

### **3. Framework of the State**

#### **3.1. Organisation of Public Power**

##### *3.1.1. Introduction*

The policy of "renovation" has made it necessary to address a number of problems in the branches of the State, the extensive bureaucracy and corruption and the lack of accountability. The aim of the public administration reforms in Vietnam is, consequently, to change the system and make it more akin to the requirements of a "socialist-oriented market economy". It is considered important that people both get credit for success and are held accountable for failure. A landmark in this process was the adoption of the 1992 Constitution. On this has also followed e.g. new regulations on administrative court procedures.

Good laws are not enough. The administrative system must be democratic, transparent, and based on the rule of law<sup>1</sup>. A further requirement is that the administrators of the system are "clean and professional" <sup>2</sup>. Therefore, more attention needs to be paid to the quality of training and to formal merits such as diplomas and certificates. A new requirement since 1996 is that new civil servants must pass certain exams. An ordinance on civil servants is also under drafting.

The Constitution sets forth the structures and principles for the organization and the activity of State organs and institutionalises the relationship between the Party, the State and the people. Vietnam is divided into **60 provinces** and 4 cities under direct central rule, i.e.

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<sup>1</sup> Dr. Ha Hung Cuong; "Some Aspect of Economic Renovation and Formulation of Legal Environment", Speech at a Conference at Hanoi Law University, January 1993.

<sup>2</sup> See Phung Van Tuu in Vietnam Law & Legal Forum, July 1996, p. 5.

Hanoi, Ho Chi Minh City, Hai Phong and Da Nang. The provinces are divided into districts, provincial cities and towns. The cities under direct central rule are divided into about 600 urban districts, rural districts and towns. The districts are divided into communes and town lets. The provincial cities and towns are divided into more than 10,000 wards and communes<sup>3</sup>.

### *3.1.2. National Assembly*

The National Assembly is the supreme legislative body and decides the main principles for the governance and organisation of the State. Among other things it supervises the observance of the Constitution, laws, and resolutions, examines report from the President, the Standing Committee of the National Assembly, the Government and the Supreme People's Procuracy, and regulates the organisation and activities of the Government, the Supreme people's Procuracy and the local authorities. The National Assembly also elects and releases from duty for example the Head of the Supreme People's Procuracy<sup>4</sup>.

The Standing Committee of the National Assembly i.a. interprets the Constitution, laws and ordinances, supervises the activities of the Government and the Supreme People's Procuracy, supervises and guidelines the activities of the people's councils, and may repeal improper resolutions by council on provincial level<sup>5</sup>.

### *3.1.3. President of the State*

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<sup>3</sup> 1992 Constitution, Art. 118. Unless otherwise stated provinces also include cities under central rule, and districts include provincial cities and towns, urban districts and towns, communes comprise town lets and wards.

<sup>4</sup> Art. 83 and 84.

<sup>5</sup> Art. 91.

The President of the State may propose to the National Assembly to elect or release from duty the Vice President, the Prime Minister, the President of the Supreme People's Court and the Head of the Supreme People's Procuracy, appoint or release from duty deputy prime ministers, cabinet ministers and other members of the Government on the basis of resolutions of National Assembly, release from duty vice presidents and judges of the Supreme People's Procuracy. The President may also appoint and recall Vietnam's ambassadors; grant, release or deprive someone of Vietnamese nationality; and grant pardons<sup>6</sup>.

#### *3.1.4. Government*

The Government is the executive body of the National Assembly and the highest administrative body of the State. It directs the work of ministries, other governmental agencies and the People's Committees at all levels<sup>7</sup>. The Government consists of the Prime Minister, deputy prime ministers, ministers and heads of agencies equivalent to ministries<sup>8</sup>. Only the Prime Minister has to be a member of the National Assembly<sup>9</sup>. The term in office of the Government coincides with that of the National Assembly for the administration under their authority<sup>10</sup>.

The Prime Minister may for example propose changes in the organisation of ministers and organs of ministerial rank, propose appointments and dismissals of the Deputy Prime Minister, ministers, and other members of the government, appoint or dismiss vice ministers and

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<sup>6</sup> Art. 103.

<sup>7</sup> Arts. 109 and 112.

<sup>8</sup> There are 17 ministries and 8 agencies equal to ministries. There are also certain departments and committees, totally 21. (See appendix 9.4).

<sup>9</sup> 1992 Constitution, Art. 110.

