

THE NATIONAL ASSEMBLY

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No. 65/2011/QH12

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom – Happiness

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Hanoi, March 29, 2011

## LAW

### AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE CIVIL PROCEDURE CODE

*Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10.*

*The National Assembly promulgates the Law Amending and Supplementing a Number of Articles of the Civil Procedure Code,*

**Article 1.** To amend and supplement the Civil Procedure Code:

**1. To amend and supplement Article 7 as follows:**

"Article 7. Responsibility of competent individuals, agencies and organizations to supply documents and evidence

Individuals, agencies and organizations shall, within the ambit of their respective tasks and powers, provide the involved parties, courts and procuracies with documents and evidence currently in their possession or under their management at the request of the involved parties, courts or procuracies: in case they cannot do so. they shall notify such to the involved parties, courts or procuracies in writing and clearly state the reason."

**2. To amend and supplement Article 16 as follows:**

"Article 16. Assurance of impartiality of persons conducting or participating in civil procedures

Chief judges, judges, people's jurors, court clerks, procuracy chairmen, prosecutors, interpreters, expert-witnesses and members of valuation councils may neither conduct nor participate in civil procedures if there are reasons to believe that they may not be impartial in performing their tasks and exercising their powers."

**3. To amend and supplement Article 21 as follows:**

"Article 21. Supervision of law observance in civil procedures

1. The People's Procuracies shall supervise law observance in civil procedures and exercise the rights to request, recommend or protest according to law in order to ensure lawful and timely resolution of civil cases or matters.

2. The People's Procuracies shall participate in first-instance court sessions for civil matters: and first-Instance court hearings for cases with evidence collected by courts or disputed objects being public assets, public interests or land or house use rights or an involved party being a minor or a person with physical or mental defects.

3. The People's Procuracies shall participate in appellate, cassation or re-opening court hearings and sessions.

The Supreme People's Procuracy shall assume the prime responsibility for, and coordinate with the Supreme People's Court in, guiding the implementation of this Article."

**4. To add the following Article 23a:**

"Article 23a. Assurance of the right to oral argument in civil procedures

In the course of settling civil cases, the courts shall assure that the involved parties and defense counsels of their rights and legitimate interests can exercise (their right to oral argument to protect these rights and legitimate interests."

**5. To amend and supplement Article 25 as follows:**

"Article 25. Civil disputes falling under the courts' jurisdiction

1. Disputes over Vietnamese nationality among individuals.
2. Disputes over property ownership.
3. Disputes over civil contracts.
4. Disputes over intellectual property rights, technology transfers, except the cases prescribed in Clause 2, Article 29 of this Code.
5. Disputes over property inheritance.
6. Disputes over compensation for noncontractual damage.
7. Disputes over the land use rights and properties attached to land in accordance with the land law.
8. Disputes relating to professional press activities under law.
9. Disputes related to requests for declaration of notarized documents to be invalid.
10. Disputes related to assets forfeited to enforce judgments in accordance with the law on enforcement of civil judgments.
11. 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 judgments.
12. Other civil disputes as prescribed by law."

**6. To amend and supplement Article 26 as follows:**

"Article 26. Civil requests falling under the courts' jurisdiction

1. The request for declaration of a person losing his/her civil act capacity or having restricted civil act capacity or revocation of a decision declaring a person losing his/her civil act capacity or having restricted civil act capacity.
2. The request for announcement of the search of persons who are absent from their residential places and the management of their properties.
3. The request for declaration of a person missing or revocation of a decision to declare a person missing.
4. The request for declaration of a person dead or revocation of a decision to declare a person dead.

5. The request for recognition and enforcement in Vietnam of civil judgments or decisions or decisions on properties in criminal or administrative judgments or decisions of foreign courts or non-recognition of civil judgments or decisions or decisions on properties in criminal or administrative judgments or decisions of foreign courts, which are not required to be enforced in Vietnam.

6. The request for declaration of notarized documents to be invalid.

7. The request for determination of property ownership and use rights: division of common properties for enforcement of judgments in accordance with the law on enforcement of civil judgments.

8. Other civil requests as prescribed by law."

**7. To amend and supplement Article 31 as follows:**

"Article 31. Labor disputes falling under the courts' jurisdiction

1. Individual labor disputes between employees and employers, which have been successfully conciliated by grassroots labor conciliation boards or labor conciliators of labor state management agencies of urban districts, rural districts, provincial capitals or provincial towns but the involved parties fail to comply with conciliation results, or which cannot be conciliated or are not conciliated within the law- established time limit, except the following disputes which must not necessarily be conciliated at grassroots level:

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

b/ Disputes over damage compensation between employees and employers or over allowances upon termination of labor contracts;

c/ Disputes between family maids and their employers:

d/ Disputes over social insurance in accordance with the labor law;

e/ 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 labor collectives and employers under the labor law. which have been settled by chairpersons of the People's Committees of urban districts, rural districts, provincial capitals or provincial towns but the labor collectives or employers disagree with the decisions of the chairpersons of the People's Committees of urban districts, rural districts, provincial capitals or provincial towns or which are not settled by chairpersons of the People's Committees of urban districts, rural districts, provincial capitals or provincial towns within the prescribed time limit.

3. Other labor disputes prescribed by law."

**8. To add the following Article 32a:**

"Article 32a. Courts' jurisdiction over decisions of agencies or organizations in particular cases

1. When resolving civil cases or matters, the courts may cancel 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 or matters. In this case, agencies or organizations or competent persons of such agencies or organizations have the right and obligation to participate in proceedings.

2. In case civil cases or matters are related to decisions in particular cases which are requested for cancellation under Clause I of this Article, such decisions shall be considered by the courts in the same civil cases or matters. The jurisdiction of courts to resolve these civil cases or matters shall be determined under Articles 29 and 30 of the Law on Administrative Procedures.

3. The Supreme People's Court shall assume the prime responsibility for, and coordinate with the Supreme People's Procuracy and the Ministry of Justice in guiding the implementation of this Article."

#### **9. To amend and supplement Article 33 as follows:**

"Article 33. Jurisdiction of people's courts of rural districts, urban districts, provincial capitals or provincial towns

1. The people's courts of rural districts, urban districts, provincial capitals or provincial towns (below collectively referred to as district-level people's courts) have jurisdiction to settle according to first-instance procedures the following disputes:

a/ Civil, marriage- and family-related disputes prescribed in Articles 25 and 27 of this Code;

b/ Business and commercial disputes prescribed Clause 1. Article 29 of this Code;

c/ Labor disputes prescribed in Clause 1. Article 31 of this Code.

2. District-level people's courts have jurisdiction to settle the following requests:

a/ Civil requests prescribed in Clauses 1. 2. 3. 4. 6 and 7. Article 26 of this Code;

b/ Marriage- and family-related requests prescribed in Clauses 1. 2, 3. 4 and 5. Article 28 of this Code.

3. Disputes and requests prescribed in Clauses 1 and 2 of this Article which involve parties or properties in foreign countries or which must be judicially entrusted to overseas representative missions of the Socialist Republic of Vietnam or to foreign courts, do not fall under the jurisdiction of district-level people's courts."

#### **10. To amend and supplement Article 35 as follows:**

"Article 35. Territorial jurisdiction of courts

1. Territorial jurisdiction of courts to resolve civil cases shall be determined as follows:

a/ The courts of the localities where the defendants reside or work, if the defendants are individuals, or where the defendants are headquartered, if they are agencies or organizations, have jurisdiction to settle according to First-instance procedures civil, marriage • and family - related, business, trade or labor disputes prescribed in Articles 25. 27. 29 and 31 of this Code;

b/ The involved parties may agree with each other in writing to request the courts of the localities where the plaintiffs reside or work, if the plaintiffs are individuals, or where the plaintiffs are headquartered, if they are agencies or organizations, to settle civil, marriage- and family-related, business, trade or labor disputes prescribed in Articles 25, 27. 29 and 31 of this Code:

c/ The courts of the localities where exist immovables have jurisdiction to settle disputes over such immovables.

