

The Administrative Litigation Law of the People's Republic of China (2017 Revision)[Effective]

中华人民共和国行政诉讼法(2017 修正) [现行有效]

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中华人民共和国行政诉讼法

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(1989年4月4日第七届全国人民代表大会第二次会议通过根据2014年11月1日第十二届全国人民代表大会常务委员会第十一次会议《关于修改〈中华人民共和国行政诉讼法〉的决定》第一次修正根据2017年6月27日第十二届全国人民代表大会常务委员会第二十八次会议《关于修改〈中华人民共和国民事诉讼法〉和〈中华人民共和国行政诉讼法〉的决定》第二次修正)

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Article 1 To ensure the impartial and timely trial of administrative cases by the people's courts, settle administrative disputes, protect the lawful rights and interests of citizens, legal persons, and other organizations, and oversee administrative agencies' exercise of power according to the law, this Law is developed in accordance with the Constitution.

第一条 为保证人民法院公正、及时审理行政案件，解决行政争议，保护公民、法人和其他组织的合法权益，监督行政机关依法行使职权，根据宪法，制定本法。

Article 2 A citizen, a legal person, or any other organization which deems that an administrative action taken by an administrative agency or any employee thereof infringes upon the lawful rights and interests of the citizen, legal person, or other organization shall have the right to file a complaint with a people's court in accordance with this Law.

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

The term "administrative action" as mentioned in the preceding paragraph includes administrative actions taken by an organization empowered by a law, regulation, or rule.

前款所称行政行为，包括法律、法规、规章授权的组织作出的行政行为。

Article 3 The people's courts shall protect the right of a citizen, a legal person, or any other organization to file a complaint, and accept, according to the law, administrative cases that shall be accepted.

第三条 人民法院应当保障公民、法人和其他组织的起诉权利，对应当受理的行政案件依法受理。

Administrative agencies and the employees thereof may not interfere with or impede the acceptance of administrative cases by the people's courts.

The person in charge of an administrative agency against which a complaint is filed shall appear in court to respond to the complaint, or, if he or she is unable to appear in court, authorize a relevant employee of the administrative agency to appear in court.

Article 4 The people's courts shall independently exercise judicial power over administrative cases, without any interference by any administrative agency, social group, or individual.

The people's courts shall establish administrative divisions for the trial of administrative cases.

Article 5 The people's courts shall try administrative cases based on facts according to the law.

Article 6 In the trial of administrative cases, the people's courts shall examine the legality of administrative actions.

Article 7 In the trial of administrative cases, the people's courts shall apply the collegial bench, disqualification, open trial, and "final after two levels of trial" rules according to the law.

Article 8 In administrative litigation, the parties shall have equal legal status.

Article 9 Citizens of all ethnicities shall have the right to use the spoken and written languages of their respective ethnicities in administrative litigation.

In an area where an ethnic minority is concentrated or several ethnicities cohabit, the people's courts shall conduct trial and publish legal instruments in the spoken and written languages commonly used by the local ethnicity or ethnicities.

The people's courts shall provide interpretation for litigation participants who are not familiar with the spoken and written languages commonly used by the local ethnicity or ethnicities.

行政机关及其工作人员不得干预、阻碍人民法院受理行政案件。

被诉行政机关负责人应当出庭应诉。不能出庭的，应当委托行政机关相应的工作人员出庭。

第四条 人民法院依法对行政案件独立行使审判权，不受行政机关、社会团体和个人的干涉。

人民法院设行政审判庭，审理行政案件。

第五条 人民法院审理行政案件，以事实为根据，以法律为准绳。

第六条 人民法院审理行政案件，对行政行为是否合法进行审查。

第七条 人民法院审理行政案件，依法实行合议、回避、公开审判和两审终审制度。

第八条 当事人在行政诉讼中的法律地位平等。

第九条 各民族公民都有用本民族语言、文字进行行政诉讼的权利。

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

人民法院应当对不通晓当地民族通用的语言、文字的诉讼参与人提供翻译。

Article 10 In administrative litigation, the parties shall have the right to debate.

Article 11 The people's procuratorates shall have the authority to exercise legal supervision over administrative litigation.

Chapter II Scope of Cases Accepted

Article 12 The people's courts shall accept the following complaints filed by citizens, legal persons, or other organizations:

(1) A complaint against any administrative punishment, such as administrative detention, suspension or revocation of a license or permit, ordered suspension of production or business, confiscation of illegal income, confiscation of illegal property, a fine, or a warning.

(2) A complaint against any administrative compulsory measure, such as restriction of personal freedom or seizure, impoundment, or freezing of property, or administrative enforcement.

(3) A complaint against an administrative agency's denial of, or failure to respond within the statutory period to, an application for administrative licensing or any other administrative licensing decision made by the administrative agency.

(4) A complaint against an administrative agency's decision to confirm the ownership or the right to use any natural resource, such as land, mineral resources, water, forest, hill, grassland, wasteland, tidal flat, or sea area.

(5) A complaint against a decision on expropriation or requisition or a decision on compensation for expropriation or requisition.

(6) A complaint against an administrative agency's refusal to perform, or failure to respond to an application for the administrative agency to perform, its statutory duties and responsibilities in respect of protecting personal rights, property rights, and other lawful rights and interests.