<sup>10</sup> Art. 113.

officials of equal rank, approve the election of and dismiss the chairman and deputy chairmen of the people's Committees on provincial level, suspend or annul decisions, directives and circulars issued by ministers and other members of the Government, and suspend or annul decisions and other instruments issued by people's committees and chairmen of people's committees on provincial level which contravene superior regulations<sup>11</sup>.

### *3.1.5. Local Administrative Structures*

Each administrative level is basically organised in the same way as the central administration. This means that provinces, districts and communes have an elected People's Council, which corresponds to the National Assembly at the central level. The members are responsible to the people in the locality and to superior State bodies<sup>12</sup>. The people's Council has a permanent body consisting of a chairman, a vice chairman and a secretary. The councils make general decisions concerning the locality. They adopt local budgets and plans, and they are also responsible for the implementation of the Constitution and the laws. The working procedure of the councils is regulated in law<sup>13</sup>.

Members of the council may ask questions to the Chairman of the Council, members of the People's Committee, the Chief Judge of the local People's Court. Chairman of the local People's Procuracy, and heads of agencies under the People's Committee. They may also

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<sup>11</sup> Art. 114.

<sup>12</sup> Art. 119.

<sup>13</sup> Law on Organisation of the People's Councils and People's Committees, July 11, 1989.

petition State agencies in the locality and these must settle the matter<sup>14</sup>.

The council may also rescind "improper" resolutions of lower people's councils on the recommendation of the Chairman of the People's Committee at the same level<sup>15</sup>. Improper resolutions made by provincial people's councils can be rescinded by the Standing Committee of the National Assembly<sup>16</sup>.

The council elects a People's Committee. The committee is both the State administrative authority in the locality and local government<sup>17</sup>. The committee makes policy decisions, issues decisions and directives, and supervises their implementation<sup>18</sup>. The committee is supervised by the People's Council. It is also subordinate to higher people's committees, the national government, ministers and State committees.

The chairman and the vice-chairmen of the committee are vested with considerable power. The chairman takes care of the day-to-day work and manages the administration<sup>19</sup>. He may also suspend or annul "wrong" decisions of the committees of lower rank and suspend the implementation of resolutions of people's councils of lower rank<sup>20</sup>. The members of the Committee are both

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<sup>14</sup> 1992 Constitution, Art. 122.

<sup>15</sup> Art. 124.

<sup>16</sup> Art. 91.

<sup>17</sup> Art. 123. The committee has normally a session every month. The decisions are made collectively, with single majority. There are also a number of local departments under the committee, which can be compared to ministers at central level. The local agencies placed directly under a ministry or a central authority is few and includes among others the tax authorities, the State bank and the People's Procuracy.

<sup>18</sup> 1992 Constitution, Art. 124.

<sup>19</sup> The Chairman is the only member of the committee who must be a member of the People's Council. Law on Organisation of the People's Councils and People's Committees, Art. 48.

<sup>20</sup> Decisions of People's Committees on provincial level may be rescinded by the Prime Minister. 1992 Constitution, Arts. 114 and 124.

individually responsible for activities within their own field and as a collective to the People's Council.

#### *3.1.6. Double Subordination of Public Authorities*

Public authorities at local level are organised according to the principle of double subordination. This means that an agency is horizontally subordinated to the People's Committee at the same level and vertically to the relevant ministry (or an agency of ministerial rank) in professional matters<sup>21</sup>. This does not mean that the Government has absolute hierarchical power over local agencies the influence is more indirect, but a head of department has to accommodate both central and local interests.

#### *3.1.7. Administrative Procedure*

The Government is currently emphasising administrative reform. The aims are to promote economic efficiency, to improve the quality of social relationships, and to maintain social order. The Prime Minister has designated certain fields which influence the daily life of people and which should be addressed in the first phase of reform. Overlapping authority is one such matter. The excessive number of permits required from different authorities for various activities is another. The insufficient principles for delegation of authority are also considered a problem.

Decree 38/CP of May 4, 1994 and Directive 40-TTg of October 29, 1992 regulate the relationship between administrative authorities and stipulate that regulations on procedures and time limits must be publicly posted at

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<sup>21</sup> This organisation has its origin in "democratic centralism", the principle governing the organisation of the National Assembly, the People's Councils and all other state bodies.

the agencies. It shall further be clear who is responsible for a certain matter, for example allocation of land or business registration. Applicants must be informed of the reasons for a decision and advised where to appeal. People, who perceive that civil servants do not comply with the procedures, abuse their authority, or demand bribes, may lodge complaints or charges with the Administrative Court.