2. Territorial jurisdiction of courts to resolve civil matters shall be determined as follows:

a/ The courts of the localities where the persons who are requested to be declared losing their civil act capacity or having restricted civil act capacity reside or work have jurisdiction to settle such requests;

b/ The courts of the localities where the absent persons who are requested to be announced for search in their places of residence or to be declared missing or dead last reside have jurisdiction to settle requests for announcement of the search for persons absent from their places of residence and management of such persons' properties or requests for declaration of a person missing or dead;

c/ The courts which have issued decisions to declare persons missing or dead have jurisdiction to resolve requests to revoke their decisions;

d/ The courts of the localities where the persons who are obliged to execute foreign courts' civil, marriage and family, business, trade or labor judgments or decisions reside or work, if judgment debtors are individuals, or where the judgment debtors are headquartered, if they are agencies or organizations, or where exists the property related to the enforcement of such foreign courts' judgments or decisions, have jurisdiction to settle requests to recognize and enforce foreign courts' civil, marriage and family, business, trade or labor judgments or decisions in Vietnam;

e/ The courts of the localities, where the request senders reside or work, if they are individuals, or where the request senders are headquartered, if they are agencies or organizations, have jurisdiction to settle requests for non-recognition of foreign courts' civil, marriage and family, business, trade or labor judgments or decisions, which are not required to be enforced in Vietnam;

f/ The courts of the localities where the persons who are obliged to execute foreign arbitral awards reside or work, if the judgment debtors are individuals, or where the judgment debtors are headquartered, if they are agencies or organizations, or where exists the property related to the enforcement of foreign arbitral awards, have jurisdiction to settle requests for recognition and enforcement in Vietnam of foreign arbitral awards;

g/ The courts of the localities where illegal marriages are registered have jurisdiction to settle requests for revocation of such illegal marriages;

h/ The court of the locality where one of the parties to a voluntary divorce, child nurturing or property division resides or works has jurisdiction to settle the request for recognition of the voluntary divorce, child nurturing, property division upon divorce;

i/ The court of the locality where one of the parties that requests the court to recognize their agreement on change of post-divorce child nurturing person resides or works has jurisdiction to settle that request;

j/ The court of the locality where one parent of a minor child resides or works has jurisdiction to settle a request to restrict the rights of the father or mother toward the minor child or his/her right to visit the child after the divorce;

k/ The court of the locality where an adoptive parent or adopted child resides or works has jurisdiction to settle a request to terminate the child adoption;

l/ The courts of the localities where notary bureaus or offices which have performed notarization are located have jurisdiction to settle requests for declaration of notarized documents to be invalid;

m/ The courts of the localities where competent judgment enforcement agencies are headquartered or where exist properties related to the judgment enforcement have jurisdiction to settle requests for determination of property ownership or use rights and for division of common properties for judgment enforcement under law;

n/ The territorial jurisdiction of courts to settle requests related to the settlement by Vietnamese commercial arbitrations of disputes complies with the law on commercial arbitration."

### **11. To amend and supplement Article 36 as follows:**

"Article 36. Jurisdiction of courts selected by plaintiffs or requesters

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

a/ If the plaintiffs do not know where the defendants reside or work or where their head offices are located, they may ask the courts of the localities where the defendants last reside or work or where the head offices of the defendants are last located or where the defendants' properties are located to resolve the cases:

b/ If disputes arise from the operations of a branch of an organization, the plaintiffs may ask the court of the locality where the organization's head office is located or where its branch is located to settle them:

c/ If defendants have no place of residence, workplace or head office in Vietnam or the cases are related to disputes over alimony, the plaintiffs may ask the courts of the localities where they reside or work to resolve the cases;

d/ If disputes are over compensation for non-contractual damage, the plaintiffs may ask the courts of the localities where they reside, work or are headquartered or where the damage occurs to settle them;

e/ If disputes are over compensation for damage or allowance upon termination of labor contracts, over social insurance, the rights and interests in relation to job, wage, income and other working conditions for laborers, the plaintiffs being laborers may ask the courts of the localities where they reside or work to settle them;

f/ If disputes arise from the employment by sub-contractors or mediators, the plaintiffs may ask the courts of the localities where their actual employers reside, work or are headquartered or where the sub-contractors or the mediators reside or work to settle them:

g/ If disputes arise from contractual relations, the plaintiffs may ask the courts of the localities where the contracts are performed to settle them:

h/ If the defendants reside, work or are headquartered in different places, the plaintiffs may ask the court of the locality where one of the defendants resides or works or is headquartered to resolve the cases:

i/ If disputes are over immovables which exist in different localities, the plaintiffs may request the court of the locality where one of such immovables exists to settle them.

2. The requesters may select courts to settle their civil, marriage- and family-related requests in the following cases:

a/ For civil requests prescribed in Clauses 1. 2, 3, 4, 6 and 7 of Article 26 of this Code, the requesters may ask the courts of the localities where they reside, work or are headquartered to settle them.

b/ For requests for termination of illegal marriages under Clause 1. Article 28 of this Code, the requesters may ask the courts of the localities where either of the parties to the illegal marriages resides to settle them:

c/ For requests for restriction of the rights of fathers or mothers toward their minor children or their right to visit the children after the divorce, the requesters may ask the courts of the localities where the children reside to settle them."

## **12. To amend and supplement Article 37 as follows:**

"Article 37. Transfer of civil cases or matters to other courts; settlement of disputes over jurisdiction

1. If a court has accepted a civil case or matter which does not fall within its jurisdiction, it shall issue a decision to transfer the civil case or matter dossier to a competent court and cross out the case or matter in the case register. This decision must be immediately sent to the same-level procuracy and all involved parties, concerned individuals, agencies and organizations.

The involved parties, concerned individuals, agencies and organizations have the right to complain about, and the procuracy has the right to make a recommendation on, such decision within three working days from the date of receipt of the decision. Within three working days from the date of receipt of a complaint or recommendation, the chief judge of the court that has issued the decision to transfer the civil case or matter shall settle the complaint or recommendation. The decision of the chief judge of the court is final.

2. Any dispute over the jurisdiction between district-level people's courts within a province shall be settled by the chief judge of the provincial people's court.

3. Any dispute over the jurisdiction between district-level people's courts of different provinces or centrally run cities or between provincial people's courts shall be settled by the chief judge of the Supreme People's Court.