(7) A complaint claiming that an administrative agency has infringed upon the plaintiff's autonomy in business

第十条 当事人在行政诉讼中有权进行辩论。

第十一条 人民检察院有权对行政诉讼实行法律监督。

第二章 受案范围

第十二条 人民法院受理公民、法人或者其他组织提起的下列诉讼：

(一) 对行政拘留、暂扣或者吊销许可证和执照、责令停产停业、没收违法所得、没收非法财物、罚款、警告等行政处罚不服的；

(二) 对限制人身自由或者对财产的查封、扣押、冻结等行政强制措施和行政强制执行不服的；

(三) 申请行政许可，行政机关拒绝或者在法定期限内不予答复，或者对行政机关作出的有关行政许可的其他决定不服的；

(四) 对行政机关作出的关于确认土地、矿藏、水流、森林、山岭、草原、荒地、滩涂、海域等自然资源的所有权或者使用权的决定不服的；

(五) 对征收、征用决定及其补偿决定不服的；

(六) 申请行政机关履行保护人身权、财产权等合法权益的法定职责，行政机关拒绝履行或者不予答复的；

(七) 认为行政机关侵犯其经营自主权或者农村土地承包经营权、农村土地经营权的；

management, right in the contractual operations on rural land, or right in operations on rural land.

(8) A complaint claiming that an administrative agency has abused its administrative power to preclude or restrict competition.

(9) A complaint claiming that an administrative agency has illegally raised funds or apportioned expenses or illegally required performance of other obligations.

(10) A complaint claiming that an administrative agency has failed to pay consolation money, minimum subsistence, or social insurance benefits according to the law.

(11) A complaint claiming that an administrative agency has failed to perform according to the law or as agreed upon, or illegally modified or rescinded, an agreement, such as a government concession agreement or a land and building expropriation compensation agreement.

(12) A complaint claiming that an administrative agency has otherwise infringed upon personal rights, property rights, or other lawful rights and interests.

In addition to those as set out in the preceding paragraph, the people's courts shall accept administrative cases which may be filed as prescribed by laws and regulations.

Article 13 The people's courts shall not accept complaints filed by citizens, legal persons, or other organizations against the following:

(1) Actions taken by the state in national defense and foreign affairs, among others.

(2) Administrative regulations and rules or decisions and orders with general binding force developed and issued by administrative agencies.

(3) Decisions of administrative agencies on the rewards or punishments for their employees or the appointment or removal from office of their employees.

(4) Administrative action taken by an administrative agency as a final adjudication according to the law.

Chapter III Jurisdiction

(八) 认为行政机关滥用行政权力排除或者限制竞争的;

(九) 认为行政机关违法集资、摊派费用或者违法要求履行其他义务的;

(十) 认为行政机关没有依法支付抚恤金、最低生活保障待遇或者社会保险待遇的;

(十一) 认为行政机关不依法履行、未按照约定履行或者违法变更、解除政府特许经营协议、土地房屋征收补偿协议等协议的;

(十二) 认为行政机关侵犯其他人身权、财产权等合法权益的。

除前款规定外, 人民法院受理法律、法规规定可以提起诉讼的其他行政案件。

第十三条 人民法院不受理公民、法人或者其他组织对下列事项提起的诉讼:

(一) 国防、外交等国家行为;

(二) 行政法规、规章或者行政机关制定、发布的具有普遍约束力的决定、命令;

(三) 行政机关对行政机关工作人员奖惩、任免等决定;

(四) 法律规定由行政机关最终裁决的行政行为。

第三章 管辖

Article 14 The basic people's courts shall have jurisdiction over administrative cases as courts of first instance.

Article 15 An Intermediate People's Court shall have jurisdiction over the following administrative cases as a court of first instance:

(1) A case filed against an administrative action taken by a department of the State Council or by a people's government at or above the county level.

(2) A case handled by the Customs.

(3) A major or complicated case within its territorial jurisdiction.

(4) Other cases under the jurisdiction of an Intermediate People's Court as prescribed by the law.

Article 16 A Higher People's Court shall have jurisdiction as a court of first instance over major and complicated administrative cases within its territorial jurisdiction.

Article 17 The Supreme People's Court shall have jurisdiction as a court of first instance over major and complicated administrative cases nationwide.

Article 18 An administrative case shall be under the jurisdiction of the people's court at the place where the administrative agency taking the original administrative action is located. A case that has undergone reconsideration may also be under the jurisdiction of the people's court at the place where the reconsideration agency is located.

With the approval of the Supreme People's Court, a Higher People's Court may determine several people's courts that have jurisdiction over administrative cases across administrative regions.

Article 19 A complaint against an administrative compulsory measure that restricts personal freedom shall be under the jurisdiction of the people's court at the place where the defendant or the plaintiff is located.

Article 20 Administrative litigation involving real property shall be under the jurisdiction of the people's court at the place where the real property is located.

第十四条 基层人民法院管辖第一审行政案件。

第十五条 中级人民法院管辖下列第一审行政案件：

(一) 对国务院部门或者县级以上地方人民政府所作的行政行为提起诉讼的案件；

(二) 海关处理的案件；

(三) 本辖区内重大、复杂的案件；

(四) 其他法律规定由中级人民法院管辖的案件。

第十六条 高级人民法院管辖本辖区内重大、复杂的第一审行政案件。

第十七条 最高人民法院管辖全国范围内重大、复杂的第一审行政案件。

第十八条 行政案件由最初作出行政行为的行政机关所在地人民法院管辖。经复议的案件，也可以由复议机关所在地人民法院管辖。

经最高人民法院批准，高级人民法院可以根据审判工作的实际情况，确定若干人民法院跨行政区域管辖行政案件。

第十九条 对限制人身自由的行政强制措施不服提起的诉讼，由被告所在地或者原告所在地人民法院管辖。

第二十条 因不动产提起的行政诉讼，由不动产所在地人民法院管辖。

Article 21 Where two or more people's courts have jurisdiction over the same case, the plaintiff may file a complaint in one of these people's courts. If the plaintiff has filed a complaint in two or more people's courts that have jurisdiction over the case, the people's court that first docketed the case shall have jurisdiction.

Article 22 Where a people's court finds that a case accepted is not under its jurisdiction, it shall transfer the case to the people's court that has jurisdiction over the case, and the people's court to which the case is transferred shall accept the case. If the people's court to which the case is transferred deems that the case is not under its jurisdiction either according to the relevant provisions, it shall report to the people's court at a higher level for designated jurisdiction, and may not transfer the case to another people's court on its own initiative.

