law.

2. Complainants shall have the following obligations:

- a) To lodge their complaints to the right persons who are competent to settle them;
- b) To give truthful presentations of the cases, to supply information and documents to persons handling the complaints; to take responsibility before law for the contents of their presentations and the supply of such information and documents;
- c) Not to abuse the right to complain to obstruct the procedural activities of the courts;

d) To abide by decisions and acts of presiding officers that they are complaining about during the complaining period;

dd) To strictly abide by the complaint-resolving decisions which have taken legal effect.

### **Article 501. Rights and obligations of the complained persons**

1. The complained persons shall have the following rights:

a) To acquire knowledge about grounds for complaint of the complainants; to produce evidences of the legality of their procedural decisions or acts which are being complained about;

b) To receive decisions on the resolution of the complaints about their own procedural decisions or acts.

2. The complained persons shall have the following obligations:

a) To explain their procedural decisions or acts being complained about; to provide relevant information or documents when so requested by competent agencies, organizations or individuals;

b) To strictly abide by the decisions on the resolution of the complaints which have taken legal effect;

c) To compensate for damage, to reimburse or address the consequences caused by their illegal procedural decisions or acts as provided for by law.

### **Article 502. Statute of limitations for lodging complaints**

The time limit specified in statute of limitation for lodging a complaint is 15 days as from the date the complainant receives or knows about the procedural decision/act which he/she deems illegal.

In cases where complainants cannot exercise their right to lodge their complaints within the time limit prescribed in this Article because of force majeure events or objective obstacles, the duration in which the force majeure events or objective obstacles exist shall not be counted into the statute of limitations for complaint.

### **Article 503. Forms of complaint**

Complaint petitions must be made in writing. A written complaint petition must clearly state the date; full name and address of the complainant; complaint contents and reasons for the complaint, request of the complainant, signature or fingerprints of the complainant.

### **Article 504. Competence resolution of complaints against decisions/acts of proceeding officers**

1. Complaints against decisions/acts of proceeding officers being Judges, Deputy-Chief Justices, Ombudspersons, Court clerks or People's Jurors shall be settled by the competent Chief Justices of Courts being in charge of such civil cases.

Complaints against procedural decisions/acts of Chief Justices of Courts shall be settled by the competent Chief Justices of the immediately superior courts.

2. Complaints against decisions/acts of proceeding officers being procurators, inspectors, deputy chairpersons of procuracies shall be settled by the chairpersons of the procuracies.

Complaints against procedural decisions/acts of chairpersons of procuracies shall be settled by competent chairpersons of the immediately superior procuracies.

3. Complaints against the first complaint-resolving decisions of the Chief Justices or the Chairpersons of procuracies provided for in clauses 1 and 2 of this Article shall be settled by the Chief Justices/Chairpersons of the immediately superior courts/procuracies.

#### **Article 505. Time limit for resolution of complaints**

Time limit for resolution of first complaints shall be 15 days from the day on which the courts/procuracies received the complaint petitions. If necessary, for complicated cases and matters, time limit for resolution of complaints can be extended by not exceeding 15 days calculated from the day on which the time limit for resolution of complaints expires.

#### **Article 506. Contents of decisions on first complaint resolution**

1. Persons who resolve complaints for the first time must issue written decisions on resolution of the complaints. A decision on resolution of a complaint shall include the following information:

- a) Date of issuing the decision;
- b) Name and address of the complainant and the complained person;
- c) Complained matters;
- d) Result of the verification of the complained matters;
- dd) Legal grounds for resolution of the complaint;
- e) Decision on first complaint resolution.

2. First complaint-resolving decisions must be sent to the complainants and relevant individuals, agencies and organizations. If the decisions are issued by the Chief Justices of the courts, they must be sent to procuracies of the same levels.

#### **Article 507. Procedures for second complaint resolution**

1. Within 05 working days from the day on which the first complaint-resolving decisions are received, if the complainants disagree with such decisions, they may file complaints with competent persons for second complaint resolution.

2. The complaint petitions must be enclosed with copies of first complaint-resolving decisions and accompanying materials.

A written complaint petition must clearly state the date; full name and address of the complainant; complaint contents and reasons for the complaint; signature or fingerprints of the complainant.

3. A second complaint-resolving decision must include the following information:

- a) Information specified in points a, b, c, d and dd clause 1 Article 506 of this Code;
- b) Result of the first complaint resolution;
- c) Conclusions about specific matters in the complaint petition and the resolution of the second complaint-resolving persons.

4. Second complaint-resolving decisions must be sent to the complainants and relevant individuals, agencies and organizations. If the decisions are issued by the Chief Justices of the courts, they must be sent to procuracies of the same levels.

5. Second complaint-resolving decisions shall be effective.

#### **Article 508. Resolution of complaints against expertise activities in civil procedures**

The resolution of complaints against expertise activities in civil procedures shall comply with law regulations on judicial expertise and relevant law provisions.

#### **Article 509. Persons who have right to denounce**

Individuals are entitled to denounce to competent agencies, organizations or individuals illegal acts of competent proceeding officers which cause or threaten to cause damage to the State's interests or legitimate rights and interests of agencies, organizations or individuals.

