

**【Title】 Administrative Procedure Law of the People's Republic of China**[现行有效]  
**【法规标题】 中华人民共和国行政诉讼法** [Effective]

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ADMINISTRATIVE PROCEDURE LAW OF THE PEOPLE'S REPUBLIC  
OF CHINA

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中华人民共和国主席令  
(第 1 6 号)

(相关资料: [法律 22 篇](#) [行政法规 23 篇](#) [部门规章 386 篇](#) [司法解释 138 篇](#) [其他规范性文件 4 篇](#) [地方法规 2506 篇](#) [案例 49 篇](#) [裁判文书 9725 篇](#) [相关论文 1449 篇](#) [实务指南](#))

《中华人民共和国行政诉讼法》已由中华人民共和国第七届全国人民代表大会第二次会议于 1 9 8 9 年 4 月 4 日通过, 现予公布, 自 1 9 9 0 年 1 0 月 1 日起施行。

中华人民共和国主席 杨尚昆

1 9 8 9 年 4 月 4 日

中华人民共和国  
行政诉讼法

( 1 9 8  
9 年 4 月 4 日第七届

全国人民代表  
大会第二次会议通过)

CHAPTER I GENERAL PROVISIONS

Article 1. This Law is drafted on the basis of [the constitution](#) with the purposes to safeguard correct and timely adjudication of administrative cases, to protect the lawful rights and interests of citizens, legal persons and other organizations, and to uphold and inspect the exercise of administrative power in accordance with law by administrative organs.

第一章 总则

第一条 为保证人民法院正确、及时审理行政案件, 保护公民、法人和其他组织的合法权益, 维护和监督行政机关依法行使行政职权, 根据[宪法](#)制定本法。

(相关资料: [地方法规 1 篇](#) [案例 2 篇](#) [裁判文书 41 篇](#) [相关论文 54 篇](#) [实务指南](#))

Article 2. A Citizen, A legal person or other organizations have the right to litigate a lawsuit to the people's courts in accordance with this Law once they consider that a concrete administrative action by administrative organs or personnels infringe their lawful rights and interests.

Article 3. The people's courts exercise judicial power independently with respect to administrative cases, and shall not be subject to interference by any administrative organ, public organization or individual.  
The people's courts shall set up administrative divisions for the handling of administrative cases.

Article 4. In conducting administrative proceedings, the people's courts shall base themselves on facts and take the law as the criterion.

Article 5. In handling administrative cases, the people's courts shall examine the legality of specific administrative acts.

Article 6. In handling administrative cases, the people's courts shall, as prescribed by law, apply the systems of collegial panel, withdrawal of judicial personnel and public trial and a system whereby the second instance is the final instance.

Article 7. Parties to an administrative suit shall have equal legal positions.

Article 8. Citizens of all nationalities shall have the right to use their native spoken and written languages in administrative proceedings.  
In an area where people of a minority nationality live in concentrated communities or where a number of nationalities live together, the people's courts shall conduct adjudication and issue legal documents in the language or languages commonly used by the local nationalities.

第二条 公民、法人或者其他组织认为行政机关和行政机关工作人员的具体行政行为侵犯其合法权益，有权依照本法向人民法院提起诉讼。

（相关资料: [司法解释 2 篇](#) [地方法规 1 篇](#) [案例 5 篇](#) [裁判文书 156 篇](#) [相关论文 75 篇](#) [实务指南](#)）

第三条 人民法院依法对行政案件独立行使审判权，不受行政机关、社会团体和个人的干涉。

人民法院设行政审判庭、审理行政案件。

（相关资料: [司法解释 1 篇](#) [裁判文书 7 篇](#) [相关论文 20 篇](#) [实务指南](#)）

第四条 人民法院审理行政案件，以事实为根据，以法律为准绳。

（相关资料: [裁判文书 11 篇](#) [相关论文 14 篇](#) [实务指南](#)）

第五条 人民法院审理行政案件，对具体行政行为是否合法进行审查。

（相关资料: [裁判文书 190 篇](#) [相关论文 46 篇](#) [实务指南](#)）

第六条 人民法院审理行政案件，依法实行合议、回避、公开审判和两审终审制度。

（相关资料: [裁判文书 4 篇](#) [相关论文 7 篇](#) [实务指南](#)）

第七条 当事人在行政诉讼中的法律地位平等。

（相关资料: [裁判文书 5 篇](#) [相关论文 4 篇](#) [实务指南](#)）

第八条 各民族公民都有用本民族语言、文字进行行政诉讼的权利。

在少数民族聚居或者多民族共同居住的地区，人民法院应当用当地民族通用的语言、文字进行审理和发布法律文书。

人民法院应当对不通晓当地民族通用的语言、文字的诉讼参与人提供翻译。

The people's courts shall provide interpretation for participants in proceedings who do not understand the language or languages commonly used by the local nationalities.

Article 9. Parties to an administrative suit shall have the right to debate.

Article 10. The people's procuratorates shall have the right to exercise legal supervision over administrative proceedings.

## CHAPTER II SCOPE OF ACCEPTING CASES

Article 11. The people's courts shall accept suits brought by citizens, legal persons or other organizations against any of the following specific administrative acts:

- (1) an administrative sanction, such as detention, fine, rescission of a license or permit, order to suspend production or business or confiscation of property, which one refuses to accept;
- (2) a compulsory administrative measure, such as restricting freedom of the person or the sealing up, seizing or freezing of property, which one refuses to accept;
- (3) infringement upon one's managerial decision-making powers, which is considered to have been perpetrated by an administrative organ;
- (4) refusal by an administrative organ to issue a permit or license, which one considers oneself legally qualified to apply for, or its failure to respond to the application;
- (5) refusal by an administrative organ to perform its statutory duty of protecting one's rights of the person and of property, as one has applied for, or its failure to respond to the application;
- (6) cases where an administrative organ is considered to have failed to issue a pension according to law;
- (7) cases where an administrative organ is considered to have illegally demanded the performance of duties; and
- (8) cases where an administrative organ is considered to have infringed upon other rights of the person and of property.

Apart from the provisions set forth in the preceding paragraphs, the people's courts shall accept other administrative suits which may be brought in accordance with the provisions of relevant laws and regulations.