Article 23 Where a people's court which has jurisdiction over a case is unable to exercise its jurisdiction for any special reasons, the people's court at a higher level shall designate another court to exercise jurisdiction over the case.

Where any dispute over jurisdiction arises between the people's courts, the dispute shall be resolved by such people's courts through consultation. If such consultation fails, the dispute shall be reported to the common people's court at a higher level of them for the designation of jurisdiction.

Article 24 A people's court at a higher level shall have the power to try administrative cases over which a people's court at a lower level has jurisdiction as a court of first instance.

Where a people's court at a lower level deems that it is necessary for a people's court at a higher level to try an administrative case over which the people's court at a lower level has jurisdiction as a court of first instance or to designate jurisdiction over the case, it may report the case to the people's court at a higher level for decision.

Chapter IV Primary Litigation Participants

Article 25 A person subjected to an administrative action or any other person which is a citizen, a legal person, or any other organization with an interest in the administrative

第二十一条 两个以上人民法院都有管辖权的案件，原告可以选择其中一个人民法院提起诉讼。原告向两个以上有管辖权的人民法院提起诉讼的，由最先立案的人民法院管辖。

第二十二条 人民法院发现受理的案件不属于本院管辖的，应当移送有管辖权的人民法院，受移送的人民法院应当受理。受移送的人民法院认为受移送的案件按照规定不属于本院管辖的，应当报请上级人民法院指定管辖，不得再自行移送。

第二十三条 有管辖权的人民法院由于特殊原因不能行使管辖权的，由上级人民法院指定管辖。

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

第二十四条 上级人民法院有权审理下级人民法院管辖的第一审行政案件。

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

第四章 诉讼参加人

第二十五条 行政行为的相对人以及其他与行政行为有利害

action shall have the right to file a complaint against the administrative action.

If a citizen who has the right to file a complaint is deceased, his or her close relatives may file the complaint.

If a legal person or any other organization which has the right to file a complaint is terminated, the legal person or other organization which succeeds to its rights may file the complaint.

Where the people's procuratorate finds in the performance of functions that any administrative authority assuming supervision and administration functions in such fields as the protection of the ecological environment and resources, food and drug safety, protection of state-owned property, and the assignment of the right to use state-owned land exercises functions in violation of any law or conducts nonfeasance, which infringes upon national interest or public interest, it shall offer procuratorial recommendations to the administrative authority, and urge it to perform functions in accordance with the law. If the administrative authority fails to perform functions in accordance with the law, the people's procuratorate shall file a lawsuit with the people's court in accordance with the law.

Article 26 Where a citizen, a legal person, or any other organization directly files a complaint with a people's court, the administrative agency taking the alleged administrative action shall be the defendant.

For a case that has undergone reconsideration, if the reconsideration agency's decision sustains the original administrative action, the administrative agency taking the original administrative action and the reconsideration agency shall be co-defendants; or, if the reconsideration agency's decision modifies the original administrative action, the reconsideration agency shall be the defendant.

If the reconsideration agency fails to make a reconsideration decision during the statutory period, and a citizen, a legal person, or any other organization files a complaint against the original administrative action, the administrative agency taking the original administrative action shall be the defendant; or if a complaint is filed against the inaction of the reconsideration agency, the reconsideration agency shall be the defendant.

关系的公民、法人或者其他组织，有权提起诉讼。

有权提起诉讼的公民死亡，其近亲属可以提起诉讼。

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

人民检察院在履行职责中发现生态环境和资源保护、食品药品安全、国有财产保护、国有土地使用权出让等领域负有监督管理职责的行政机关违法行使职权或者不作为，致使国家利益或者社会公共利益受到侵害的，应当向行政机关提出检察建议，督促其依法履行职责。行政机关不依法履行职责的，人民检察院依法向人民法院提起诉讼。

第二十六条 公民、法人或者其他组织直接向人民法院提起诉讼的，作出行政行为的行政机关是被告。

经复议的案件，复议机关决定维持原行政行为的，作出原行政行为的行政机关和复议机关是共同被告；复议机关改变原行政行为的，复议机关是被告。

复议机关在法定期限内未作出复议决定，公民、法人或者其他组织起诉原行政行为的，作出原行政行为的行政机关是被告；起诉复议机关不作为的，复议机关是被告。

For an administrative action taken by two or more administrative agencies, the administrative agencies jointly taking the administrative action shall be co-defendants.

For an administrative action taken by an organization as authorized by an administrative agency, the authorizing administrative agency shall be the defendant.

Where an administrative agency is abolished or its powers are modified, the administrative agency that succeeds to such powers shall be the defendant.

Article 27 Where one side or both sides in an administrative case arising from the same administrative action consist of two or more parties, or, where the people's court deems that two or more administrative cases arising from the same type of administrative actions may be concurrently tried upon consent of the parties to such cases, such a procedure is a joinder of proceedings.

Article 28 Where one side in a joinder of proceedings consists of a large number of parties, such parties may elect a representative or representatives from among them to proceed. The conduct of such a representative in the proceedings shall be binding upon all the parties represented; however, to modify or relinquish any claims or admit any claims of the opposing party, such a representative must obtain the consent of the parties represented

Article 29 Where a citizen, a legal person, or any other organization with an interest in the administrative action alleged in a complaint does not file a complaint against the administrative action, or where a citizen, a legal person, or any other organization has an interest in the outcome of the case, the citizen, legal person, or other organization may, as a third party, file a request for participating in the proceedings or participate in the proceedings as notified by the people's court.

Where a people's court enters a judgment that imposes any obligation on a third party or impairs the rights and interests of the third party, the third party shall have the right to file an appeal according to the law.