4. The Supreme People's Court shall guide the implementation of this Article."

## **13. To amend and supplement Article 58 as follows:**

"Article 58. Rights and obligations of invoked parties

1. The involved parties have equal rights and obligations when participating in civil procedures.

2. When participating in civil procedures, the involved parties have the following rights and obligations:

a/ To maintain, modify, supplement or withdraw their requests in accordance with this Code:

b/ To supply documents and evidence to protect their rights and legitimate interests;

c/ To request individuals, agencies or organizations that are keeping or managing documents and evidence to supply such documents and evidence to them for submission to courts;

- d/ To request courts to verify or collect documents and evidence of the cases, which they cannot do by themselves or request courts to summon witnesses, to ask for expertise, valuation or price appraisal;
- e/ To read and take notes, photocopy documents and evidence produced by other involved parties or collected by courts;
- f/ To request courts to decide on the application, change or termination of provisional emergency measures;
- g/ To reach agreement with one another on the resolution of cases: to participate in conciliation conducted by courts;
- h/ To receive valid notices for the exercise of their rights and obligations;
- i/ To protect by themselves or ask other persons to protect their rights and legitimate interests;
- j/ To attend court hearings;
- k/ To request replacement of civil procedure-conducting persons or participants in civil procedures in accordance with this Code;
- i/ To present arguments at court hearings;
- m/ To ask the courts to summon persons with related interests and obligations to participate in civil procedures;
- n/ To make questions to other persons on matters related to the cases when so permitted by the courts or to propose to courts matters which need to be questioned on other persons; to confront each other or witnesses;
- o/ To be provided with extracts of court judgments or decisions;
- p/ To be present according to court summons and abide by court decisions during the settlement of their cases;
- q/ To respect courts, and strictly observe the court hearing's internal rules;
- r/ To appeal against or complain about court judgments or decisions in accordance with Code;
- s/ To ask competent persons to protest according to cassation or reopening procedures against legally effective judgments or decisions of courts;
- l/ To advance court fees and charges and pay court fees and charges and other expenses as prescribed by law;
- u/ To strictly abide by legally effective judgments or decisions of courts;
- v/ To asks courts to suspend the settlement of their cases in accordance with this Code;
- w/ To have other rights and obligations prescribed by law."

**14. To amend and supplement Article 59 as follows:**

"Article 59. Rights and obligations of the plaintiffs

1. The rights and obligations of involved parties prescribed in Article 58 of this Code.



2. To withdraw part or whole of their lawsuit petitions: or modify the contents of lawsuit petitions."

**15. To amend and supplement Article 60 as follows:**

"Article 60. Rights and obligations of the defendants

1. The involved parties' rights and obligations prescribed in Article 58 of this Code.
2. To be notified by courts of the lawsuits against them.
3. To accept or reject part or whole of the plaintiffs' claims.
4. To make counter-claims against the plaintiffs if they are related to the plaintiffs' claims or propose clearance against the obligations of the plaintiffs."

**16. To amend and supplement Article 63 as follows:**

"Article 63. Defense counsels of involved parties' rights and legitimate interests

1. The defense counsels of involved parties' rights and legitimate interests are persons asked by the involved parties and accepted by courts to participate in the procedures to protect the involved parties' rights and legitimate interests.
2. The following persons can be accepted by courts to act as defense counsels of the involved parties' rights and legitimate interests:
  - a/ Lawyers who participate in procedures under the law on lawyers;
  - b/ Legal aid officers or persons participating in legal aid under the law on legal aid;
  - c/ Vietnamese citizens who have full civil act capacity, have never been convicted or have been convicted but have had their criminal records remitted, who do not fall into the cases subject to the application of the administrative handling measure of sending to medical treatment establishment, reformatory or to administrative probation: 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' rights and legitimate interests can protect the rights and legitimate interests of more than one involved party in the same case, if those persons' rights and legitimate interests do not conflict one another. Many defense counsels of the involved parties' rights and legitimate interests may jointly protect the rights and legitimate interests of a single involved party in a case."

**17. To amend and supplement Article 82 as follows:**

"Article 82. Sources of evidence

Evidence may be collected from the following sources:

1. Readable, audible or visible materials;
2. Exhibits;
3. Involved parties' testimonies;
4. Witnesses' testimonies;
5. Expertising conclusions;

6. On-site appraisal result minutes:

7. Practices:

8. Property valuation and price appraisal results;

9. Other sources prescribed by law."

**18. To amend and supplement Article 85 as follows:**

"Article 85. Collection of evidence

1. If seeing that documents and evidence included in the files of civil cases or matters do not constitute sufficient grounds for the resolution thereof, judges shall request the involved parties to deliver additional documents and evidence.

2. In the cases prescribed by this Code, judges may take one or several of the following measures to collect documents and evidence;

a/ Taking testimonies of the involved parties and witnesses;

b/ Holding confrontations between involved parties and between involved parties and witnesses;

c/ Requesting expertise;

d/ Deciding on valuation of properties or request appraisal of property prices;

e/ Conducting on-site inspection and appraisal;

f/ Entrusting the collection and verification of documents and evidence;

g/ Requesting individuals, agencies or organizations to supply readable, audible and visible materials or other exhibits related to the resolution of civil cases or matters.

3. When taking the measures specified at Points b. c. d. e. f and g. Clause 2 of this Article, judges shall issue decisions clearly stating the reasons and the request of the courts.

4. The procuracies may request the involved parties, individuals, agencies and organizations to supply dossiers, documents and exhibits so that they can exercise the right to protest according to appellate, cassation or reopening procedures."

**19. To amend and supplement Article 90 as follows:**

"Article 90. Request for expertise

1. Upon the agreement of all involved parties, or at the request of one or more of (he involved parties, judges may issue decisions requesting expertise. A decision requesting expertise must clearly state the names and addresses of the experts, the objects of expertise, matters that need to be expertised and specific requirements requiring expertising conclusions.

2. The experts that receive decisions requesting expertise shall perform expertise in accordance with law.

3. In case they see that the expertising conclusions are inadequate or unclear or violate the law, at the request of one or more of the involved parties, judges may issue decisions requesting additional expertise or re-expertise.

Re-expertise may not be conducted by persons who have conducted the previous expertise. Expertise may not be conducted by persons having conducted procedures in the cases and by persons prescribed in Clauses 1, 2 and 3, Article 46 of this Code."

**20. To amend and supplement Article 92 as follows:**

"Article 92. Property valuation, property price appraisal

1. The parties may reach agreement on the valuation of properties or selection of property price appraisal organizations.

A court shall issue a decision to value disputed properties in the following cases:

a/ It is so requested by one or all of the involved parties;

b/ The parties have colluded with one another or with the price appraisal organization on low prices for the purpose of evading their obligation toward the State.

2. The Valuation Council set up by a court is composed of its chairman being a representative of the finance agency and members being representatives of other relevant professional agencies. Persons who have conducted procedures in the case and those prescribed in Clauses 1, 2 and 3, Article 46 of Ibis Code may not participate in the Valuation Council.

The Valuation Council shall carry out the valuation only when all of their members are present. When necessary, a representative of the commune-level People's Committee of the locality where exists the property subject to valuation may be invited to witness the valuation. The involved parties shall be notified in advance of the time and venue of the valuation and have the right to attend and give comments on the valuation. The right to decide on the price of the valued property rests with the Valuation Council.

3. The finance agency and other relevant professional agencies shall appoint their officers to join the Valuation Council and create conditions for them to perform their tasks. Persons appointed to be members of the Valuation Council shall take part fully in the valuation. The finance agency and professional agencies that fail to appoint their officers to join the Valuation Council and persons appointed to join the Valuation Council who fail to take part in the valuation without plausible reasons shall, depending on the seriousness of their violations, be handled in accordance with law.

4. The valuation must be recorded in minutes clearly stating the opinions of each of its members, and of the involved parties if they attend. A decision of the Valuation council must be voted for by more than half of its members. All the Valuation Council members, involved parties and witness(es) shall sign the minutes.

5. At the request of one or all of the involved parties, the court shall request a property price appraisal organization to conduct price appraisal. Property price appraisal shall be carried out under the law on property price appraisal. Property price appraisal results shall be regarded as evidence if the price appraisal is carried out in accordance with law.

6. The Government, the Supreme People's Court and the Supreme People's Procuracy shall, within the ambit of their respective tasks and powers, detail and guide the implementation of this Article.