Article 12. The people's courts shall not accept suits

(相关资料: [裁判文书 1 篇](#) [相关论文 6 篇](#) [实务指南](#))

第九条 当事人在行政诉讼中有权进行辩论。

(相关资料: [相关论文 3 篇](#) [实务指南](#))

第十条 人民检察院有权对行政诉讼实行法律监督。

(相关资料: [司法解释 1 篇](#) [裁判文书 3 篇](#) [相关论文 11 篇](#) [实务指南](#))

## 第二章 受案范围

第十一条 人民法院受理公民、法人和其他组织对下列具体行政行为不服提起的诉讼:

(一) 对拘留、罚款、吊销许可证和执照、责令停产停业、没收财物等行政处罚不服的;

(二) 对限制人身自由或者对财产的查封、扣押、冻结等行政强制措施不服的;

(三) 认为行政机关侵犯法律规定的经营自主权的;

(四) 认为符合法定条件申请行政机关颁发许可证和执照, 行政机关拒绝颁发或者不予答复的;

(五) 申请行政机关履行保护人身权、财产权的法定职责, 行政机关拒绝履行或者不予答复的;

(六) 认为行政机关没有依法发给抚恤金的;

(七) 认为行政机关违法要求履行义务的;

(八) 认为行政机关侵犯其他人身权、财产权的。

除前款规定外, 人民法院受理法律、法规规定可以提起诉讼的其他行政案件。

(相关资料: [部门规章 4 篇](#) [司法解释 9 篇](#) [地方法规 4 篇](#) [案例 2 篇](#) [裁判文书 246 篇](#) [相关论文 90 篇](#) [实务指南](#))

第十二条 人民法院不受理公民、

brought by citizens, legal persons or other organizations against any of the following matters:

- (1) acts of the state in areas like national defence and foreign affairs;
- (2) administrative rules and regulations, regulations, or decisions and orders with general binding force formulated and announced by administrative organs;
- (3) decisions of an administrative organ on awards or punishments for its personnel or on the appointment or relief of duties of its personnel;
- (4) specific administrative acts that shall, as provided for by law, be finally decided by an administrative organ.

### CHAPTER III JURISDICTION

Article 13. The basic people's courts shall have jurisdiction as courts of first instance over administrative cases.

Article 14. The intermediate people's courts shall have jurisdiction as courts of first instance over the following administrative cases:

- (1) cases of confirming patent rights of invention and cases handled by the Customs;
- (2) suits against specific administrative acts undertaken by departments under the State Council or by the people's governments of provinces, autonomous regions or municipalities directly under the Central Government; and
- (3) grave and complicated cases in areas under their jurisdiction.

Article 15. The higher people's courts shall have jurisdiction as courts of first instance over grave and complicated administrative cases in areas under their jurisdiction.

Article 16. The Supreme People's Court shall have jurisdiction as a court of first instance over grave and complicated administrative cases in the whole country.

Article 17. An administrative case shall be under the jurisdiction of the people's court in the locality of the administrative organ that initially undertook the specific administrative act. A reconsidered case in which the organ

法人或者其他组织对下列事项提起的诉讼:

- (一) 国防、外交等国家行为;
- (二) 行政法规、规章或者行政机关制定、发布的具有普遍约束力的决定、命令;
- (三) 行政机关对行政机关工作人员的奖惩、任免等决定;
- (四) 法律规定由行政机关最终裁决的具体行政行为。

(相关资料: [司法解释 3 篇](#) [裁判文书 93 篇](#) [相关论文 84 篇](#) [实务指南](#))

### 第三章 管辖

第十三条 基层人民法院管辖第一审行政案件。

(相关资料: [地方法规 1 篇](#) [裁判文书 10 篇](#) [相关论文 3 篇](#) [实务指南](#))

第十四条 中级人民法院管辖下列第一审行政案件:

- (一) 确认发明专利权的案件、海关处理的案件;
- (二) 对国务院各部门或者省、自治区、直辖市人民政府所作的具体行政行为提起诉讼的案件;
- (三) 本辖区内重大、复杂的案件。

(相关资料: [司法解释 2 篇](#) [地方法规 2 篇](#) [裁判文书 21 篇](#) [相关论文 12 篇](#) [实务指南](#))

第十五条 高级人民法院管辖本辖区内重大、复杂的第一审行政案件。

(相关资料: [地方法规 1 篇](#) [裁判文书 1 篇](#) [相关论文 2 篇](#) [实务指南](#))

第十六条 最高人民法院管辖全国范围内重大、复杂的第一审行政案件。

(相关资料: [相关论文 4 篇](#) [实务指南](#))

第十七条 行政案件由最初作出具体行政行为的行政机关所在地人民法院管辖。经复议的案件, 复议机关改变原具体行政行为的, 也可以由复议机关所

conducting the reconsideration has amended the original specific administrative act may also be placed under the jurisdiction of the people's court in the locality of the administrative organ conducting the reconsideration.

Article 18. A suit against compulsory administrative measures restricting freedom of the person shall be under the jurisdiction of a people's court in the place where the defendant or the plaintiff is located.

Article 19. An administrative suit regarding a real property shall be under the jurisdiction of the people's court in the place where the real property is located.

Article 20. When two or more people's courts have jurisdiction over a suit, the plaintiff may have the option to bring the suit in one of these people's courts. If the plaintiff brings the suit in two or more people's courts that have jurisdiction over the suit, the people's court that first receives the bill of complaint shall have jurisdiction.

Article 21. If a people's court finds that a case it has accepted is not under its jurisdiction, it shall transfer the case to the people's court that does have jurisdiction over the case. The people's court to which the case has been transferred shall not on its own initiative transfer it to another people's court.

Article 22. If a people's court which has jurisdiction over a case is unable to exercise its jurisdiction for special reasons, a people's court at a higher level shall designate another court to exercise the jurisdiction.  
If a dispute arises over jurisdiction between people's courts, it shall be resolved by the parties to the dispute through consultation. If the dispute cannot be resolved through consultation, it shall be reported to a people's court superior to the courts in dispute for the designation of jurisdiction.

Article 23. People's courts at higher levels shall have the authority to adjudicate administrative cases over which people's

在地人民法院管辖。

(相关资料: [司法解释 4 篇](#) [地方法规 1 篇](#) [裁判文书 19 篇](#) [相关论文 7 篇](#) [实务指南](#))

第十八条 对限制人身自由的行政强制措施不服提起的诉讼,由被告所在地或者原告所在地人民法院管辖。

(相关资料: [司法解释 3 篇](#) [地方法规 1 篇](#) [裁判文书 5 篇](#) [相关论文 1 篇](#) [实务指南](#))

第十九条 因不动产提起的行政诉讼,由不动产所在地人民法院管辖。

(相关资料: [司法解释 1 篇](#) [地方法规 3 篇](#) [裁判文书 5 篇](#) [相关论文 4 篇](#) [实务指南](#))

第二十条 两个以上人民法院都有管辖权的案件,原告可以选择其中一个人民法院提起诉讼。原告向两个以上有管辖权的人民法院提起诉讼的,由最先收到起诉状的人民法院管辖。

(相关资料: [司法解释 1 篇](#) [地方法规 1 篇](#) [裁判文书 2 篇](#) [相关论文 5 篇](#) [实务指南](#))

第二十一条 人民法院发现受理的案件不属于自己管辖时,应当移送有管辖权的人民法院。受移送的人民法院不得自行移送。

(相关资料: [裁判文书 7 篇](#) [相关论文 2 篇](#) [实务指南](#))

第二十二条 有管辖权的人民法院由于特殊原因不能行使管辖权的,由上级人民法院指定管辖。

人民法院对管辖权发生争议,由争议双方协商解决。协商不成的,报它们的共同上级人民法院指定管辖。

(相关资料: [部门规章 1 篇](#) [司法解释 3 篇](#) [案例 1 篇](#) [裁判文书 6 篇](#) [相关论文 4 篇](#) [实务指南](#))

第二十三条 上级人民法院有权审判下级人民法院管辖的第一审行政案

courts at lower levels have jurisdiction as courts of first instance; they may also transfer administrative cases over which they themselves have jurisdiction as courts of first instance to people's courts at lower levels for trial.