The results of the reforms can be seen in the procedures for obtaining a passport or visa. While high centralisation previously made it necessary for applicants to get certification from the local authority, the police at commune, district, and province level, and from the Ministry of Interior, the authority to make such decisions is now delegated and only certification by the police at the commune level is required (except for State employees)<sup>22</sup>. The time limit for issuing of exit passport and visas is also specified to five or ten days depending on whether the applicant is a State employee or not.

Another example is the procedure for allocation of land and issuing of construction permits in urban areas. Land allocation in Hanoi and Ho Chi Minh City used to be carried out in two steps. Recommendation of site required six to eight documents, a procedure which required at least two months. On this followed the issuing of the land use-right certificate. This required five documents and took about two months. The process is now much simpler. Only four documents are needed and the time limit for consideration is twenty-five days<sup>23</sup>. Similarly, the issuing of construction permits in Ho Chi Minh City

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<sup>22</sup> Decree 24-CP of March 1995.

<sup>23</sup> Decree 88-CP of 17 August 1994.

previously required four steps and twenty-six documents, but is now reduced to only three documents, namely an application for a construction permit, a drawing, and a land use-right certificate<sup>24</sup>

### **3.2. Communist Party**

The Communist Party is the dominant force in the political system. The role of the Party, according to the 1992 Constitution, is to be "the vanguard of the Vietnamese working class, the faithful representative of the rights and interests of the working class, the toiling people, and the whole nation, acting upon the Marxist-Leninist doctrine and Ho Chi Minh's thoughts and to be the force leading the state and society". The Constitution, which aims at providing clearer separation of State and Party functions, also states that all organisations of the Party shall operate "within the framework of the Constitution and the laws"<sup>25</sup>. The Party is said to be neither above the law nor the state, and to exercise its leadership by forming policies and resolutions, which guide the administration.

The Party is present at all levels of the administration in order to maintain leadership and consistency with central policies. Joining the Party does not necessarily mean moving upwards in the government, but rather inwards. The Party adheres to the principle of democratic centralism and it is necessary for its members to carry out orders from higher level and to observe strict Party discipline.

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<sup>24</sup> Decree 91-CP of August 17, 1994. The time for consideration varies between 10 and 45 days depending on the type of construction.

<sup>25</sup> 1992 Constitution, Art. 4. The previous Constitution referred to the Party as "the only force guiding the state and society".

Party Committees are elected by party congress. These begin at the lowest level, often a village, where local party cells, consisting of at least three members, are formed. At the next level there are commune committees consisting of several party cells. Commune committees from district organisations, and these, in turn, form provincial party organisations.

The Central Committee represents all these organisations at the national level. It is elected by the Party Congress and is the highest body between congress<sup>26</sup>. The congress normally convenes every five years, the last one in July 1996. The congress lasts a week or two and discusses and approves proposals, which have been prepared by the Central Committee and the Politburo. The Central Committee elects its own executive body, the Politburo, which comprises the Secretary-General of the Party and eighteen other senior members. The Politburo is responsible for administrative functions and for formulating policies for the Central Committee.

### **3.3. *Fatherland Front***

The Fatherland Front is an umbrella organisation for other mass organisations such as the Communist Party, the Union of Women and the Union of Youth, the Association of Peasants and the Vietnamese Buddhist Church. Its official function is to represent the views of the people<sup>27</sup>. The rights and duties of the member organisations are regulated in the Front's charter, which was last amended and supplemented in 1994.

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<sup>26</sup> The Central Committee has at least two plenary sessions per year. These normally concentrate on a particular theme and can result in important policy changes.

<sup>27</sup> The 1992 Constitution Art. 9.

The front is organised in four levels: central, provincial, district and commune. Its principles of operation are democratic consultation, cooperation, equality, solidarity, and mutual respect. The Fatherland Front is entitled to give opinions and comments on draft legal documents. It shall also help to collect opinions from citizens on proposed legislation<sup>28</sup>.

The Chairman of the Fatherland Front and the heads of local mass organisations shall be invited to the sessions of the people's councils and the people's committees. These organisations shall also regularly report on the local situation in all fields to the Front and the mass organisations<sup>29</sup>. The Chairman of the Central Committee of the Vietnam Fatherland Front, the Chairman of the Vietnam Confederation of Trade Unions and the heads of mass organisations may attend meetings of the Government<sup>30</sup>.