**21. To amend and supplement Article 94 as follows:**

"Article 94. Request for individuals, agencies and organizations to supply evidence

1. In case the involved parties, though having applied all necessary measures, fail to collect evidence by themselves, they may request the court to collect evidence in order to ensure the proper resolution of their civil case or matter.

The involved parties that request the court to collect evidence shall make written requests clearly stating the matter(s) to be proved, the evidence to be collected, the reasons why they are unable to collect evidence by themselves: full names and addresses of the individuals, agencies or organizations that are managing or keeping the evidence which needs to be collected.

2. The court or procuracy may request directly or in writing individuals, agencies or organizations that are managing or keeping the evidence to supply them.

Individuals, agencies or organizations that are managing or keeping such evidence shall supply the evidence fully and in time as requested by the court or procuracy within fifteen days as from the date of receiving the request; if failing to supply evidence fully and in time at the request of the court or procuracy, they shall, depending on the seriousness of their violations, be handled in accordance with law."

## **22. To amend and supplement Article 159 as follows:**

"Article 159. Statutes of limitations for lawsuits and petitions

1. The statute of limitations for initiating civil lawsuits is the time limit during which entities have the right to initiate lawsuits to request courts to resolve civil cases in order to protect their rights and legitimate interests which have been infringed upon. Past this time limit, they will lose their right to initiate lawsuits, unless otherwise provided for by law.

2. The statute of limitations for filing petitions for resolution of civil matters is the time limit during which entities have the right to request courts to resolve civil matters in order to protect the rights and legitimate interests of individuals, agencies or organizations: public interests or the State's interests. Past this time limit, they will lose the right to file petitions, unless otherwise provided for by law.

3. The statute of limitations for initiating civil lawsuits complies with law. In case the law does not prescribe a statute of limitations for initiating civil lawsuits, the following provisions shall be complied with:

a/ No statute of limitations is applied to disputes over property ownership: disputes over claim back of properties under others' management or in others' possession, disputes over land use rights in accordance with the land law;

b/ For disputes other than those prescribed at Point a of this Clause, the statute of limitations for initiating a civil lawsuit is two years, counting from the date individuals, agencies or organizations become aware that their rights and legitimate interests are infringed upon.

4. The statute of limitations for filing petitions for resolution of civil matters complies with the provisions of law. In case the law does not prescribe a statute of limitations for such petitions, the statute of limitations for filing petitions with courts for resolving civil matters is one year, counting from the date the right to file petitions arises, excluding civil matters related to civil personal rights to which no statute of limitations is applied."

## **23. To amend and supplement Article 164 as follows:**

"Article 164. Form and contents of a lawsuit petition

1. Individuals, agencies or organizations initiating lawsuits shall prepare their petitions.

2. A lawsuit petition must contain the following principal details:

a/ Date of its making;

b/ Name of the court receiving the petition;

c/ Name and address of the litigator;

d/ Name and address of the person with his/ her rights and interests to be protected, if any:

e/ Name and address of the sued person:

f/ Name(s) and address(es) of persons(s) with related rights and obligations, if any:

g/ Specific matters requested to be resolved by the court in relation to the defendant and/or persons(s) with related rights and obligations;

h/ Full names and addresses of witnesses, if any.

3. Individual litigators shall sign or fingerprint their petitions. For institutional litigators, their representatives shall undersign and stamp their petitions. For lawsuits to protect the rights and legitimate interests of minors or persons having lost their civil act capacity, their at-law representatives shall sign or fingerprint their petitions. A lawsuit petition must be accompanied with documents and evidence to prove that the lawsuit petition is grounded and lawful.

In case the litigator is illiterate or visually impaired, unable to sign or fingerprint by himself or herself, there must be a witness who shall sign in the presence of a competent person in charge of certification of the commune-level People's Committee. The competent person in charge of certification of the commune-level People's Committee shall make certification in the presence of the litigator and witness."

**24. To amend and supplement Article 168 as follows:**

"Article 168. Return of lawsuit petitions, consequences of the return of lawsuit petitions

1. The court shall return a lawsuit petition in the following cases:

a/ The litigator has no right to sue or does not have full civil procedure act capacity;

b/ The matter has been resolved under a legally effective judgment or decision of a court or an effective decision of a competent state agency, except cases in which the court has rejected the application for divorce, for change in child adoption, change of alimony or compensation level, or application for change of property or heritance manager or claim back of property, leased or lent property or a house or land use rights leased, lent or offered for other people's free stay, which has not been accepted by the court due to the lack of lawsuit conditions;

c/ The notification time limit prescribed in Clause 2, Article 171 of this Code has expired while the litigator fails to hand to the court a receipt of the court fee advance, except cases of objective obstacles or force majeure events;

d/ Lawsuit conditions are insufficient;

e/ The case does not fall under the court's jurisdiction.

2. When returning a lawsuit petition and accompanying documents and evidence to the litigator, the court shall make a written document clearly stating the reason for the return and concurrently send it to the same-level procuracy.

3. An involved party may re-file a lawsuit petition in the following cases:

a/ The litigator has (he right to sue or has full civil procedure act capacity;

b/ Application for divorce, for change in child adoption, change of alimony or compensation level, or application for change of properly or heritance manager or claim back of property, leased or lent property or a house or land use rights leased, lent or offered for other people's free stay, which has not been accepted by the court due to the lack of lawsuit conditions;

c/ Lawsuit conditions are sufficient;

d/ Other cases prescribed by law.

4. The Supreme People's Court shall guide the implementation of Clauses I and 3 of this Article."

**25. To amend and supplement Article 170 as follows:**

"Article 170. Complaints, recommendations about the return of lawsuit petitions and settlement thereof

1. Within three working days after receiving back the lawsuit petition and accompanying documents and evidence returned by the court, the litigator may file a complaint with the chief judge of the court which has returned the lawsuit petition.

Within three working days after receiving the court's document on the return of the lawsuit petition, the same-level procuracy may make a recommendation to the chief judge of the court which has returned the lawsuit petition.

2. Within three working days after receiving a complaint or recommendation about the return of a lawsuit petition, the chief judge of a court shall issue one of the following decisions:

a/ To uphold the return of the lawsuit petition;

b/To receive back the lawsuit petition and accompanying documents and evidence in order lo accept the case.

3. Within seven working days after receiving the decision of the chief judge of the court in response to the complaint or recommendation about the return of the lawsuit petition, the litigator may lodge a complaint or the procuracy may file a recommendation with the chief judge of the immediate superior court for consideration and settlement.

4. Within ten working days after receiving a complaint or recommendation about the return of a lawsuit petition, the chief judge of a court shall issue one of the following decisions:

a/ To uphold the return of the lawsuit petition;

b/ To request the first-instance court lo receive back the lawsuit petition and accompanying documents and evidence in order to accept the case.

The decision of the chief judge of the immediate superior court on the settlement of the complaint or recommendation is final, which must be immediately sent to the litigator, the same-level procuracy, the recommending procuracy and the court which has decided lo return the lawsuit petition."

**26. To amend and supplement Article 176 as follows:**

"Article 176. Defendants' right to make counter-claims

1. Together with their obligation to submit to courts their written opinions on the litigators' claims, the defendants may file counter-claims against the plaintiffs or persons with related interests and obligations who file independent claims.

2. The defendants' counter-claims against the plaintiffs or persons with related interests and obligations who file independent claims may be accepted in one of the following cases:

a/ The counter-claim is made for clearance of liability against the claim of the plaintiff or the independent claim of the person with related interests and obligations;

b/ The counter-claim, if accepted, will result in the non-acceptance of part or the whole of the claim of the plaintiff or the independent claim of the person with related interests and obligations;

c/ There is an interrelation between the counter-claim and the claim of the plaintiff or the independent claim of the person with related interests and obligations, and if these claims are settled in the same case, the resolution of such case will be more accurate and quicker.