If a people's court deems it necessary for an administrative case of first instance under its jurisdiction to be adjudicated by a people's court at a higher level, it may report to such a people's court for decision.

#### CHAPTER IV PARTICIPANTS IN PROCEEDINGS

Article 24. A citizen, a legal person or any other organization that brings a suit in accordance with this Law shall be a plaintiff.

If a citizen who has the right to bring a suit is deceased, his near relatives may bring the suit.

If a legal person or any other organization that has the right to bring a suit terminates, the legal person or any other organization that succeeds to its rights may bring the suit.

Article 25. A citizen, a legal person or any other organization, brings a suit directly before a people's court, the administrative organ that undertook the specific administrative act shall be the defendant.

For a reconsidered case, if the organ that conducted the reconsideration sustains the original specific administrative act, the administrative organ that initially undertook the act shall be the defendant; if the organ that conducted the reconsideration has amended the original specific administrative act, the administrative organ which conducted the reconsideration shall be the defendant.

If two or more administrative organs have undertaken the same specific administrative act, the administrative organs that have jointly undertaken the act shall be the joint defendants.

If a specific administrative act has been undertaken by an organization authorized to undertake the act by the law or regulations, the organization shall be the defendant. If a specific administrative act has been undertaken by an organization as entrusted by an administrative organ, the entrusting organ shall be the defendant.

If an administrative organ has been abolished, the administrative organ that carries on the exercise of functions and powers of the abolished organ shall be the defendant.

Article 26. A joint suit shall be constituted when one party

件,也可以把自己管辖的第一审行政案件移交下级人民法院审判。

下级人民法院对其管辖的第一审行政案件,认为需要由上级人民法院审判的,可以报请上级人民法院决定。

(相关资料: [司法解释 2 篇](#) [地方法规 1 篇](#) [案例 1 篇](#) [裁判文书 23 篇](#) [相关论文 5 篇](#) [实务指南](#))

#### 第四章 诉讼参加人

第二十四条 依照本法提起诉讼的公民、法人或者其他组织是原告。

有权提起诉讼的公民死亡,其近亲属可以提起诉讼。

有权提起诉讼的法人或者其他组织终止,承受其权利的法人或者其他组织可以提起诉讼。

(相关资料: [司法解释 2 篇](#) [裁判文书 24 篇](#) [相关论文 6 篇](#) [实务指南](#))

第二十五条 公民、法人或者其他组织直接向人民法院提起诉讼的,作出具体行政行为的行政机关是被告。

经复议的案件,复议机关决定维持原具体行政行为的,作出原具体行政行为的行政机关是被告;复议机关改变原具体行政行为的,复议机关是被告。

两个以上行政机关作出同一具体行政行为的,共同作出具体行政行为的行政机关是共同被告。

由法律、法规授权的组织所作的具体行政行为,该组织是被告。由行政机关委托的组织所作的具体行政行为,委托的行政机关是被告。

行政机关被撤销的,继续行使其职权的行政机关是被告。

(相关资料: [部门规章 2 篇](#) [司法解释 2 篇](#) [案例 2 篇](#) [裁判文书 111 篇](#) [相关论文 30 篇](#) [实务指南](#))

第二十六条 当事人一方或者双方



or both parties consist of two or more persons and the administrative cases are against the same specific administrative act or against the specific administrative acts of the same nature and the people's court considers that the cases can be handled together.

Article 27. If any other citizen, legal person or any other organization has interests in a specific administrative act under litigation, he or it may, as a third party, file a request to participate in the proceedings or may participate in them when so notified by the people's court.

Article 28. Any citizen with no capacity to take part in litigation shall have one or more legal representatives who will act on his behalf in a suit. If the legal representatives try to shift their responsibilities onto each other, the people's court may appoint one of them as the representative of the principal in litigation.

Article 29. Each party or legal representative may entrust one or two persons to represent him in litigation.

A lawyer, a public organization, a near relative of the citizen bringing the suit, or a person recommended by the unit to which the citizen bringing the suit belongs or any other citizen approved by the people's court may be entrusted as an agent ad litem.

Article 30. A lawyer who serves as an agent ad litem may consult materials pertaining to the case in accordance with relevant provisions, and may also investigate among and collect evidence from the organizations and citizens concerned. If the information involves state secrets or the private affairs of individuals, he shall keep it confidential in accordance with relevant provisions of the law.

With the approval of the people's court, parties and other agents ad litem may consult the materials relating to the court proceedings of the case, except those that involve state secrets or the private affairs of individuals.

## CHAPTER V EVIDENCE

Article 31. Evidence shall be classified as follows:

(1) documentary evidence;

为二人以上，因同一具体行政行为发生的行政案件，或者因同样的具体行政行为发生的行政案件、人民法院认为可以合并审理的，为共同诉讼。

（相关资料: [裁判文书 16 篇](#) [相关论文 2 篇](#) [实务指南](#)）

第二十七条 同提起诉讼的具体行政行为有利害关系的其他公民、法人或者其他组织，可以作为第三人申请参加诉讼，或者由人民法院通知参加诉讼。

（相关资料: [司法解释 2 篇](#) [案例 2 篇](#) [裁判文书 79 篇](#) [相关论文 8 篇](#) [实务指南](#)）

第二十八条 没有诉讼行为能力的公民，由其法定代理人代为诉讼。法定代理人互相推诿代理责任的，由人民法院指定其中一人代为诉讼。

（相关资料: [相关论文 4 篇](#) [实务指南](#)）

第二十九条 当事人、法定代理人，可以委托一至二人代为诉讼。

律师、社会团体、提起诉讼的公民的近亲属或者所在单位推荐的人，以及经人民法院许可的其他公民，可以受委托为诉讼代理人。

（相关资料: [裁判文书 2 篇](#) [相关论文 8 篇](#) [实务指南](#)）

第三十条 代理诉讼的律师，可以依照规定查阅本案有关材料，可以向有关组织和公民调查，收集证据。对涉及国家秘密和个人隐私的材料，应当依照法律规定保密。

经人民法院许可，当事人和其他诉讼代理人可以查阅本案庭审材料，但涉及国家秘密和个人隐私的除外。

（相关资料: [司法解释 1 篇](#) [裁判文书 5 篇](#) [相关论文 5 篇](#) [实务指南](#)）

## 第五章 证据

第三十一条 证据有以下几种：

（一）书证；

- (2) material evidence;
- (3) audio-visual material;
- (4) testimony of witnesses;
- (5) statements of the parties;
- (6) expert conclusions; and
- (7) records of inquests and records made on the scene.

Any of the above-mentioned evidence must be verified by the court before it can be taken as a basis for ascertaining a fact.