Article 30 The legal representative of a citizen without the capacity to litigate shall litigate on behalf of the citizen. If the legal representatives of such a citizen try to shift their

两个以上行政机关作出同一行政行为的，共同作出行政行为的行政机关是共同被告。

行政机关委托的组织所作的行政行为，委托的行政机关是被告。

行政机关被撤销或者职权变更的，继续行使其职权的行政机关是被告。

第二十七条 当事人一方或者双方为二人以上，因同一行政行为发生的行政案件，或者因同类行政行为发生的行政案件、人民法院认为可以合并审理并经当事人同意的，为共同诉讼。

第二十八条 当事人一方人数众多的共同诉讼，可以由当事人推选代表人进行诉讼。代表人的诉讼行为对其所代表的当事人发生效力，但代表人变更、放弃诉讼请求或者承认对方当事人的诉讼请求，应当经被代表的当事人同意。

第二十九条 公民、法人或者其他组织同被诉行政行为有利害关系但没有提起诉讼，或者同案件处理结果有利害关系的，可以作为第三人申请参加诉讼，或者由人民法院通知参加诉讼。

人民法院判决第三人承担义务或者减损第三人权益的，第三人有权依法提起上诉。

第三十条 没有诉讼行为能力的公民，由其法定代理人代为诉讼。法定代理人互相推诿代理

representative responsibilities onto each other, the people's court may designate one of them to litigate on behalf of the citizen.

Article 31 A party or a legal representative may retain one or two persons as litigation representatives.

The following persons may serve as a litigation representative:

(1) A lawyer, or a legal service worker at the basic level.

(2) A close relative or staff member of a party.

(3) A citizen recommended by a party's community or employer or by a relevant social group.

Article 32 Lawyers who represent the parties to a case shall have the right to consult and copy materials related to the case according to the relevant provisions and the right to investigate and collect evidence related to the case from relevant organizations and citizens. Materials which involve any state secret, trade secret, or individual privacy shall be kept confidential according to the law.

The parties and other litigation representatives shall have the right to consult and copy materials related to the court trial, except the portions involving any state secret, trade secret, or individual privacy.

Chapter V Evidence

Article 33 Evidence includes:

(1) documentary evidence;

(2) physical evidence;

(3) audio and video recordings;

(4) electronic data;

(5) witness testimony;

(6) statement of a party;

(7) opinion of a forensic identification or evaluation expert;
and

责任的，由人民法院指定其中一人代为诉讼。

第三十一条 当事人、法定代理人，可以委托一至二人作为诉讼代理人。

下列人员可以被委托为诉讼代理人：

（一）律师、基层法律服务工作者；

（二）当事人的近亲属或者工作人员；

（三）当事人所在社区、单位以及有关社会团体推荐的公民。

第三十二条 代理诉讼的律师，有权按照规定查阅、复制本案有关材料，有权向有关组织和公民调查，收集与本案有关的证据。对涉及国家秘密、商业秘密和个人隐私的材料，应当依照法律规定保密。

当事人和其他诉讼代理人有权按照规定查阅、复制本案庭审材料，但涉及国家秘密、商业秘密和个人隐私的内容除外。

第五章 证据

第三十三条 证据包括：

（一）书证；

（二）物证；

（三）视听资料；

（四）电子数据；

（五）证人证言；

（六）当事人的陈述；

（七）鉴定意见；

(8) survey transcripts and on-site disposition transcripts.

The aforesaid evidence must be verified in court before being used as a basis for finding the facts of a case.

Article 34 The defendant shall have the burden of proof for the administrative action taken, and provide evidence for taking the administrative action and regulatory documents based on which the administrative action was taken.

Where the defendant fails to provide, or provides beyond the prescribed time limit without a good reason, any evidence, it shall be deemed that the evidence does not exist, unless the evidence is provided by a third party because the alleged administrative action involves the lawful rights and interests of the third party.

Article 35 In the course of litigation, the defendant or a litigation representative thereof may not directly collect evidence from the plaintiff, a third party, or a witness.

Article 36 Where the defendant had collected evidence when taking the administrative action, but is unable to provide such evidence for a good reason such as a force majeure, with the permission of the people's court, the time limit for the defendant to provide such evidence may be extended.

Where the plaintiff or a third party provides any ground or evidence that was not provided in the defendant's administrative disposition procedures, with the permission of the people's court, the defendant may provide additional evidence.

Article 37 The plaintiff may provide evidence to prove that the alleged administrative action was taken in violation of the law. The inadmissibility of evidence provided by the plaintiff shall not relieve the defendant from the burden of proof.

Article 38 Where a complaint is filed for the defendant's failure to perform its statutory duties and responsibilities, the plaintiff shall provide evidence to prove that it has filed a request for such performance with the defendant, except under either of the following circumstances:

(1) The defendant shall actively perform its statutory duties and responsibilities as required by its powers.

(八) 勘验笔录、现场笔录。

以上证据经法庭审查属实，才能作为认定案件事实的根据。

第三十四条 被告对作出的行政行为负有举证责任，应当提供作出该行政行为的证据和所依据的规范性文件。

被告不提供或者无正当理由逾期提供证据，视为没有相应证据。但是，被诉行政行为涉及第三人合法权益，第三人提供证据的除外。

第三十五条 在诉讼过程中，被告及其诉讼代理人不得自行向原告、第三人和证人收集证据。

第三十六条 被告在作出行政行为时已经收集了证据，但因不可抗力等正当事由不能提供的，经人民法院准许，可以延期提供。

原告或者第三人提出了其在行政处理程序中没有提出的理由或者证据的，经人民法院准许，被告可以补充证据。

第三十七条 原告可以提供证明行政行为违法的证据。原告提供的证据不成立的，不免除被告的举证责任。

第三十八条 在起诉被告不履行法定职责的案件中，原告应当提供其向被告提出申请的证据。但有下列情形之一的除外：

(一) 被告应当依职权主动履行法定职责的；

(2) The plaintiff is unable to provide evidence for a good reason.