3. The defendant may file a counter-claim before the court issues a decision to bring the case to first-instance trial."

**27. To amend and supplement Article 177 as follows:**

"Article 177. Right of persons with related rights and obligations to make independent claims

1. In case a person with related rights and obligations does not participate in the procedures on the side of the plaintiff or the defendant, he/she may make an independent claim when the following conditions are met:

a/ The resolution of the case is related to his/ her rights and obligations;

b/ His/her independent claim is related to the case being settled;

c/ If his/her independent claim is settled in the same case, the resolution of such case will be more accurate and quicker.

2. A person with related rights and obligations may file an independent claim before the court issues a decision to bring the case to first-instance trial."

**28. To amend and supplement Article 184 as follows:**

"Article 184. Participants in a conciliation session

1. The judge who shall preside over the conciliation session.

2. The court clerk who shall record the minutes of the conciliation session.

3. The involved parties or their lawful representatives.

In a case with many involved parties, if one of them is absent from the conciliation session, but the parties present at the session still agree to proceed with the conciliation and such conciliation will not affect the rights and obligations of the absentee, the judge shall conduct the conciliation among the parties present. If the involved parties request postponement of the conciliation session so that all involved parties can attend it, the judge shall postpone the conciliation session

and notify the postponement of the conciliation session and the re-opening of another to the involved parties.

4. Related individuals, agencies and organizations, in case the judge finds it necessary to request them to participate in the conciliation session.

5. The interpreter, if involved parties do not know Vietnamese."

**29. To supplement the following Article 185a:**

"Article 185a. Conciliation process

1. Before conducting conciliation, the court clerk shall report to the judge on the presence or absence of persons already notified by the court to participate in the conciliation session. The judge presiding over the conciliation session shall re-check the presence and identity cards of the participants in the conciliation session.

2. The presiding judge shall conduct the conciliation session according to conciliation contents prescribed in Article 185 of this Code.

3. The involved parties or their lawful representatives shall present their opinions on the disputed contents and propose matters to be conciliated.

4. The judge shall identify matters on which the parties have reached agreement and have not yet reached agreement, and request the parties to additionally explain unclear contents and their disagreements.

5. The judge shall make conclusions on matters on which the parties have successfully conciliated and matters on which they have not yet reached agreement."

**30. To amend and supplement Article 189 as follows:**

'Article 189. Suspension of resolution of civil cases

1. The involved parties being individuals have died or being organizations have been merged, divided, separated or dissolved without any individuals, agencies or organizations taking over their procedural rights and obligations.

2. One involved party being an individual has lost his/her civil act capacity while his/her at-law representative has not been determined yet.

3. The lawful representative of an involved party stops working without a replacement yet.

4. The result of resolution of another related case or matter, which, as required by law, must be resolved by another agency or organization before the case is resolved, needs to be waited for.

5. The result of judicial entrustment or supply of documents and evidence by agencies or organizations at the request of the court for the resolution of the case needs to be waited for upon the expiration of the resolution time limit.

6. Other cases as prescribed by law."

**31. To amend and supplement Article 192 as follows:**

"Article 192. Termination of resolution of civil cases

1. After accepting a civil case which falls within its jurisdiction, the court shall issue a decision to terminate the resolution of the case in the following cases:



- a/ The individual plaintiff or defendant has died while his/her rights and obligations are not inherited;
- b/ The agency or organization has been dissolved or declared bankrupt without an individual, agency or organization inheriting its procedural rights and obligations;
- c/ The litigator withdraws his/her lawsuit petition with the court's approval or the litigator has no right to initiate a lawsuit;
- d/ The agency or organization withdraws its lawsuit document in case there is no plaintiff or the plaintiff requests discontinuation of the resolution of the case;
- e/ The involved parties have reached agreement among them and do not request the court to further resolve the case;
- f/ The plaintiff is still absent though he/she has been duly summoned twice, except when he/she files a request for resolution in his/her absence or his/her absence is due to a force majeure event;
- g/ The court has issued a decision to open bankruptcy procedures for the enterprise or cooperative being a party to the case and the resolution of such case is related to the obligations and property of such enterprise or cooperative;
- h/ The statute of limitations for initiating a lawsuit has expired;
- i/ Cases prescribed in Clause J, Article 168 of this Code which have been accepted by the court;
- j/ Other cases prescribed by law.

2. The court shall issue a decision to terminate the resolution of a civil case, delete the name of such case from the case acceptance register and return the lawsuit petition and accompanying documents and evidence to the involved parties, if requested."

### **32. To amend and supplement Article 193 as follows:**

"Article 193. Consequences of termination of resolution of civil cases

1. When the decision to terminate the resolution of a civil case is issued, the involved parties may not initiate a lawsuit to request the court to re-resolve such civil case if the institution of the subsequent case does not show any difference from the previous case in terms of plaintiff, defendant and the disputed legal relation, except cases prescribed in Clause 3. Article 168. and at Points c. f and g. Clause 1. Article 192 of this Code, and other cases prescribed by law.
2. In case the court issues a decision to terminate the resolution of a civil case under Point a. b. d. e. f or j, Clause 1. Article 192 of this Code, the court fee advance paid by the involved parties shall be remitted into public funds.
3. In case the court issues a decision to terminate the resolution of a civil case under Point c, g. h or i, Clause 1. Article 192 of this Code, the court fee advance paid by the involved parties shall be refunded to them.
4. A decision to terminate the resolution of a civil case may be appealed or protested against according to appellate procedures."

### **33. To amend and supplement Article 195 as follows:**

"Article 195. Decisions to bring cases to trial

1. A decision to bring a case to trial must contain the following principal details:

a/ Date of its issue;

b/ Name of the issuing court;

c/ The case to be brought to trial;

d/ Names and addresses of the plaintiff, the defendant or another person who initiates the lawsuit for the court to resolve the case, and persons with related rights and obligations;

e/ Full names of the judge, people's jurors, court clerk and full names of the alternate judge and people's jurors, if any;

f/ Full names of the procurator to attend the court hearing and the alternate procurator, if any;

g/ Time, date and venue of the court hearing;

h/ Public or behind-closed-doors trial;

i/ Full names of persons who are summoned to the court hearing.

2. The decision to bring the case to trial must be sent to the involved parties and the same-level procuracy immediately after the issuance thereof.

If the procuracy participates in the court hearing under Clause 2. Article 21 of this Code, the court shall send the case file to the same-level procuracy. Within fifteen days after receiving the dossier, the procuracy shall study then return the file to the court."

### **34. To amend and supplement Article 199 as follows:**

"Article 199. Presence of involved parties, representatives and defense counsels of the rights and legitimate interests of involved parties

1. Under the first subpoena of the court, the involved parties or their representatives or defense counsels of their rights and legitimate interests must be present. If any of them is absent, the trial panel shall postpone the court hearing, unless such party files a written request for trial in his/her absence.

The court shall notify the involved parties or their representatives or defense counsels of their rights and legitimate interests of the postponement of the court hearing.