Article 32. The defendant shall have the burden of proof for the specific administrative act he has undertaken and shall provide the evidence and regulatory documents in accordance with which the act has been undertaken.

Article 33. In the course of legal proceedings, the defendant shall not by himself collect evidence from the plaintiff and witnesses.

Article 34. A people's court shall have the authority to request the parties to provide or supplement evidence. A people's court shall have the authority to obtain evidence from the relevant administrative organs, other organizations or citizens.

Article 35. In the course of legal proceedings, when a people's court considers that an expert evaluation for a specialized problem is necessary, the expert evaluation shall be made by an expert evaluation department as specified by law. In the absence of such a department, the people's court shall designate one to conduct the expert evaluation.

Article 36. Under circumstances where there is a likelihood that evidence may be destroyed or lost or difficult to obtain later on, the participants in proceedings may apply to the people's court for the evidence to be preserved. The people's court may also on its own initiative take measures to preserve such evidence.

- (二) 物证;
- (三) 视听资料;
- (四) 证人证言;
- (五) 当事人的陈述;
- (六) 鉴定结论;
- (七) 勘验笔录、现场笔录。

以上证据经法庭审查属实,才能作为定案的根据。

(相关资料: [部门规章 2 篇](#) [司法解释 1 篇](#) [裁判文书 11 篇](#) [相关论文 12 篇](#) [实务指南](#))

第三十二条 被告对作出的具体行政行为负有举证责任,应当提供作出该具体行政行为的证据和所依据的规范性文件。

(相关资料: [部门规章 1 篇](#) [司法解释 3 篇](#) [地方法规 1 篇](#) [案例 2 篇](#) [裁判文书 127 篇](#) [相关论文 29 篇](#) [实务指南](#))

第三十三条 在诉讼过程中,被告不得自行向原告和证人收集证据。

(相关资料: [司法解释 2 篇](#) [案例 1 篇](#) [裁判文书 41 篇](#) [相关论文 10 篇](#) [实务指南](#))

第三十四条 人民法院有权要求当事人提供或者补充证据。

人民法院有权向有关行政机关以及其他组织、公民调取证据。

(相关资料: [司法解释 1 篇](#) [地方法规 1 篇](#) [案例 1 篇](#) [裁判文书 19 篇](#) [相关论文 9 篇](#) [实务指南](#))

第三十五条 在诉讼过程中,人民法院认为对专门性问题需要鉴定的,应当交由法定鉴定部门鉴定;没有法定鉴定部门的,由人民法院指定的鉴定部门鉴定。

(相关资料: [地方法规 1 篇](#) [裁判文书 24 篇](#) [相关论文 9 篇](#) [实务指南](#))

第三十六条 在证据可能灭失或者以后难以取得的情况下,诉讼参加人可以向人民法院申请保全证据,人民法院也可以主动采取保全措施。

(相关资料: [司法解释 2 篇](#) [地方法规 1](#)



[篇 裁判文书 3 篇 相关论文 3 篇 实务指南](#))

## CHAPTER VI BRINGING SUIT AND ACCEPTING A CASE

Article 37. A citizen, a legal person or any other organization may, within the scope of cases acceptable to the people's courts, apply to an administrative organ at the next higher level or to an administrative organ as prescribed by the law or regulations for reconsideration, anyone who refuses to accept there consideration decision may bring a suit before a people's court; a citizen, a legal person or any other organization may also bring a suit directly before a people's court.

In circumstances where, in accordance with relevant provisions of laws or regulations, a citizen, a legal person or any other organization shall first apply to an administrative organ for reconsideration and then bring a suit before a people's court, if he or it refuses to accept the reconsideration decision, the provisions of the laws or regulations shall apply.

Article 38. If a citizen, a legal person or any other organization applies to an administrative organ for reconsideration, the organ shall make a decision within two months from the day of the receipt of the application, except as otherwise provided for by law or regulations.

Anyone who refuses to accept the reconsideration decision may bring a suit before a people's court within 15 days from the day of the receipt of the reconsideration decision. If the administrative organ conducting the reconsideration fails to make a decision on the expiration of the time limit, the applicant may bring a suit before a people's court within 15 days after the time limit for reconsideration expires, except as otherwise provided for by law.

Article 39. If a citizen, a legal person or any other organization brings a suit directly before a people's court, he or it shall do so within three months from the day when he or it knows that a specific administrative act has been undertaken, except as otherwise provided for by law.

Article 40. If a citizen, a legal person or any other organization fails to observe the time limit prescribed by law due to force majeure or other special reasons, he or it may apply for

## 第六章 起诉和受理

第三十七条 对属于人民法院受案范围的行政案件，公民、法人或者其他组织可以先向上一级行政机关或者法律、法规规定的行政机关申请复议，对复议不服的，再向人民法院提起诉讼；也可以直接向人民法院提起诉讼。

法律、法规规定应当先向行政机关申请复议，对复议不服再向人民法院提起诉讼的，依照法律、法规的规定。

(相关资料: [部门规章 7 篇 司法解释 1 篇 地方法规 6 篇 案例 1 篇 裁判文书 65 篇 相关论文 13 篇 实务指南](#))

第三十八条 公民、法人或者其他组织向行政机关申请复议的，复议机关应当在收到申请书之日起两个月内作出决定。法律、法规另有规定的除外。

申请人不服复议决定的，可以在收到复议决定书之日起十五日内向人民法院提起诉讼。复议机关逾期不作决定的，申请人可以在复议期满之日起十五日内向人民法院提起诉讼。法律另有规定的除外。

(相关资料: [部门规章 2 篇 司法解释 1 篇 地方法规 6 篇 案例 1 篇 裁判文书 36 篇 相关论文 9 篇 实务指南](#))

第三十九条 公民、法人或者其他组织直接向人民法院提起诉讼的，应当在知道作出具体行政行为之日起三个月内提出。法律另有规定的除外。

(相关资料: [法律 1 篇 部门规章 6 篇 地方法规 6 篇 案例 1 篇 裁判文书 145 篇 相关论文 22 篇 实务指南](#))

第四十条 公民、法人或者其他组织因不可抗力或者其他特殊情况耽误法定期限的，在障碍消除后的十日内，可

an extension of the time limit within ten days after the obstacle is removed; the requested extension shall be decided by a people's court.

Article 41. The following requirements shall be met when a suit is brought:

- (1) The plaintiff must be a citizen, a legal person or any other organization that considers a specific administrative act to have infringed upon his or its lawful rights and interests;
- (2) There must be a specific defendant or defendants;
- (3) There must be a specific claim and a corresponding factual basis for the suit;
- (4) The suit must fall within the scope of cases acceptable to the people's courts and the specific jurisdiction of the people's court where it is filed.

Article 42. When a people's court receives a bill of complaint, it shall, upon examination, file a case within seven days or decide to reject the complaint. If the plaintiff refuses to accept the decision, he may appeal to a people's court.