In a case of administrative compensation or indemnity, the plaintiff shall provide evidence on the damage caused by the administrative action. If the inability of the plaintiff to provide such evidence is caused by the defendant, the defendant shall have the burden of proof.

Article 39 A people's court shall have the power to require a party to provide evidence or provide additional evidence.

Article 40 A people's court shall have the power to subpoena evidence from the relevant administrative agencies, other organizations, and citizens, but may not, for the purpose of proving the legality of an administrative, subpoena any evidence that had not been collected by the defendant when taking the administrative action.

Article 41 The plaintiff or a third party in a case may apply to the people's court for subpoenaing the following evidence related to the case which the plaintiff or third party is unable to collect independently:

(1) Evidence preserved by a state organ which may be obtained by a subpoena of a people's court.

(2) Evidence which involves any state secret, trade secret, or individual privacy.

(3) Other evidence which the plaintiff or a third party is unable to collect independently for objective reasons.

Article 42 Where any evidence may be extinguished or may be hard to obtain at a later time, a primary litigation participant may file a motion to the people's court for evidence preservation, and the people's court may also take preservation measures on its own initiative.

Article 43 Evidence shall be presented in court and cross-examined by the parties. Evidence involving any state secret, trade secret, or individual privacy may not be presented in an open court.

A people's court shall comprehensively and objectively examine and verify evidence under the statutory procedures. For inadmissible evidence, reasons for inadmissibility shall be stated in the written adjudication.

(二) 原告因正当理由不能提供证据的。

在行政赔偿、补偿的案件中，原告应当对行政行为造成的损害提供证据。因被告的原因导致原告无法举证的，由被告承担举证责任。

第三十九条 人民法院有权要求当事人提供或者补充证据。

第四十条 人民法院有权向有关行政机关以及其他组织、公民调取证据。但是，不得为证明行政行为的合法性调取被告作出行政行为时未收集的证据。

第四十一条 与本案有关的下列证据，原告或者第三人不能自行收集的，可以申请人民法院调取：

(一) 由国家机关保存而须由人民法院调取的证据；

(二) 涉及国家秘密、商业秘密和个人隐私的证据；

(三) 确因客观原因不能自行收集的其他证据。

第四十二条 在证据可能灭失或者以后难以取得的情况下，诉讼参加人可以向人民法院申请保全证据，人民法院也可以主动采取保全措施。

第四十三条 证据应当在法庭上出示，并由当事人互相质证。对涉及国家秘密、商业秘密和个人隐私的证据，不得在公开开庭时出示。

人民法院应当按照法定程序，全面、客观地审查核实证据。对未采纳的证据应当在裁判文书中说明理由。

Illegally obtained evidence may not be used as a basis for finding the facts of a case.

Chapter VI Filing a Complaint and Accepting a Case

Article 44 For administrative cases within the scope of cases accepted by the people's courts, a citizen, a legal person, or any other organization may first apply to the administrative agency for reconsideration, and then file a complaint against the reconsideration decision with a people's court; or directly file a complaint with a people's court.

Where any law or regulation provides that an application for reconsideration shall be filed with the administrative agency before a complaint against the reconsideration decision is filed with a people's court, such a law or regulation shall apply.

Article 45 Against a reconsideration decision, a citizen, a legal person, or any other organization may file a complaint with a people's court within 15 days of receipt of the written reconsideration decision. If the reconsideration agency fails to make a decision during the statutory period, the applicant may file a complaint with a people's court within 15 days of expiry of the reconsideration period, except as otherwise provided for by any law.

Article 46 To directly file a complaint with a people's court, a citizen, a legal person, or any other organization shall file the complaint within six months from the day when the citizen, legal person, or other organization knew or should have known that the administrative action was taken, except as otherwise provided for by any law.

A people's court shall not accept a complaint involving real property filed more than 20 years after the alleged administrative action was taken or a complaint involving any other dispute filed more than five years after the alleged administrative action was taken.

Article 47 Where a citizen, a legal person, or any other organization applies to an administrative agency for its performance of statutory duties and responsibilities in respect of protecting the personal rights, property rights, and other lawful rights and interests of the citizen, legal person, or other organization, and the administrative agency fails to do so within two months of receipt of the

以非法手段取得的证据，不得作为认定案件事实的根据。

第六章 起诉和受理

第四十四条 对属于人民法院受案范围的行政案件，公民、法人或者其他组织可以先向行政机关申请复议，对复议决定不服的，再向人民法院提起诉讼；也可以直接向人民法院提起诉讼。

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

第四十五条 公民、法人或者其他组织不服复议决定的，可以在收到复议决定书之日起十五日内向人民法院提起诉讼。复议机关逾期不作决定的，申请人可以在复议期满之日起十五日内向人民法院提起诉讼。法律另有规定的除外。

第四十六条 公民、法人或者其他组织直接向人民法院提起诉讼的，应当自知道或者应当知道作出行政行为之日起六个月内提出。法律另有规定的除外。

因不动产提起诉讼的案件自行政行为作出之日起超过二十年，其他案件自行政行为作出之日起超过五年提起诉讼的，人民法院不予受理。

第四十七条 公民、法人或者其他组织申请行政机关履行保护其人身权、财产权等合法权益的法定职责，行政机关在接到申请之日起两个月内不履行的，公民、法人或者其他组织可以向人民法院提起诉讼。法律、法规对

application, the citizen, legal person, or other organization may file a complaint with a people's court. Where any law or regulation provides otherwise for the period for an administrative agency to perform its duties and responsibilities, such a law or regulation shall apply.

Where a citizen, a legal person, or any other organization requests an administrative agency to perform its statutory duties and responsibilities in respect of protecting the personal rights, property rights, and other lawful rights and interests of the citizen, legal person, or other organization in case of emergency, and the administrative agency fails to do so, a complaint filed by the citizen, legal person, or other organization shall not be subject to the periods as mentioned in the preceding paragraph.