#### ***3.4. Monitoring the Administration***

The National Assembly exercises supreme supervision of all activities of the State, i.e. by examining reports from central agencies<sup>31</sup>. Members of the National Assembly may question the President, the Chairman of the National Assembly, the Prime Minister and the heads of State agencies<sup>32</sup>. The assembly may also abrogate any legal document<sup>33</sup>. Some of the monitoring functions are performed by the Standing Committee between the sessions<sup>34</sup>.

The Constitution grants citizens a right to file complaints and denunciations<sup>35</sup>. Persons who have suffered

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<sup>28</sup> Law on the Promulgation of Legal Documents, Art. 3, 30 and 62.

<sup>29</sup> 1992 Constitution, Art. 125.

<sup>30</sup> Art. 111.

<sup>31</sup> Art. 83.

<sup>32</sup> Art. 98.

<sup>33</sup> Art. 84.

<sup>34</sup> Art. 91.

<sup>35</sup> Art. 74.

loss or injury are entitled to damages material losses and rehabilitation of their reputation. The Civil Code also grants citizens a right to take action against government officials who have exceeded or abused their authority<sup>36</sup>. Retaliation against authors of complaints, as well as misuse of the right to complain in order to falsely slander and harm others, is prohibited<sup>37</sup>.

#### *3.4.1. State Inspectorate*

The administration is supervised by the State Inspectorate and the People's Procuracy. The State Inspectorate is a governmental agency equal to a ministry, and the General State Inspector is a member of the Government<sup>38</sup>. The function of the Inspectorate is "to ensure justice, strengthen the discipline in the state management, and develop socialist demoncracy"<sup>39</sup>. Specifically, this means to monitor the implementation of laws and plants at all administrative levels, fight bureaucracy and corruption in the administration, and settle complaints and denunciations.

The Spectorate consists of:

- The general State Inspectorate at national level,<sup>40</sup>
- The Ministerial Inspectorate (within ministries and equal bodies),
- The Provincial Inspectorate,

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<sup>36</sup> Civil Code, Art. 545.

<sup>37</sup> 1992 Constution, Art. 74.

<sup>38</sup> 1992 Constution, Art. 84 and 114.

<sup>39</sup> Ordinance on the Inspectorate, Art. 1.

<sup>40</sup> The General State Inspectorate is organised in: two departments for inspection of economic matters, a law department for inspection of cultural, educational and social matters, a law department, and department of personnel, and chancery.

- The Provincial Departments' Inspectorate (within departments under the provincial People's Committee).
- District Inspectorates.

The supervision at commune level is performed by the Fatherland Front, the people's Committee and "by the People themselves". The General State Inspectorate may undertake inspections all over the country. Lower inspectorates may investigate all fields of operation of the agency to which they are attached.

The General State Inspector is "guided" by the Prime Minister and lower inspectorates are guided by the heads of the administrative level to which they belong, i.e. a minister, a head of department, or a People's Committee. They are also professionally guided by the higher inspectorates in accordance with the principle of double subordination.

Complaints can be made by people who claim that they have been mistreated by an official within the administration. Denunciations can be made by citizens who observe mismanagement or faults in the administration, but they need not be personally affected by it. The Inspectorate may also initiate an investigation of something is revealed in its regular review of administrative decisions. Cases can also be assigned to the Inspectorate by a head of a State agency or by a higher inspector.

In principle, all decisions made by administrative authorities concerning "the legitimate rights and interests of individuals" may be subject to review. There is a three-level system for review. The first instance is the official who made the original decision. The second instance for complaints against decisions by people's

committees is the Chief Inspector at the next administrative level, while decisions by agencies under the people's committees or ministries are tried by the Chief Inspector at the same level. Third and final instance is the Head of the People's Committee or the Minister under whom the Chief Inspector serves. For example:

Decisions by chairmen of people's committees of communes are

- reconsidered by the chairman of the committee
- reviewed by the chief inspector of the district
- reviewed by the chairman of the district people's committee.

Decisions by chairmen of district people's committee are

- reconsidered by the chairman of the committee
- reviewed by the chief inspector of the province
- reviewed by the chairman of the people's committee of the province.

Decisions by heads of agencies under district people's committee are

- reconsidered by the head of the agency concerned
- reviewed by the chief inspector of the district
- reviewed by the chairman of the district people's committee.

Decisions by heads of agencies under ministries are

- reconsidered by the head of the agency concerned
- reviewed by the chief inspector of the ministry
- reviewed by the minister.