## CHAPTER VII TRIAL AND JUDGMENT

Article 43. A people's court shall send a copy of the bill of complaint to the defendant within five days of filing the case. The defendant shall provide the people's court with the documents on the basis of which a specific administrative act has been undertaken and file a bill of defence within ten days of receiving the copy of the bill of complaint. The people's court shall send a copy of the bill of defence to the plaintiff within five days of receiving it. Failure by the defendant to file a bill of defence shall not prevent the case from being tried by the people's court.

Article 44. During the time of legal proceedings, execution of the specific administrative act shall not be suspended. Execution of the specific administrative act shall be suspended under one of the following circumstances:

- (1) where suspension is deemed necessary by the defendant;
- (2) where suspension of execution is ordered by the people's court

以申请延长期限，由人民法院决定。

(相关资料: [司法解释 2 篇](#) [裁判文书 7 篇](#) [相关论文 3 篇](#) [实务指南](#))

第四十一条 提起诉讼应当符合下列条件:

- (一) 原告是认为具体行政行为侵犯其合法权益的公民、法人或者其他组织;
- (二) 有明确的被告;
- (三) 有具体的诉讼请求和事实根据;
- (四) 属于人民法院受案范围和受诉人民法院管辖。

(相关资料: [司法解释 4 篇](#) [地方法规 4 篇](#) [案例 3 篇](#) [裁判文书 267 篇](#) [相关论文 23 篇](#) [实务指南](#))

第四十二条 人民法院接到起诉状，经审查，应当在七日内立案或者作出裁定不予受理。原告对裁定不服的，可以提起上诉。

(相关资料: [司法解释 2 篇](#) [裁判文书 39 篇](#) [相关论文 5 篇](#) [实务指南](#))

## 第七章 审理和判决

第四十三条 人民法院应当在立案之日起五日内，将起诉状副本发送被告。被告应当在收到起诉状副本之日起十日内向人民法院提交作出具体行政行为的有关材料，并提出答辩状。人民法院应当在收到答辩状之日起五日内，将答辩状副本发送原告。

被告不提出答辩状的，不影响人民法院审理。

(相关资料: [司法解释 1 篇](#) [地方法规 1 篇](#) [案例 1 篇](#) [裁判文书 32 篇](#) [相关论文 4 篇](#) [实务指南](#))

第四十四条 诉讼期间，不停止具体行政行为的执行。但有下列情形之一的，停止具体行政行为的执行:

- (一) 被告认为需要停止执行的;
- (二) 原告申请停止执行，人民法院认为该具体行政行为的执行会造成难

at the request of the plaintiff because, in the view of the people's court, execution of the specific administrative act will cause irremediable losses and suspension of the execution will not harm public interests; or

(3) where suspension of execution is required by the provisions of laws or regulations.

Article 45. Administrative cases in the people's courts shall be tried in public, except for those that involve state secrets or the private affairs of individuals or are otherwise provided for by law.

Article 46. Administrative cases in the people's courts shall be tried by a collegial panel of judges or of judges and assessors. The number of members of a collegial panel shall be an odd number of three or more.

Article 47. If a party considers a member of the judicial personnel to have an interest in the case or to be otherwise related to it, which may affect the impartial handling of the case, the party shall have the right to demand his withdrawal. If a member of the judicial personnel considers himself to have an interest in the case or to be otherwise related to it, he shall apply for withdrawal. The provisions of the two preceding paragraphs shall apply to court clerks, interpreters, expert witnesses and persons who conduct inquests. The withdrawal of the president of the court as the chief judge shall be decided by the court's adjudication committee; the withdrawal of a member of the judicial personnel shall be decided by the president of the court; the withdrawal of other personnel shall be decided by the chief judge. Parties who refuse to accept the decision may apply for reconsideration.

Article 48. If the plaintiff refuses to appear in court without justified reasons after being twice legally summoned by the people's court, the court shall consider this an application for the withdrawal of the suit; if the defendant refuses to appear in court without justified reasons, the court may make a judgment by default.

Article 49. If a participant in the proceedings or any other

以弥补的损失，并且停止执行不损害社会公共利益，裁定停止执行的；

（三）法律、法规规定停止执行的。

（相关资料: [部门规章 2 篇](#) [地方法规 2 篇](#) [裁判文书 60 篇](#) [相关论文 26 篇](#) [实务指南](#)）

第四十五条 人民法院公开审理行政案件，但涉及国家秘密、个人隐私和法律另有规定的除外。

（相关资料: [地方法规 2 篇](#) [裁判文书 12 篇](#) [相关论文 2 篇](#) [实务指南](#)）

第四十六条 人民法院审理行政案件，由审判员组成合议庭，或者由审判员、陪审员组成合议庭。合议庭的成员，应当是三人以上的单数。

（相关资料: [司法解释 1 篇](#) [裁判文书 1 篇](#) [相关论文 8 篇](#) [实务指南](#)）

第四十七条 当事人认为审判人员与本案有利害关系或者有其他关系可能影响公正审判，有权申请审判人员回避。

审判人员认为自己与本案有利害关系或者有其他关系，应当申请回避。

前两款规定，适用于书记员、翻译人员、鉴定人、勘验人。

院长担任审判长时的回避，由审判委员会决定；审判人员的回避，由院长决定；其他人员的回避，由审判长决定。当事人对决定不服的，可以申请复议。

（相关资料: [司法解释 1 篇](#) [地方法规 1 篇](#) [裁判文书 3 篇](#) [相关论文 4 篇](#) [实务指南](#)）

第四十八条 经人民法院两次合法传唤，原告无正当理由拒不到庭的，视为申请撤诉；被告无正当理由拒不到庭的，可以缺席判决。

（相关资料: [司法解释 1 篇](#) [案例 1 篇](#) [裁判文书 36 篇](#) [相关论文 6 篇](#) [实务指南](#)）

第四十九条 诉讼参与人或者其他

person commits any of the following acts, the people's court may, according to the seriousness of his offence, reprimand him, order him to sign a statement of repentance or impose upon him a fine of not more than 1,000 yuan or detain him for not longer than 15 days; if a crime is constituted, his criminal responsibility shall be investigated:

- (1) evading without reason, refusing to assist in or obstructing the execution of the notice of a people's court for assistance in its execution by a person who has the duty to render assistance;
  - (2) forging, concealing or destroying evidence;
  - (3) instigating, suborning or threatening others to commit perjury or hindering witnesses from giving testimony;
  - (4) concealing, transferring, selling or destroying the property that has been sealed up, seized or frozen;
  - (5) using violence, threats or other means to hinder the personnel of a people's court from performing their duties or disturbing the order of the work of a people's court; or
  - (6) insulting, slandering, framing, beating or retaliating against the personnel of a people's court, participants in proceedings or personnel who assist in the execution of duties;
- A fine or detention must be approved by the president of a people's court. Parties who refuse to accept the punishment decision may apply for reconsideration.

Article 50. A people's court shall not apply conciliation in handling an administrative case.

Article 51. Before a people's court announces its judgment or order on an administrative case, if the plaintiff applies for the withdrawal of the suit, or if the defendant amends its specific administrative act and, as a result, the plaintiff agrees and applies for the withdrawal of the suit, the people's court shall decide whether or not to grant the approval.