Article 48 Where a citizen, a legal person, or any other organization delays in filing a complaint during the time limitation for filing a complaint for a force majeure or any other reason not attributable to the citizen, legal person, or other organization, the time of delay shall not be counted in the time limitation for filing a complaint.

Where a citizen, a legal person, or any other organization delays in filing a complaint during the time limitation for filing a complaint under any special circumstances other than those as mentioned in the preceding paragraph, the citizen, legal person, or other organization may apply for an extension of the time limitation within ten days after the obstacle is eliminated, and the people's court shall decide whether to grant extension.

Article 49 A complaint to be filed shall satisfy the following requirements:

- (1) The plaintiff is a citizen, a legal person, or any other organization as mentioned in Article 25 of this Law.
- (2) There must be a specific defendant.
- (3) There must be specific claims and factual basis for the complaint.
- (4) The complaint must fall within the scope of cases accepted by the people's courts and under the jurisdiction of the people's court with which the complaint is filed.

行政机关履行职责的期限另有规定的，从其规定。

公民、法人或者其他组织在紧急情况下请求行政机关履行保护其人身权、财产权等合法权益的法定职责，行政机关不履行的，提起诉讼不受前款规定期限的限制。

第四十八条 公民、法人或者其他组织因不可抗力或者其他不属于其自身的原因耽误起诉期限的，被耽误的时间不计算在起诉期限内。

公民、法人或者其他组织因前款规定以外的其他特殊情况耽误起诉期限的，在障碍消除后十日内，可以申请延长期限，是否准许由人民法院决定。

第四十九条 提起诉讼应当符合下列条件：

- (一) 原告是符合本法第二十五条规定的公民、法人或者其他组织；
- (二) 有明确的被告；
- (三) 有具体的诉讼请求和事实根据；
- (四) 属于人民法院受案范围和受诉人民法院管辖。

Article 50 The plaintiff shall file a written complaint with a people's court, and provide the copies thereof according to the number of defendants.

Where it is difficult for a plaintiff to write a complaint, the plaintiff may verbally file a complaint, and the people's court shall transcribe the complaint, issue a dated certification in writing, and notify the opposing party.

Article 51 A people's court receiving a complaint shall docket it if it meets the conditions for filing a complaint as set out in this Law.

Where a people's court is unable to determine on the spot whether a complaint meets the conditions for filing a complaint as set out in this Law, the people's court shall receive the complaint, issue a written certification showing the date of receipt, and decide whether to docket the complaint within seven days. If the complaint does not meet the conditions for filing a complaint, the people's court shall enter a ruling not to docket the complaint. The written ruling shall state the reasons for not docketing the complaint. The plaintiff may file an appeal against the ruling.

Where a complaint is incomplete or otherwise erroneous, a people's court shall offer guidance and explanation, and notify the party of all necessary supplements and corrections at one time. Without such guidance and explanation, the people's court may not refuse to receive the complaint on the ground that it fails to meet the conditions for filing a complaint.

Where a people's court refuses to receive a complaint, refuses to issue a written certification after receiving a complaint, or fails to notify a party of all necessary supplements or corrections to a complaint at one time, the party may report it to the people's court at a higher level, which shall order corrective action to be taken by the people's court and take disciplinary action against its directly liable supervising official and other directly liable persons according to the law.

Article 52 Where a people's court neither docketed nor enters a ruling not to docket a complaint, the plaintiff may file a complaint in the people's court at the next higher level. If the people's court at the next higher level deems that the complaint meets the conditions for filing a

第五十条 起诉应当向人民法院递交起诉状，并按照被告人数提出副本。

书写起诉状确有困难的，可以口头起诉，由人民法院记入笔录，出具注明日期的书面凭证，并告知对方当事人。

第五十一条 人民法院在接到起诉状时对符合本法规定的起诉条件的，应当登记立案。

对当场不能判定是否符合本法规定的起诉条件的，应当接收起诉状，出具注明收到日期的书面凭证，并在七日内决定是否立案。不符合起诉条件的，作出不予立案的裁定。裁定书应当载明不予立案的理由。原告对裁定不服的，可以提起上诉。

起诉状内容欠缺或者有其他错误的，应当给予指导和释明，并一次性告知当事人需要补正的内容。不得未经指导和释明即以起诉不符合条件为由不接收起诉状。

对于不接收起诉状、接收起诉状后不出具书面凭证，以及不一次性告知当事人需要补正的起诉状内容的，当事人可以向上级人民法院投诉，上级人民法院应当责令改正，并对直接负责的主管人员和其他直接责任人员依法给予处分。

第五十二条 人民法院既不立案，又不作出不予立案裁定的，当事人可以向上一级人民法院起诉。上一级人民法院认为符合起诉条件的，应当立案、审

complaint, it shall docket the complaint and try the case, or designate any other people's court at the lower level to docket the complaint and try the case.

Article 53 Where a citizen, a legal person, or any other organization deems that a regulatory document developed by a department of the State Council or by a local people's government or a department thereof, based on which the alleged administrative action was taken, is illegal, the citizen, legal person, or other organization may concurrently file a request for review of the regulatory document when filing a complaint against the administrative action.

The term "regulatory document" as mentioned in the preceding paragraph does not include administrative rules.

Chapter VII Trial and Judgment

Section 1 General Rules

Article 54 The people's courts shall try administrative cases publicly, except those involving any state secret or individual privacy or as otherwise provided for by any law.

A case involving any trade secret may be tried in camera if a party to the case files a motion for trial in camera.

Article 55 Where a party to a case deems that a judge has an interest in the case or is otherwise related to the case, which may affect the impartial trial of the case, the party shall have the right to request the disqualification of the judge.

Where a judge deems himself or herself to have an interest in the case or be otherwise related to the case, the judge shall request disqualification of himself or herself.