2. Under the second subpoena of the court, the involved parties or their representatives or defense counsels of their rights and legitimate interests must be present. If they are absent for reasons other than force majeure events, the court shall handle as follows:

a/ If the plaintiff or his/her at-law representative is absent without a representative attending the court hearing, he/she shall be regarded as having waived his/her lawsuit, and the court shall decide to terminate the settlement of his/her lawsuit, unless he/she files a written request for trial in his/her absence. The plaintiff may initiate another lawsuit, provided that the statute of limitations for initiating a lawsuit has not yet expired;

b/ If the defendant or a person with related interests and obligations who files no independent claim is absent without a representative attending the court hearing, the court shall conduct trial in his/her absence:

c/ If a person with related interests and obligations who files an independent claim is absent without a representative attending the court hearing, he/she shall be regarded as having waived his/her independent claim, and the court shall decide to terminate the settlement of his/ her independent claim, unless he/she files a written request for trial in his/her absence. A person with related interests and obligations who files an independent claim may initiate another lawsuit with respect to his/her independent claim, provided that the statute of limitations for initiating a lawsuit has not yet expired;

d/ If the defense counsel of the rights and legitimate interests of an involved party is absent, the court may conduct trial in his/her absence."

### **35. To amend and supplement Article 202 as follows:**

"Article 202. Trial in absence of involved parties and defense counsels of their rights and legitimate interests from court hearings

The court shall proceed with hearing a case in the following cases:

1. The plaintiff, the defendant or persons with related interests and obligations and their representatives who are absent from the court hearing file written requests with the court to conduct the trial in their absence;
2. The plaintiff and the defendant or persons with related interests and obligations who are absent from the court hearing have their lawful representatives attending the court hearing;
3. The cases prescribed at Points b and d. Clause 2. Article 199 of this Code."

### **36. To amend and supplement Article 208 as follows:**

"Article 208, time limit for postponing a court hearing and decision to postpone a court hearing

1. In case the trial panel decides to postpone the court hearing under Clause 2, Article 51. Clause 2. Article 72 or Article 199, 204, 205, 206, 207 or 215, or Clause 4. Article 230. and other cases prescribed by this Code, the time limit for postponement of a first-instance court hearing is thirty days from the date of issuance of the decision to postpone the court hearing.
2. A decision to postpone a court hearing must contain the following principal details:
  - a/ Date of its issuance;
  - b/ Name of the court and full names of procedure-conducting persons;
  - c/ The case to be brought to trial;
  - d/ Reasons for the postponement;
  - e/ Time and venue for resuming the court hearing.
3. The decision to postpone a court session must be signed on behalf of the trial panel by the judge presiding over the court hearing and publicly notified to procedure participants. For absentees, the court shall immediately send the decision to them and concurrently to the same-level procuracy.
4. In case the court cannot resume a court hearing on the time and at the place notified in the postponement decision, the court shall immediately notify the same-level procuracy and procedure participants of the time and venue for resuming the court hearing."

**37. To amend and supplement Article 234 as follows:**

"Article 234. Presentations of procurators 1. After procedure participants present their arguments and counter-arguments, the procurator shall present opinions on the observance of the procedural law in the process of resolution of the case by the judges and trial panel; and the observance of law by procedure participants from the time the case is accepted for handling to the time before the trial panel deliberates the judgment.

2. The Supreme People's Procuracy shall assume the prime responsibility for, and coordinate with Supreme People's Court in. guiding the implementation of this Article."

**38. To amend and supplement Article 257 as follows:**

"Article 257. Acceptance of cases for appellate trial

1. Upon receiving the case file, appeal or protest and accompanying documents and evidence, the appellate court shall record them in the case acceptance register.

Within three working days after accepting a case, the court shall notify the involved parties and the same-level procuracy of the acceptance.

2. The chief judge of the appellate court or the chief judge of the appellate court of the Supreme People's Court shall set up an appellate trial panel and assign a judge to act as presiding judge."

**39. To amend and supplement Article 260 as follows:**

"Article 260. Termination of appellate trial of cases

1. The appellate court shall issue a decision to terminate the appellate trial of a case or part of a case in the following cases:

a/ Cases prescribed at Points a and b. Clause 1, Article 192 of this Code:

b/ The appellant withdraws the whole of the appeal or the procuracy withdraws the whole of me protest;

c/ The appellant withdraws part of the appeal or the procuracy withdraws part of the protest;

d/ Other cases prescribed by law.

2. If the appellant withdraws the whole of the appeal or the procuracy withdraws the whole of the protest before the appeal court issues a decision to bring the case to appellate trial, the assigned presiding judge shall decide to terminate the appellate trial. If the appellant withdraws the whole of the appeal or the procuracy withdraws the whole of the protest after the appellate court issues a decision to bring the case to appellate trial, the appellate trial panel shall issue the decision to terminate the appellate trial.

In these cases, the first-instance judgment or decision will take legal effect on the date the appellate court issues the decision to terminate the appellate trial.

3. If the appellant withdraws part of the appeal or the procuracy withdraws part of the protest, the appellate trial panel shall judge such withdrawal and decide to terminate the appellate trial of such part in the appellate judgment."

**40. To amend and supplement Article 262 as follows:**

"Article 262. Forwarding of case files to procuracies for study

1. After accepting a case for appellate trial, the appellate court shall transfer the case file to the same-level procuracy for study.
2. The time limit for the same-level procuracy to study a case file is fifteen days after receiving the case file; upon the expiration of such lime limit, the procuracy shall return the case file to the court."

**41. To amend and supplement Article 264 as follows:**

"Article 264. Participants in appellate court hearings

1. The appellant, the involved parties, individuals, agencies and organizations that are related to the settlement of the appeal or protest and the defense counsels of the involved parties' rights and legitimate interests must he summoned to the appellate court hearing. The court may summon other procedure participants to the court hearing if seeing it necessary for the settlement of the appeal or protest.
2. A procurator of the same-level procuracy shall participate in the appellate court hearing."

**42. To amend and supplement Article 266 as follows:**

"Article 266. Postponement of appellate court hearings

1. In case the procurator to attend the court hearing is absent, the appellate court hearing must be postponed.
2. If the appellant, the person who makes no appeal but has interests and obligations related to the appeal or protest and the defense counsels of their rights and legitimate interests are absent though they have been duly summoned for the first lime, the court hearing must be postponed. If a person files a written request for trial in his/ her absence, the court shall conduct the appellate court hearing in his/her absence.
3. If the appellant and procedure participants other than the appellant, and the defense counsels of their rights and legitimate interests are absent though they have been duly summoned for the second time, the postponement of the court hearing and termination or continuation of the appellate trial comply with Article 199, 202, 204, 205 or 206 of this Code.
4. The duration of postponement of, and the decision to postpone, an appellate court hearing comply with Article 208 of this Code."

**43. To amend and supplement Article 271 as follows:**

"Article 271. Hearing of presentations of involved parties and procurators at appellate court hearings

1. In case an involved party still upholds his/ her appeal or the procuracy maintains its protest the appellate trial panel shall start the case trial by listening to the presentations of the involved parties or procurator in the following order:
  - a/ The defense counsel of the appellant's rights and legitimate interests shall present the appeal contents and grounds therefor. The appellant may give additional opinions.

In case all involved parties appeal, the presentations shall be made in the following order: the defense counsel of the rights and legitimate interests of the appellant being the plaintiff and the plaintiff; the defense counsel of the rights and legitimate interests of the appellant being the defendant and the defendant: the defense counsel of the tights and legitimate interests of the

appellant being a person with related rights and obligations and the person with related rights and obligations.

In case only the procuracy protests, the procurator shall present the protest contents and grounds therefor. In case there are both appeal and protest, the involved parties shall present the appeal contents and grounds therefor first then the procurator shall present the protest contents and grounds therefor:

b/ The defense counsels of the rights and legitimate interests of other parties related to the appeal or protest shall present their opinions on the appeal or protest contents. The involved parties may give additional opinions.