Article 52. In handling administrative cases, the people's courts shall take the law, administrative rules and regulations and local regulations as the criteria. Local regulations shall be applicable to administrative cases within the corresponding administrative areas. In handling administrative cases of a national autonomous area, the people's courts shall also take the regulations on autonomy and separate regulations of the national autonomous area as the criteria.

人有下列行为之一的，人民法院可以根据情节轻重，予以训诫、责令具结悔过或者处一千元以下的罚款、十五日以下的拘留；构成犯罪的，依法追究刑事责任：

（一）有义务协助执行的人，对人民法院的协助执行通知书，无故推拖、拒绝或者妨碍执行的；

（二）伪造、隐藏、毁灭证据的；

（三）指使、贿买、胁迫他人作伪证或者威胁、阻止证人作证的；

（四）隐藏、转移、变卖、毁损已被查封、扣押、冻结的财产的；

（五）以暴力、威胁或者其他方法阻碍人民法院工作人员执行职务或者扰乱人民法院工作秩序的；

（六）对人民法院工作人员、诉讼参与人、协助执行人侮辱、诽谤、诬陷、殴打或者打击报复的。

罚款、拘留须经人民法院院长批准。当事人不服的，可以申请复议。

（相关资料: [司法解释 3 篇](#) [地方法规 3 篇](#) [裁判文书 5 篇](#) [相关论文 4 篇](#) [实务指南](#)）

第五十条 人民法院审理行政案件，不适用调解。

（相关资料: [裁判文书 11 篇](#) [相关论文 12 篇](#) [实务指南](#)）

第五十一条 人民法院对行政案件宣告判决或者裁定前，原告申请撤诉的，或者被告改变其所作的具体行政行为，原告同意并申请撤诉的，是否准许，由人民法院裁定。

（相关资料: [司法解释 1 篇](#) [地方法规 2 篇](#) [案例 1 篇](#) [裁判文书 374 篇](#) [相关论文 18 篇](#) [实务指南](#)）

第五十二条 人民法院审理行政案件，以法律和行政法规、地方性法规为依据。地方性法规适用于本行政区域内发生的行政案件。

人民法院审理民族自治地方的行政案件，并以该民族自治地方的自治条例和单行条例为依据。

(相关资料: [司法解释 1 篇](#) [地方法规 1 篇](#) [案例 1 篇](#) [裁判文书 79 篇](#) [相关论文 25 篇](#) [实务指南](#))

Article 53. In handling administrative cases, the people's courts shall take, as references, regulations formulated and announced by ministries or commissions under the State Council in accordance with the law and administrative rules and regulations, decisions or orders of the State Council and regulations formulated and announced, in accordance with the law and administrative rules and regulations of the State Council, by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government, of the cities where the people's governments of provinces and autonomous regions are located, and of the larger cities approved as such by the State Council.

If a people's court considers regulations formulated and announced by a local people's government to be inconsistent with regulations formulated and announced by a ministry or commission under the State Council, or if it considers regulations formulated and announced by ministries or commissions under the State Council to be inconsistent with each other, the Supreme People's Court shall refer the matter to the State Council for interpretation or ruling.

Article 54. After hearing a case, a people's court shall make the following judgments according to the varying conditions:

(1) If the evidence for undertaking a specific administrative act is conclusive, the application of the law and regulations to the act is correct, and the legal procedure is complied with, the specific administrative act shall be sustained by judgment.

(2) If a specific administrative act has been undertaken in one of the following circumstances, the act shall be annulled or partially annulled by judgment, or the defendant may be required by judgment to undertake a specific administrative act anew:

- a. inadequacy of essential evidence;
- b. erroneous application of the law or regulations;
- c. violation of legal procedure;
- d. exceeding authority; or
- e. abuse of powers.

(3) If a defendant fails to perform or delays the performance of his statutory duty, a fixed time shall be set by judgment for his performance of the duty.

(4) If an administrative sanction is obviously unfair, it may be amended by judgment.

Article 55. A defendant who has been judged by a people's

第五十三条 人民法院审理行政案件，参照国务院部、委根据法律和国务院的行政法规、决定、命令制定、发布的规章以及省、自治区、直辖市和省、自治区的人民政府所在地的市和经国务院批准的较大的市的人民政府根据法律和国务院的行政法规制定、发布的规章。

人民法院认为地方人民政府制定、发布的规章与国务院部、委制定、发布的规章不一致的，以及国务院部、委制定、发布的规章之间不一致的，由最高人民法院送请国务院作出解释或者裁决。

(相关资料: [行政法规 2 篇](#) [部门规章 1 篇](#) [司法解释 4 篇](#) [地方法规 2 篇](#) [案例 1 篇](#) [裁判文书 158 篇](#) [相关论文 42 篇](#) [实务指南](#))

第五十四条 人民法院经过审理，根据不同情况，分别作出以下判决：

(一) 具体行政行为证据确凿，适用法律、法规正确，符合法定程序的，判决维持。

(二) 具体行政行为有下列情形之一的，判决撤销或者部分撤销，并可以判决被告重新作出具体行政行为：

- 1、主要证据不足的；
- 2、适用法律、法规错误的；
- 3、违反法定程序的；
- 4、超越职权的；
- 5、滥用职权的。

(三) 被告不履行或者拖延履行法定职责的，判决其在一定期限内履行。

(四) 行政处罚显失公正的，可以判决变更。

(相关资料: [部门规章 1 篇](#) [司法解释 6 篇](#) [地方法规 6 篇](#) [案例 25 篇](#) [裁判文书 5329 篇](#) [相关论文 105 篇](#) [实务指南](#))

第五十五条 人民法院判决被告重



court to undertake a specific administrative act anew must not, based on the same fact and reason, undertake a specific administrative act essentially identical with the original act.

Article 56. In handling administrative cases, if a people's court considers the head of an administrative organ or the person directly in charge to have violated administrative discipline, it shall transfer the relevant materials to the administrative organ or the administrative organ at the next higher level or to a supervisory or personnel department; if a people's court considers the person to have committed a crime, it shall transfer the relevant materials to the public security and procuratorial organs.

Article 57. A people's court shall pass a judgment of first instance within three months from the day of filing the case. Extension of the time limit necessitated by special circumstances shall be approved by a higher people's court, extension of the time limit for handling a case of first instance by a higher people's court shall be approved by the Supreme People's Court.

Article 58. If a party refuses to accept a judgment of first instance by a people's court, he shall have the right to file an appeal with the people's court at the next higher level within 15 days of the serving of the written judgment. If a party refuses to accept an order of first instance by a people's court, he shall have the right to file an appeal with the people's court at the next higher level within 10 days of the serving of the written order. All judgments and orders of first instance by a people's court that have not been appealed within the prescribed time limit shall be legally effective.

Article 59. A people's court may handle an appealed case by examining the court records, if it considers the facts clearly ascertained.

Article 60. In handling an appealed case, a people's court shall make a final judgment within two months from the day of receiving the appeal. Extension of the time limit necessitated by special

newly made specific administrative acts, the defendant shall not, based on the same facts and reasons, make specific administrative acts essentially identical with the original acts.