Complaints regarding decisions by ministers and officials of equal rank are finally decided by the General State Inspector<sup>41</sup>. Cases settled by the General State Inspector are sometimes reopened by the Government. A case must be reopened ex officio if new evidence has appeared or there have been errors in the application of the law<sup>42</sup>.

Citizens must lodge complaints within six months from the day the decision was made<sup>43</sup>. Agencies who settle a matter as first instance must reach a decision within thirty days<sup>44</sup>. The settlement of a normal case takes three to four months at each level.

One problem is that people do not always know where they should go with their complaints. A decision by an administrative agency shall contain a written appeal instruction, but this is not sufficient<sup>45</sup>. It is estimated that as much as thirty per cent of the complaints are never settled because they are sent to the wrong instance. The fact that the officials have to inform the complainant of the correct instance does not appear to help<sup>46</sup>. Denunciations shall be sent to an agency above the one that are being denounced. The reason is that the denunciation otherwise would risk to be "put in a drawer", especially since many denunciations are anonymous for fear of reprisals.

Another element of the process is to soothe the feelings of the complainants by punishing the "erring" official according to disciplinary regulations for civil

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<sup>41</sup> Arts. 16 and 17.

<sup>42</sup> Arts. 11 -14.

<sup>43</sup> Art. 19.

<sup>44</sup> Art. 21.

<sup>45</sup> Arts. 11 -14 and 17.

<sup>46</sup> Art. 21.

servants. These measures include for example suspension. No sanction can follow if the official had no regulations to rely on when he first decided the matter.

The Inspectorate can act with considerable flexibility. If, for example, an agency and a complainant cannot reach an agreement, the Inspectorate can send an expert who helps to clarify the matter through an inquiry and then proposes a solution on the basis of his findings. A written settlement can then be drafted by the Inspector if both sides agree to the proposed solution.

The Inspectorate is sometimes accused of being a mere helping hand to the Chairman of the People's Committee. There is a historical reason for this: prior to the Ordinance on the Settlements of Complainants Denunciations, the function of the Inspectorate was to help the chairmen to deal with complaints.

The establishment of administrative courts does not dramatically change the role of the Inspectorate. It will continue to monitor State agencies and try to settle complaints before such matters reach the administrative courts.

#### *3.4.2. People's Procuracy*

The People's Procuracy supervises that all branches of the administration (except the National Assembly and the Government) and the mass organisations observe the law<sup>47</sup>. This means that the Procuracy shall ensure that normative acts enacted by ministries and State agencies conform to higher norms. It shall also ensure that persons are not arrested, taken into custody or detained without support in law, and that civil rights to life, health, freedom, property, honour and dignity are not violated by the

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<sup>47</sup> 1992 Constution, Art. 137.

police or other authorities. Another task is to see to that criminal investigations are conducted objectively, comprehensively and accurately with support in law. The Procuracy shall further monitor the execution of verdicts and decisions by the people's courts and control that the conditions in arrest, custody and re-education camps conform to the law<sup>48</sup>. Like the State Inspectorate, it shall also monitor how officials perform their duties and investigate complaints and denunciations from citizens<sup>49</sup>. The supervisory function of the Procuracy thus partly overlaps that of the State Inspectorate. About 60-70 per cent of the complaints regarding the administration are said to be settled in favour of the complaint.

The Supreme people's Procuracy is organised under the National Assembly. The head of the Supreme People's Procuracy is elected by and responsible to assembly. The organisation is represented at central, provincial and district level. Each office is responsible to a higher office, but also answers and reports to the People's Council at the same level<sup>50</sup>.

Procurators are bound by the law in their work. They may also receive instructions from the head of the Procuracy to which they are assigned and from the head of the Supreme People's Procuracy. The Procurator may decline to perform assignments he believes to be contrary to the law. He must, however, implement decisions made by the head of the office, but the responsibility for the

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<sup>48</sup> Dr. Vu Duc Khien, Vietnam Law & Legal Forum, November 1994, pp. 30-34.

<sup>49</sup> The Procuracy in Hanoi received about 200 complaints per month in 1993. These mainly concerned land rights, houses, criminal investigations and prosecutions.

<sup>50</sup> The Supreme People's Procuracy and the provincial People's Procuracy have supervision Committee (consisting of the head and the deputy head of the office and a number of prosecutors) which discuss and decide important questions.

consequences in such cases lays with the head of the office<sup>51</sup>.