2. In case the involved parties have no defense counsel of their rights and legitimate interests, they shall themselves present their opinions on the appeal or protest contents as well as their petitions.

3. At an appellate court hearing, the involved parties and procurator may produce additional evidence."

#### **44. To add the following Article 273a:**

"Article 273a. Presentations of procurators at appellate court hearings

After procedure participants present their arguments and counter-arguments, the procurator shall present the procuracy's opinions on the observance of law in the process of settlement of the civil case at the appellate trial stage."

#### **45. To amend and supplement Article 275 as follows:**

"Article 275. Powers of appellate trial panels

The appellate trial panel has the following powers;

1. To uphold the first-instance judgment:
2. To modify the first-instance judgment:
3. To annul the first-instance judgment or part of the first-instance judgment and transfer the case file to the first-instance court for retrial.
4. To annul the first-instance judgment and terminate the settlement of the case."

#### **46. To amend and supplement Article 277 as follows:**

"Article 277. Annulment of first-instance judgments, annulment of part of first-instance judgments and transfer of case files to first-instance courts for retrial

The appellate trial panel shall annul the first-instance judgment or part of the first-instance judgment and transfer the case file to the first-instance court for retrial in any of the following cases:

1. The proof and collection of evidence fail to comply with the provisions of Chapter VII of this Code or have not yet been adequately carried out while the supplementation thereof cannot be made at the appellate court hearing;
2. The composition of the first-instance trial panel fails to comply with the provisions of this Code or there is another serious violation of the procedural law."

**47. To amend and supplement Article 284 as follows:**

"Article 284. Detection of legally effective court judgments or decisions which need to be reviewed according to cassation procedures

1. Within one year after the court judgment or decision takes legal effect, if detecting a violation(s) in such judgment or decision, the involved parties may file written requests to persons competent to make protests under Article 285 of this Code for consideration and protest according to cassation procedures.
2. In case the court, the procuracy or another individual, agency or organization detects a violation(s) in the legally effective court judgment or decision, they shall notify such in writing to persons competent to make protests under Article 285 of this Code."

**48. To add the following Articles 284a and 284b:**

"Article 284a. Petitions for review of legally effective court judgments or decisions according to cassation procedures

1. A petition must contain the following principal details:

a/ Date of making the petition;

b/ Name and address of the petitioner:

c/ Name of the legally effective court judgment or decision requested to be reviewed according to cassation procedures;

d/ Reason(s) for the petition and request(s) of the petitioner;

e/ The signature or fingerprint, for an individual petitioner: the signature and seal of a lawful representative, for a petitioner being an agency or organization, at the end of the petition.

2. The petitioner shall enclose the petition with the legally effective court judgment or decision and documents and evidence to prove that the petition is grounded.

3. The petition and documents and evidence shall be addressed to the person competent to protest according to cassation procedures prescribed in Article 285 of this Code.

Article 284b. Procedures for receiving and considering petitions for review of legally-effective court judgments or decisions according to cassation procedures

1. The court or procuracy shall receive petitions filed by involved parties directly with the court or procuracy or by post and record them in the petition receipt register. The date of sending a petition is the date on which the involved party files the petition with the court or procuracy or the date of the postmark of the sending post office.

2. The court or procuracy that receives a petition shall issue a certificate thereof to the involved party.

3. The person competent to make protests according to cassation procedures shall assign an officer to study the petition and case file, and report it to him/her for consideration and decision. If making no protest, he/she shall notify in writing the involved party thereof.

4. The Supreme People's Court and the Supreme People's Procuracy shall guide procedures for receiving and processing petitions for review of legally effective court judgments or decisions according to cassation procedures."

**49. To amend and supplement Article 288 as follows:**

"Article 288. Time limit for protest according to cassation procedures

1. Persons competent to protest according to cassation procedures may only make their protests within three years counting from the date the court judgments or decisions take legal effect, except the case prescribed in Clause 2 of this Article.

2. In case the time limit for protest specified in Clause 1 of this Article has expired, it may be extended for another two years from the date of its expiration if the following conditions exist:

a/ The involved party has filed a petition under Clause 1. Article 284 of this Code, and files another one after the expiration of the time limit specified in Clause 1 of this Article:

b/ The legally effective court judgment or decision is illegal under Article 283 of this Code, seriously infringes upon the rights and legitimate interests of an involved party or a third party, or infringes upon the State's interests, and a protest must be made for redressing the error found in such judgment or decision."

**50. To amend and supplement Article 297 as follows:**

"Article 297. Powers of cassation review panels

The cassation review panel has the following powers:

1. To reject the protest and uphold the legally effective court judgment or decision:

2. To annul the legally effective court judgment or decision and uphold the lawful judgment or decision of the subordinate court which has been annulled or modified:

3. To annul part or the whole of the legally effective court judgment or decision for retrial according to first-instance or appellate procedures;

4. To annul the judgment or decision of the court which has tried the case and terminate the resolution thereof."

**51. To amend and supplement Article 299 as follows:**

"Article 299. Annulment of part or the whole of legally effective court judgments or decisions which are protested against for first-instance or appellate retrial

The cassation review panel shall issue a decision to annul part or the whole of a legally effective court judgment or decision being protested against for retrial according to first-instance or appellate procedures in the following cases:

1. The proof and collection of evidence have been carried out inadequately or in violation of the provisions of Chapter VII of this Code:

2. The conclusions in the judgment or decision do not conform to the objective circumstances of the case or there is a serious error in the application of law:

3. The composition of the first-instance or appellate trial panel fails to comply with the provisions of this Code or there is another serious violation of the procedure law."

**52. To add the following Chapter XIXa:**

"Chapter XIXa



## SPECIAL PROCEDURES FOR REVIEWING DECISIONS OF THE JUDGES' COUNCIL OF THE SUPREME PEOPLE'S COURT

Article 310a. Requests, recommendations and proposals for review of decisions of the Judges' Council of the Supreme People's Court

1. In case there are grounds to determine that a decision of the Judges' Council of the Supreme People's Court has a serious violation of law or new important circumstances are

detected which may basically change the content of the decision and which the Judges' Council of the Supreme People's Court or the involved parties were not aware of when the decision was issued, if there is a request of the Standing Committee of the National Assembly, a recommendation of the Judicial Committee of the National Assembly or a recommendation of the Chairman of the Supreme People's Procuracy or a proposal of the Chief Judge of the Supreme People's Court, the Judges' Council of the Supreme People's Court shall review such decision.

2. In case there is a request of the Standing Committee of the National Assembly, the Chief Judge of the Supreme People's Court shall report it to the Judges' Council of the Supreme People's Court for review of its own decision.

3. In case there is a recommendation of the Judicial Committee of the National Assembly or the Chairman of the Supreme People's Procuracy or the Chief Judge of the Supreme People's Court detects a new violation or circumstance, the Chief Judge of the Supreme People's Court shall report it to the Judges' Council of the Supreme People's Court for reviewing such recommendation or proposal.

If agreeing with the recommendation of the Judicial Committee of the National Assembly or the Chairman of the Supreme People's Procuracy or the proposal of the Chief Judge of the Supreme People's Court, the Judges' Council of the Supreme People's Court shall issue a decision to assign the Chief Judge of the Supreme People's Court to organize study of the case file then report it to the Judges' Council of the Supreme People's Court for consideration and decision. If the Judges' Council of the Supreme People's Court disagrees with such recommendation or proposal, it shall notify such in writing clearly stating the reason.

4. A meeting of the Judges' Council of the Supreme People's Court to review the recommendation or proposal referred to in Clause 3 of this Article must be attended by the Chairman of the Supreme People's Procuracy.