(相关资料: [司法解释 2 篇](#) [地方法规 1 篇](#) [案例 1 篇](#) [裁判文书 53 篇](#) [相关论文 15 篇](#) [实务指南](#))

第五十六条 人民法院在审理行政案件中,认为行政机关的主管人员、直接责任人员违反政纪的,应当将有关材料移送该行政机关或者其上一级行政机关或者监察、人事机关;认为有犯罪行为的,应当将有关材料移送公安、检察机关。

(相关资料: [地方法规 1 篇](#) [裁判文书 139 篇](#) [相关论文 6 篇](#) [实务指南](#))

第五十七条 人民法院应当在立案之日起三个月内作出第一审判决。有特殊情况需要延长的,由高级人民法院批准,高级人民法院审理第一审案件需要延长的,由最高人民法院批准。

(相关资料: [司法解释 1 篇](#) [地方法规 1 篇](#) [裁判文书 43 篇](#) [相关论文 5 篇](#) [实务指南](#))

第五十八条 当事人不服人民法院第一审判决的,有权在判决书送达之日起十五日内向上一级人民法院提起上诉。当事人不服人民法院第一审裁定的,有权在裁定书送达之日起十日内向上一级人民法院提起上诉。逾期不提起上诉的,人民法院的第一审判决或者裁定发生法律效力。

(相关资料: [案例 1 篇](#) [裁判文书 21 篇](#) [相关论文 3 篇](#) [实务指南](#))

第五十九条 人民法院对上诉案件,认为事实清楚的,可以实行书面审理。

(相关资料: [司法解释 1 篇](#) [裁判文书 27 篇](#) [相关论文 3 篇](#) [实务指南](#))

第六十条 人民法院审理上诉案件,应当在收到上诉状之日起两个月内作出终审判决。有特殊情况需要延长



circumstances shall be approved by a higher people's court, extension of the time limit for handling an appealed case by a higher people's court shall be approved by the Supreme People's Court.

Article 61. A people's court shall handle an appealed case respectively according to the conditions set forth below:  
(1) If the facts are clearly ascertained and the law and regulations are correctly applied in the original judgment, the appeal shall be rejected and the original judgment sustained;  
(2) If the facts are clearly ascertained but the law and regulations are incorrectly applied in the original judgment, the judgment shall be amended according to the law and regulations; or  
(3) If the facts are not clearly ascertained in the original judgment or the evidence is insufficient, or a violation of the prescribed procedure may have affected the correctness of the original judgment, the original judgment shall be rescinded and the case remanded to the original people's court for retrial, or the people's court of the second instance may amend the judgment after investigating and clarifying the facts. The parties may appeal against the judgment or order rendered in a retrial of their case.

Article 62. If a party considers that a legally effective judgment or order contains some definite error, he may make complaints to the people's court which tried the case or to a people's court at a higher level, but the execution of the judgment or order shall not be suspended.

Article 63. If the president of a people's court finds a violation of provisions of the law or regulations in a legally effective judgment or order of his court and deems it necessary to have the case retried, he shall refer the matter to the adjudication committee, which shall decide whether a retrial is necessary.

If a people's court at a higher level finds a violation of provisions of the law or regulations in a legally effective judgment or order of a people's court at a lower level, it shall have the power to bring the case up for trial itself or direct the people's court at the lower level to conduct a retrial.

Article 64. If the people's procuratorate finds a violation of provisions of the law or regulations in a legally

的, 由高级人民法院批准, 高级人民法院审理上诉案件需要延长的, 由最高人民法院批准。

(相关资料: [司法解释 1 篇](#) [地方法规 2 篇](#) [裁判文书 13 篇](#) [相关论文 2 篇](#) [实务指南](#))

第六十一条 人民法院审理上诉案件, 按照下列情形, 分别处理:

(一) 原判决认定事实清楚, 适用法律、法规正确的, 判决驳回上诉, 维持原判;

(二) 原判决认定事实清楚, 但适用法律、法规错误的, 依法改判;

(三) 原判决认定事实不清, 证据不足, 或者由于违反法定程序可能影响案件正确判决的, 裁定撤销原判, 发回原审人民法院重审, 也可以查清事实后改判。当事人对重审案件的判决、裁定, 可以上诉。

(相关资料: [案例 16 篇](#) [裁判文书 5443 篇](#) [相关论文 21 篇](#) [实务指南](#))

第六十二条 当事人对已经发生法律效力判决、裁定, 认为确有错误的, 可以向原审人民法院或者上一级人民法院提出申诉, 但判决、裁定不停止执行。

(相关资料: [司法解释 1 篇](#) [裁判文书 21 篇](#) [相关论文 7 篇](#) [实务指南](#))

第六十三条 人民法院院长对本院已经发生法律效力判决、裁定, 发现违反法律、法规规定认为需要再审的, 应当提交审判委员会决定是否再审。

上级人民法院对下级人民法院已经发生法律效力判决、裁定, 发现违反法律、法规规定的, 有权提审或者指令下级人民法院再审。

(相关资料: [司法解释 1 篇](#) [案例 1 篇](#) [裁判文书 61 篇](#) [相关论文 2 篇](#) [实务指南](#))

第六十四条 人民检察院对人民法院已经发生法律效力判决、裁定, 发

effective judgment or order of a people's court, it shall have the right to lodge a protest in accordance with procedures of judicial supervision.

## CHAPTER VIII EXECUTION

Article 65. The parties must perform the legally effective judgment or order of the people's court.

If a citizen, a legal person or any other organization refuses to perform the judgment or order, the administrative organ may apply to a people's court of first instance for compulsory execution or proceed with compulsory execution according to law.

If an administrative organ refuses to perform the judgment or order, the people's court of first instance may adopt the following measures:

- (1) Informing the bank to transfer from the administrative organ's account the amount of the fine that should be returned or the damages that should be paid;
- (2) Imposing a fine of 50 to 100 yuan per day on an administrative organ that fails to perform the judgment or order within the prescribed time limit, counting from the day when the time limit expires;
- (3) Putting forward a judicial proposal to the administrative organ superior to the administrative organ in question or to a supervisory or personnel department; the organ or department that accepts the judicial proposal shall deal with the matter in accordance with the relevant provisions and inform the people's court of its disposition; and
- (4) If an administrative organ refuses to execute a judgment or order, and the circumstances are so serious that a crime is constituted, the head of the administrative organ and the person directly in charge shall be investigated for criminal responsibility according to law.

Article 66. If a citizen, a legal person or any other organization, during the period prescribed by law, neither brings a suit nor carries out the specific administrative act, the administrative organ may apply to a people's court for compulsory execution, or proceed with compulsory execution according to law.