### **3.5. Administrative Courts**

After having studied different models for solving administrative disputes, the National Assembly passed the Law on Amendments and Supplements to some Articles in the Law on the Organisation of the People's Courts in October 1995. The new law established special administrative courts within the Supreme People's Court and in each provincial people's court. The district courts have judges specialised in administrative matters, but no administrative court. Procedural matters, matters of jurisdiction, court fees, etc, are regulated in the 1996 Ordinance on the Procedures for the Settlement of Administrative Cases.

The administrative courts shall try the legality of administrative decisions and acts and matters of negligence and delay. Citizens, economic bodies and social organisations may appeal to the courts, but all other means of administrative review must be spent first in order to allow the authority which issued the decision "second chance" to review its decision<sup>52</sup>. The Procuracy may also attend the hearings, ask questions and appeal judgements and decisions<sup>53</sup>.

The complainant must file the case with the court within thirty days from the date he received the result of the final administrative review. Part of the court fee must be paid in advance. The court must decide whether to adjudicate the case within sixty days. Decisions by the

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<sup>51</sup> Dr. Vu Duc Khien, Vietnam Law & Legal Forum, November 1994, p. 34.

<sup>52</sup> The Ordinance on the Procedures for the Settlement of Administrative Cases, Art. 2.

<sup>53</sup> Chapters III and IV of the Ordinance on the Procedures for the Settlement of Administrative Cases list the persons who participate in the proceedings.

provincial administrative courts may be appealed by the parties or protested by the Supreme People's Procuracy<sup>54</sup>.

There are also two extraordinary possibilities of review. First, judgements and decisions at all levels which have acquired legal force can be subject to cassation on the ground that the conclusions in the judgement or decision "do not conform with subjective details of the case", or that serious violations of the procedural acts have occurred, or that serious errors in the application of the law have been made<sup>55</sup>. The initiative to undertake a procedure of cassation may be taken by the President of the Central Administrative Court or the Head of the Supreme People's Procuracy<sup>56</sup>. The new hearing is done by the Council of Judges of the Supreme Administrative Court<sup>57</sup>. Secondly, cases may also be reopened for "final re-adjudication" if important new details have emerged, evidence or other material is not true, e.g. because of mistakes in translation or forgery, intentional mistakes or illegal conclusions have been made in the case, or if the verdict or decision upon which the case rest has been cancelled<sup>58</sup>.

The decisions and judgements of the Supreme Administrative Court are not intended to be precedents, but it may issue "bench guides" to local administrative courts to help them uniformly to apply the law and summarise the adjudication experience.

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<sup>54</sup> The Prime Minister may also ask the Chief Justice of the Supreme People's Court or the Chairman of the Supreme People's Procuracy to reconsider administrative judgements, which, according to the Prime Minister, are incorrect. The Chief Justice or the Chairman must respond to the Prime Minister within 30 days.

<sup>55</sup> Ordinance on the Procedures for the Settlement of Administrative Cases, Art. 67.

<sup>56</sup> Art. 68.

<sup>57</sup> Arts. 70 and 71.

<sup>58</sup> Art. 67. This is also possible with decisions made in the procedure of cassation.

It is argued that "the present socio-economic conditions and changing legal system" only allows the administrative courts to settle a limited number of the administrative complaints.

### **3.6. Administrative Sanctions and Enforcement**

Decisions regarding violations of administrative regulations are enforced according to the 1989 Ordinance on Punishment of Administrative violations (amended and supplemented in 1995). Individuals and organisations which are subject to an administrative decision have five days to voluntarily implement it. When that period has expired, warning, fines, revocation of licenses, restitution of assets, damages or confiscation of items may be considered<sup>59</sup>.

The same State agency which made the administrative decision shall also see to that it is enforced. The police, in cooperation with other agencies concerned, help to enforce decisions made by the people's Committee<sup>60</sup>.

However, it is known that the present rules and means for enforcement are not always sufficient to ensure proper implementation of administrative decisions. The prospects of success depend on the attitude of the persons involved, e.g. the chairmen of the people's committees and heads of departments. It can happen that they obstruct or otherwise do not comply with the decision. Comprehensive regulations and sufficiently strong mechanisms for the implementation of administrative decisions are therefore needed.

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<sup>59</sup> 1989 Ordinance on Punishment of Administrative Violations, Art. 11.

<sup>60</sup> Costs incurred for the enforcement shall be paid by those who are subject to the measures.