#### **Article 510. Rights and obligations of denouncers**

1. Denouncers shall have the following rights:

- a) To file their written denunciations or directly present denunciations to competent agencies, organizations or individuals;
- b) To request that their full names, addresses and autographs be kept secret;
- c) To request that the results of resolution of their denunciations be notified to them;
- d) To request that competent agencies, organizations and individuals protect them when they are threatened, bullied or revenged.

2. Denouncers shall have the following obligations:

- a) To honestly present the contents of their denunciations;
- b) To clearly state their full names and addresses;
- c) To take responsibility before law for untruthful denunciations.

#### **Article 511. Rights and obligations of the denounced persons**

1. Denounced persons shall have the following rights:

- a) To be notified of the denunciation contents;
- b) To produce evidences to prove that the denunciation contents are untrue;
- c) To have their legitimate rights and interests that have been infringed upon restored; to have their honor restored; and to enjoy compensation for the damage caused by false denunciations;
- d) To request competent agencies, organizations or individuals to handle persons who gave untruthful denunciations.

2. Denounced persons shall have the following obligations:

- a) To explain their denounced acts; to provide relevant information and documents when so requested by competent agencies, organizations or individuals;
- b) To strictly abide by the handling decisions of competent agencies, organizations or individuals;

c) To pay damages, reimburse or address consequences caused by their illegal civil procedural acts according to law provisions.

#### **Article 512. Competence and time limit for resolution of denunciations**

1. Denunciations of illegal acts of persons competent to conduct procedures of any competent agencies shall be settled by the heads of such agencies.

In cases where the denounced persons are courts' Chief Justices, deputy-Chief Justices, chairpersons or deputy-chairpersons of the procuracies, the Chief Justices of the immediately superior Courts or the chairpersons of the immediately superior procuracies shall have responsibility to settle the cases.

The time limit for resolution of a denunciation shall not exceed 02 months as from the date on which the denunciation is accepted; for complicated cases, the time limit for denunciation resolution may be longer but shall not exceed 03 months.

2. Denunciations of illegal acts which show criminal signs shall be settled according to the provisions of the Criminal Procedure Code.

#### **Article 513. Procedures for denunciation resolution**

The procedures for resolution of denunciations shall comply with law regulations on denunciation.

#### **Article 514. Responsibilities of persons competent to settle complaints/denunciations**

1. Competent agencies, organizations or individuals shall, within the scope of their tasks and powers, have the responsibility to receive and promptly and properly settle complaints or denunciations; to strictly handle violators; to apply necessary measures to prevent possible damage or losses; to ensure strict execution of settling decisions and have to take legal responsibility for their decisions.

2. Those who are competent to settle complaints or denunciations but fail to settle them, show irresponsibility in settling them or settle them illegally shall, depending on the nature and severity of the violations, be disciplined or examined for penal liability; if causing damage, they must pay compensations therefor according to law provisions.

#### **Article 515. Inspection and supervision of law observance in resolution of complaints and denunciations in civil procedures**

The people's procuracies shall inspect and supervise the law observance in the resolution of complaints and denunciations in civil procedures according to law provisions. The procuracies are entitled to request or recommend the Courts of the same and lower levels, responsible agencies, organizations and individuals to ensure that the settlement of complaints/denunciations is well grounded and lawful.

### **Chapter XLII**

#### **IMPLEMENTARY CLAUSE**

#### **Article 516. Amendment to a number of articles of the Labor Code No. 10/2012/QH13**

1. Article 52 shall be amended as follows:

**“Article 51. Competence to declare a labor contract to be invalid**

People’s Courts shall be entitled to declare labor contracts to be invalid.”

2. Articles 223, 224, 225, 226, 227, 228, 229, 230, 231, 232 and 234 Section 5 Chapter XIV of the Labor Code No. 10/2012/QH13 shall be annulled.

**Article 517. Effect**

1. This Code takes effect from July 01<sup>st</sup>, 2016, except for the following provisions related to provisions of the Civil Code No. 91/2015/QH13 that take effect from January 01<sup>st</sup>, 2017:

a) Provisions related to that the Courts must not refuse to resolve civil cases for the reasons that there are no applicable law provisions prescribed in clause 2 Article 4, Articles 43, 44 and 45 of this Code;

b) Provisions pertaining to persons with limited cognition or behavior control;

c) Provisions pertaining to the application of statute of limitations provided for in clause 2 Article 184 and point e clause 1 Article 217 of this Code;

d) Provisions pertaining to legal entities being representatives or guardians.

2. The Civil Procedure Code No. 24/2004/QH11 that has been amended according to the Law No. 65/2011/QH12 shall expire since this Code comes into effect, except for provisions of Article 159 and point h clause 1 Article 192 that shall be effective until the end of December 31<sup>st</sup>, 2016.

*This Code was passed on November 25<sup>th</sup>, 2015 by the XII<sup>th</sup> National Assembly of the Socialist Republic of Vietnam at its 10<sup>th</sup> Session.*

**CHAIRPERSON OF THE NATIONAL ASSEMBLY**

**Nguyen Sinh Hung**

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*Unofficial translated by LPVN*