## CHAPTER IX LIABILITY FOR COMPENSATION FOR INFRINGEMENT

现违反法律、法规规定的，有权按照审判监督程序提出抗诉。

(相关资料: [司法解释 6 篇](#) [地方法规 2 篇](#) [案例 1 篇](#) [裁判文书 17 篇](#) [相关论文 9 篇](#) [实务指南](#))

## 第八章 执行

第六十五条 当事人必须履行人民法院发生法律效力判决、裁定。

公民、法人或者其他组织拒绝履行判决、裁定的，行政机关可以向第一审人民法院申请强制执行，或者依法强制执行。

行政机关拒绝履行判决、裁定的，第一审人民法院可以采取以下措施：

(一) 对应当归还的罚款或者应当给付的赔偿金，通知银行从该行政机关的帐户内划拨；

(二) 在规定期限内不履行的，从期满之日起，对该行政机关按日处五十元至一百元的罚款；

(三) 向该行政机关的上一级行政机关或者监察、人事机关提出司法建议。接受司法建议的机关，根据有关规定进行处理，并将处理情况告知人民法院；

(四) 拒不履行判决、裁定，情节严重构成犯罪的，依法追究主管人员和直接责任人员的刑事责任。

(相关资料: [司法解释 3 篇](#) [裁判文书 11 篇](#) [相关论文 12 篇](#) [实务指南](#))

第六十六条 公民、法人或者其他组织对具体行政行为在法定期限内不提起诉讼又不履行的，行政机关可以申请人民法院强制执行，或者依法强制执行。

(相关资料: [部门规章 7 篇](#) [司法解释 8 篇](#) [地方法规 10 篇](#) [裁判文书 197 篇](#) [相关论文 28 篇](#) [实务指南](#))

## 第九章 侵权赔偿责任

## OF RIGHTS

Article 67. A citizen, a legal person or any other organization who suffers damage because of the infringement upon his or its lawful rights and interests by a specific administrative act of an administrative organ or the personnel of an administrative organ, shall have the right to claim compensation.

If a citizen, a legal person or any other organization makes an independent claim for damages, the case shall first be dealt with by an administrative organ. Anyone who refuses to accept the disposition by the administrative organ may file a suit in a people's court.

Conciliation may be applied in handling a suit for damages.

Article 68. If a specific administrative act undertaken by an administrative organ or the personnel of an administrative organ infringes upon the lawful rights and interests of a citizen, a legal person or any other organization and causes damage, the administrative organ or the administrative organ to which the above-mentioned personnel belongs shall be liable for compensation. After paying the compensation, the administrative organ shall instruct those members of its personnel who have committed intentional or gross mistakes in the case to bear part or all of the damages.

Article 69. The cost of compensation shall be included as an expenditure in the government budget at various levels. The people's governments at various levels may order the administrative organs responsible for causing the compensation to bear part or all of the damages. The specific measures thereof shall be formulated by the State Council.

## CHAPTER X ADMINISTRATIVE PROCEDURE INVOLVING FOREIGN INTERESTS

Article 70. This Law shall be applicable to foreign nationals, stateless persons and foreign organizations that are engaged in administrative suits in the People's Republic of China, except as otherwise provided for by law.

Article 71. Foreign nationals, stateless persons and foreign organizations that are engaged in administrative suits in the People's Republic of China shall have the same litigation rights

第六十七条 公民、法人或者其他组织的合法权益受到行政机关或者行政机关工作人员作出的具体行政行为侵犯造成损害的，有权请求赔偿。

公民、法人或者其他组织单独就损害赔偿提出请求，应当先由行政机关解决。对行政机关的处理不服，可以向人民法院提起诉讼。

赔偿诉讼可以适用调解。

（相关资料: [部门规章 1 篇](#) [司法解释 1 篇](#) [地方法规 3 篇](#) [案例 5 篇](#) [裁判文书 148 篇](#) [相关论文 16 篇](#) [实务指南](#)）

第六十八条 行政机关或者行政机关工作人员作出的具体行政行为侵犯公民、法人或者其他组织的合法权益造成损害的，由该行政机关或者该行政机关工作人员所在的行政机关负责赔偿。

行政机关赔偿损失后，应当责令有故意或者重大过失的行政机关工作人员承担部分或者全部赔偿费用。

（相关资料: [司法解释 2 篇](#) [地方法规 1 篇](#) [案例 3 篇](#) [裁判文书 111 篇](#) [相关论文 3 篇](#) [实务指南](#)）

第六十九条 赔偿费用，从各级财政列支。各级人民政府可以责令有责任的行政机关支付部分或者全部赔偿费用。具体办法由国务院规定。

（相关资料: [实务指南](#)）

## 第十章 涉外行政诉讼

第七十条 外国人、无国籍人、外国组织在中华人民共和国进行行政诉讼，适用本法。法律另有规定的除外。

（相关资料: [裁判文书 10 篇](#) [相关论文 2 篇](#) [实务指南](#)）

第七十一条 外国人、无国籍人、外国组织在中华人民共和国进行行政诉讼，同中华人民共和国公民、组织有同

and obligations as citizens and organizations of the People's Republic of China.

Should the courts of a foreign country impose restrictions on the administrative litigation rights of the citizens and organizations of the People's Republic of China, the Chinese people's courts shall follow the principle of reciprocity regarding the administrative litigation rights of the citizens and organizations of that foreign country.

Article 72. If an international treaty concluded or acceded to by the People's Republic of China contains provisions different from those found in this Law, the provisions of the international treaty shall apply, unless the provisions are ones on which the People's Republic of China has announced reservations.

Article 73. When foreign nationals, stateless persons and foreign organizations appoint lawyers as their agents ad litem in administrative suits in the People's Republic of China, they shall appoint lawyers of a lawyers organization of the People's Republic of China.

## CHAPTER XI SUPPLEMENTARY PROVISIONS

Article 74. A people's court shall charge litigation fees for handling administrative cases. The litigation fee shall be borne by the losing party, or by both parties if they are both held responsible. The procedure for the charging of litigation fees shall be specified separately.

Article 75. This Law shall come into force as of October 1, 1990.

等的诉讼权利和义务。

外国法院对中华人民共和国公民、组织的行政诉讼权利加以限制的，人民法院对该国公民、组织的行政诉讼权利，实行对等原则。

（相关资料: [司法解释 1 篇](#) [裁判文书 4 篇](#) [实务指南](#)）

第七十二条 中华人民共和国缔结或者参加的国际条约同本法有不同规定的，适用该国际条约的规定。中华人民共和国声明保留的条款除外。

（相关资料: [裁判文书 3 篇](#) [相关论文 3 篇](#) [实务指南](#)）

第七十三条 外国人、无国籍人、外国组织在中华人民共和国进行行政诉讼，委托律师代理诉讼的，应当委托中华人民共和国律师机构的律师。

（相关资料: [相关论文 2 篇](#) [实务指南](#)）

## 第十一章 附则

第七十四条 人民法院审理行政案件，应当收取诉讼费用。诉讼费用由败诉方承担，双方都有责任的由双方分担。收取诉讼费用的具体办法另行规定。

（相关资料: [地方法规 1 篇](#) [裁判文书 37 篇](#) [相关论文 1 篇](#) [实务指南](#)）

第七十五条 本法自 1990 年 10 月 1 日起施行。

（相关资料: [裁判文书 3 篇](#) [实务指南](#)）