Article 310b. Procedures and competence to review decisions of the Judges' Council of the Supreme People's Court

1. The Chief Judge of the Supreme People's Court shall organize study of the case file. verification and collection of documents and evidence and report them the Judges' Council of the Supreme People's Court for reviewing its own decision within four months counting after the date of receipt of the request of the Standing Committee of the National Assembly referred to in Clause 2. Article 310a of this Code or after the issuance of a decision by the Judges' Council of the Supreme People's Court referred to in Clause 3. Article 310a of this Code.

2. A meeting of the Judges' Council of the Supreme People's Court must be attended by the Chairman of the Supreme People's Procuracy. If seeing it necessary, the Supreme People's Court may invite related individuals, agencies and organizations to the meeting.

3. After hearing the report of the Chief Judge of the Peoples Supreme Court and opinions of the Chairman of the Supreme People's Procuracy and related individuals, agencies and organizations invited to attend the meeting, if any. the Judges' Council of the Supreme People's Court shall issue a decision to annul its own decision which has a serious violation of law or when there is a new important circumstance which basically changes the content of such decision: annul the legally effective judgment or decision of the subordinate court which has a serious violation of law or when there is a new important circumstance which basically changes the content of the judgment or decision, and. on a case-by-case basis, issue any of the following decisions;

a/ To annul its own decision and annul the legally effective judgment or decision and decide on the content of the case:

b/ To annul its own decision and annul the legally effective judgment or decision which has a serious violation of law and determine the damage compensation responsibility of the People's Supreme Court which has issued the decision containing a serious violation of law for an unintentional or an intentional fault, causing damage to the involved party, or identify the responsibility to indemnify the property value in accordance with law:

c/ To annul its own decision and annul the legally effective judgment or decision which has a serious violation of law and transfer the case file to the subordinate court for settlement in accordance with law.

4. A decision of the Judges' Council of the Supreme People's Court must be voted for by at least three-quarters of its total members.

5. The Supreme People's Court shall assume the prime responsibility for, and coordinate with the Supreme People's Procuracy in, guiding the implementation of this Article."

### **53. To amend and supplement Article 311 as follows:**

"Article 311. Scope of application

The courts shall apply the provisions of this Chapter and other provisions of this Code w Inch are not contrary to the provisions of this Chapter to resolving civil matters prescribed in Clauses 1, 2, 3, 4, 6, 7 and 8. Article 26; Clauses 1, 2, 3, 4, 5 and 7. Article 28; Clauses i and 4, Article 30; and Clause 3. Article 32 of this Code.

Civil matter means a request filed by a dispute-free individual, agency or organization with a court to recognize or refuse to recognize a legal event which serves as a basis for the arising of civil, marriage and family, business, commercial or labor rights and obligations of his/her/its own or of another individual, agency or organization, or with a court to recognize his/ her/its civil, marriage and family, business, commercial or labor rights."

### **54. To add the following Article 313a:**

"Article 313a. Decision on change of procedure-conducting persons when resolving civil matters

1. Prior to a meeting, the replacement and appointment of a judge and court clerk shall be decided by the chief judge of the court currently resolving the civil matter: if the replaced judge is the chief judge of the court currently resolving the civil matter, the replacement shall be decided by the chief judge of the immediate superior court.

2. The replacement of a judge during a meeting to resolve a civil matter shall be effected as follows:

a/ If the civil matter is resolved by a single judge, the replacement shall be decided by the chief judge of the court currently resolving the civil matter. If the replaced judge is the chief judge of the court currently resolving the civil matter, the replacement shall be decided by the chief judge of the immediate superior court:

b/ If the civil matter is resolved by a civil matter resolution council consisting of three judges, the replacement of a member of the council shall be decided by the council itself.

3. Prior to and during a meeting, the replacement and appointment of a procurator shall be decided by the same-level procuracy. If the replaced procurator is the chairman of the procuracy, the replacement shall be decided by the chairman of the immediate superior procuracy."

**55. To amend and supplement Article 314 as follows:**

"Article 314. Procedures for conducting meetings to resolve civil matters

1. A meeting to resolve a civil matter shall be conducted in the following order:

a/ The court 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, and explain the rights and obligations of the participants:

c/ The defense counsel of the rights and legitimate 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, and reason, purpose and grounds for requesting the court to resolve such civil matter;

d/ The defense counsel of the rights and legitimate interests of persons with related interests and obligations and persons with related interests and obligations or their lawful representatives shall present their opinions on mailers pertaining to (their rights and obligations in the resolution of the civil matter;

e/ Witnesses shall present their opinions; or expert-witnesses shall present their conclusions and explain issues which remain unclear or contradictory:

f/ The judge shall examine documents and evidence;

g/ The procurator shall present the procuracy's opinions on the resolution of the civil matter;

h/ The judge shall consider and decide to accept or not to accept the request for resolution of the civil matter.

2. In case a person is absent (be judge may announce the testimonies, documents and evidence supplied or disclosed to the court by that person."

**56. To add the following Articles 339a, 339b and 339c:**

"Article 339a. 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 312 of this Code.

3. Accompanying the petition for a court to declare a notarized document invalid must be documents and evidence to prove that such petition is grounded and lawful.

"Article 339b. 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 is thirty days, counting from the date 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, person with related rights and interests, competent state agency and same-level procuracy.

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 fifteen days after issuing a decision to open a meeting, the court shall open the meeting to consider the petition.

"Article 339c. 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."

**57. To amend and supplement Article 340 as follows:**

"Article 340. Civil matters related to Vietnamese commercial arbitration activities that fall under the jurisdiction of courts

1. Appointment or change of arbitrators.

2. Application, change or cancellation of provisional emergency measures.

3. Cancellation of arbitral awards.

4. Settlement of complaints about decisions of arbitration councils on arbitral agreements which are invalid or cannot be implemented, and jurisdiction of arbitration councils.

5. Collection of evidence.

6. Summoning of witnesses.

7. Registration of arbitral awards.

8. Other civil matters prescribed by the law on Vietnamese commercial arbitration."

**58. To amend and supplement Article 375 as follows:'**

Article 375. To be-enforced court judgments or decisions

1. To be-enforced civil court judgments or decisions are those that have taken legal effect, including:

- a/ Judgments or decisions or parts of judgments or decisions of first-instance courts which are not appealed or protested against according to appellate procedures;
  - b/ Judgments and decisions of appeal courts;
  - c/ Cassation trial decisions or reopening trial decisions of courts: decisions of the Judges' Council of the Supreme People's Court issued according to special procedures prescribed in Article 310b of this Code;
  - d/ Civil judgments or decisions of foreign courts and foreign arbitral awards which have been recognized and permitted for enforcement in Vietnam under Vietnamese courts' legally effective decisions.
2. The following judgments or decisions of first-instance courts shall be enforced without delay even though they are appealed or protested against:
- a/ Judgments or decisions on alimonies, remuneration, reinstatement of laborers, wages, severance allowances, social insurance or compensations for loss of lives, health or mental damage suffered by citizens;
  - b/ Decisions on application of provisional emergency measures."

**59. To annul Articles 200, 201, 203, 376, 377, 378, 379 and 383.**

**Article 2.**

1. This Law takes effect on January 1, 2012.
2. The Government, the Supreme People's Court and the Supreme People's Procuracy shall, within the ambit of their respective tasks and powers, guide the implementation of this Law.

*This Law was passed on March 29, 2011, by the XII<sup>th</sup> National Assembly of the Socialist Republic of Vietnam at its 9 session.-*

**CHAIRMAN OF THE NATIONAL ASSEMBLY**

**Nguyen Phu Trong**