The provisions of the preceding two paragraphs shall also apply to court clerks, interpreters, identification or evaluation experts, and surveyors.

The disqualification of the president of a people's court as the presiding judge shall be decided by the judicial committee of the people's court; the disqualification of judges shall be decided by the president of a people's court; and the disqualification of other persons shall be

理，也可以指定其他下级人民法院立案、审理。

第五十三条 公民、法人或者其他组织认为行政行为所依据的国务院部门和地方人民政府及其部门制定的规范性文件不合法，在对行政行为提起诉讼时，可以一并请求对该规范性文件进行审查。

前款规定的规范性文件不含规章。

第七章 审理和判决

第一节 一般规定

第五十四条 人民法院公开审理行政案件，但涉及国家秘密、个人隐私和法律另有规定的除外。

涉及商业秘密的案件，当事人申请不公开审理的，可以不公开审理。

第五十五条 当事人认为审判人员与本案有利害关系或者有其他关系可能影响公正审判，有权申请审判人员回避。

审判人员认为自己与本案有利害关系或者有其他关系，应当申请回避。

前两款规定，适用于书记员、翻译人员、鉴定人、勘验人。

院长担任审判长时的回避，由审判委员会决定；审判人员的回避，由院长决定；其他人员的回避，由审判长决定。当事人对决定不服的，可以申请复议一次。

decided by the presiding judge. Against such a decision, a party may apply for reconsideration once.

Article 56 During litigation, the execution of the alleged administrative action shall not be suspended; however, under any of the following circumstances, a ruling shall be entered to suspend execution:

(1) The defendant deems it necessary to suspend execution.

(2) The plaintiff or an interested party files a motion for suspending execution, and the people's court deems that the execution of the alleged administrative action will result in irreparable losses and that its suspension will not damage the national interest or public interest.

(3) The people's court deems that the execution of the alleged administrative action will cause any major damage to the national interest or public interest.

(4) The suspension is required by any law or regulation.

Against a ruling to suspend or not to suspend execution, a party may apply for reconsideration once.

Article 57 For a complaint against an administrative agency for its failure to pay, according to the law, any consolation money, minimum subsistence, or social insurance benefits for work-related injury or medical treatment, a people's court may enter a ruling to grant advance enforcement if the plaintiff files such a motion, the rights and obligations between the parties are clear, and a denial of advance enforcement will seriously affect the subsistence of the plaintiff.

Against a ruling on advance enforcement, a party may apply for reconsideration once. Pending reconsideration, the execution of the ruling shall not be suspended.

Article 58 Where a plaintiff refuses to appear in court without a good reason after being subpoenaed or leaves the courtroom during a court session without the permission of the court, the court may deem that the plaintiff has withdrawn its complaint; and where a defendant refuses to appear in court without a good reason or leaves the courtroom during a court session without the

第五十六条 诉讼期间，不停止行政行为的执行。但有下列情形之一的，裁定停止执行：

（一）被告认为需要停止执行的；

（二）原告或者利害关系人申请停止执行，人民法院认为该行政行为的执行会造成难以弥补的损失，并且停止执行不损害国家利益、社会公共利益的；

（三）人民法院认为该行政行为的执行会给国家利益、社会公共利益造成重大损害的；

（四）法律、法规规定停止执行的。

当事人对停止执行或者不停止执行的裁定不服的，可以申请复议一次。

第五十七条 人民法院对起诉行政机关没有依法支付抚恤金、最低生活保障金和工伤、医疗社会保险金的案件，权利义务关系明确、不先予执行将严重影响原告生活的，可以根据原告的申请，裁定先予执行。

当事人对先予执行裁定不服的，可以申请复议一次。复议期间不停止裁定的执行。

第五十八条 经人民法院传票传唤，原告无正当理由拒不到庭，或者未经法庭许可中途退庭的，可以按照撤诉处理；被告无正当理由拒不到庭，或者未经法庭许可中途退庭的，可以缺席判决。

permission of the court, the court may enter a default judgment.

Article 59 Where a litigation participant or any other person commits any of the following conduct, a people's court may, according to the severity of the circumstances, reprimand the person, order the person to sign a personal statement of repentance, impose a fine of not more than 10,000 yuan on the person, or detain the person for no longer than 15 days; and if the conduct constitutes a crime, the offender shall be subject to criminal liability according to the law:

(1) As a person with an obligation to assist in investigation or enforcement, evading or refusing without reasons the performance of such an obligation or obstructing investigation or enforcement after receiving an investigation assistance decision or an enforcement assistance notice from a people's court.

(2) Forging, concealing, or destroying evidence or providing false certification materials to obstruct the trial of a case by a people's court.

(3) Instigating or, by bribery or intimidation, causing any other person to commit perjury, threatening a witness, or preventing a witness from testifying.

(4) Concealing, transferring, selling, destroying, or damaging any seized, impounded, or frozen property.

(5) Causing the plaintiff to withdraw its complaint by deception, intimidation, or any other illegal means.

(6) Obstructing a staff member of a people's court from performing his or her duties by violence, threat, or any other means, or disturbing the order of a people's court by clamoring in a courtroom, attacking a courtroom, or any other means.

(7) Intimidating, insulting, defaming, framing up, assaulting, attacking, or retaliating on a judge or any other staff member of the people's court, a litigation participant, or a person assisting in investigation or enforcement.

For an entity committing any of the conduct as mentioned in the preceding paragraph, a people's court may fine or

第五十九条 诉讼参与人或者其他人有下列行为之一的，人民法院可以根据情节轻重，予以训诫、责令具结悔过或者处一万元以下的罚款、十五日以下的拘留；构成犯罪的，依法追究刑事责任：

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

（二）伪造、隐藏、毁灭证据或者提供虚假证明材料，妨碍人民法院审理案件的；

（三）指使、贿买、胁迫他人作伪证或者威胁、阻止证人作证的；

（四）隐藏、转移、变卖、毁损已被查封、扣押、冻结的财产的；

（五）以欺骗、胁迫等非法手段使原告撤诉的；

（六）以暴力、威胁或者其他方法阻碍人民法院工作人员执行职务，或者以哄闹、冲击法庭等方法扰乱人民法院工作秩序的；

（七）对人民法院审判人员或者其他工作人员、诉讼参与人、协助调查和执行的人员恐吓、侮辱、诽谤、诬陷、殴打、围攻或者打击报复的。

人民法院对有前款规定的行为之一的单位，可以对其主要负责人

detain its primary person in charge or directly liable persons in accordance with the preceding paragraph; and if the conduct constitutes a crime, the offender shall be subject to criminal liability according to the law.

Any fine or detention must be subject to the approval of the president of a people's court. Against such punishment, a party may apply to the people's court at the next higher level for reconsideration once. Pending reconsideration, the execution of such punishment shall not be suspended.

Article 60 In the trial of an administrative case, a people's court may not conduct mediation, unless the case involves administrative compensation or indemnity or involves an administrative agency's exercise of discretionary power prescribed by any law or regulation.

"Mediation shall be conducted under the principle of free will and legality, without detriment to the national interest, public interest, or lawful rights and interests of others.

Article 61 Where a party to an administrative procedure involving administrative licensing, registration, expropriation, requisition, or an administrative agency's ruling on a civil dispute applies for settling the relevant civil dispute concurrently, the people's court may try the civil dispute case concurrently.

Where, in administrative litigation, the people's court deems it necessary to base the trial of the administrative case upon an adjudication to be made in a civil procedure, it may enter a ruling to suspend the administrative litigation.

Article 62 Where, before a people's court pronounces its judgment or ruling for an administrative case, the plaintiff requests the withdrawal of the case, or the defendant modifies its administrative action and, as a result, the plaintiff agrees to and applies for the withdrawal of the case, the people's court shall enter a ruling on whether to allow the withdrawal.

Article 63 The people's courts shall try administrative cases based on laws, administrative regulations, and local regulations. Local regulations shall be applicable to administrative cases occurring within the respective administrative regions.

或者直接责任人员依照前款规定予以罚款、拘留；构成犯罪的，依法追究刑事责任。

罚款、拘留须经人民法院院长批准。当事人不服的，可以向上一级人民法院申请复议一次。复议期间不停止执行。

第六十条 人民法院审理行政案件，不适用调解。但是，行政赔偿、补偿以及行政机关行使法律、法规规定的自由裁量权的案件可以调解。

调解应当遵循自愿、合法原则，不得损害国家利益、社会公共利益和他人合法权益。

第六十一条 在涉及行政许可、登记、征收、征用和行政机关对民事争议所作的裁决的行政诉讼中，当事人申请一并解决相关民事争议的，人民法院可以一并审理。

在行政诉讼中，人民法院认为行政案件的审理需以民事诉讼的裁判为依据的，可以裁定中止行政诉讼。

第六十二条 人民法院对行政案件宣告判决或者裁定前，原告申请撤诉的，或者被告改变其所作的行政行为，原告同意并申请撤诉的，是否准许，由人民法院裁定。

第六十三条 人民法院审理行政案件，以法律和行政法规、地方性法规为依据。地方性法规适用于本行政区域内发生的行政案件。

For administrative cases in an ethnic autonomous region, the people's courts shall also try such cases based on the regulation on autonomy and the separate regulations of the ethnic autonomous region.

In trying administrative cases, a people's court may refer to administrative rules.

Article 64 Where, in trying an administrative case, a people's court deems that any regulatory document as mentioned in Article 53 of this Law under its review is illegal, such a document shall not be used to determine the legality of the alleged administrative action, and the people's court shall provide the authority developing the document with disposition recommendations.

Article 65 A people's court shall publish effective written judgments and rulings for public inspection, except the parts involving any state secret, trade secret, or individual privacy.

Article 66 In trying an administrative case, if a people's court deems that the supervising official or any directly liable person of an administrative agency has violated any law or discipline, the people's court shall transfer the relevant materials to the supervisory authority, the administrative agency, or the administrative agency at the next higher level; or if it deems that any crime has occurred, the people's court shall transfer the relevant materials to the public security authority or procuratorial authority.

Where a defendant refuses to appear in court without a good reason or leaves the courtroom during a court session without the permission of the court, a people's court may announce it to the public, and provide the supervisory authority or the administrative agency at the next higher level of the defendant with judicial recommendations on the disciplinary action to be taken against the primary person in charge or directly liable persons of the defendant.

Section 2 Formal Procedure at First Instance

Article 67 A people's court shall, within five days of docketing a complaint, serve a copy of the written complaint on the defendant. The defendant shall, within 15

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

人民法院审理行政案件，参照规章。

第六十四条 人民法院在审理行政案件中，经审查认为本法第五十三条规定的规范性文件不合法的，不作为认定行政行为合法的依据，并向制定机关提出处理建议。

第六十五条 人民法院应当公开发布法律效力的判决书、裁定书，供公众查阅，但涉及国家秘密、商业秘密和个人隐私的内容除外。

第六十六条 人民法院在审理行政案件中，认为行政机关的主管人员、直接责任人员违法违纪的，应当将有关材料移送监察机关、该行政机关或者其上一级行政机关；认为有犯罪行为的，应当将有关材料移送公安、检察机关。

人民法院对被告经传票传唤无正当理由拒不到庭，或者未经法庭许可中途退庭的，可以将被告拒不到庭或者中途退庭的情况予以公告，并可以向监察机关或者被告的上一级行政机关提出依法给予其主要负责人或者直接责任人员处分的司法建议。

第二节 第一审普通程序

第六十七条 人民法院应当在立案之日起五日内，将起诉状副本发送被告。被告应当在收到

days of receipt of a copy of the written complaint, provide evidence for taking the alleged administrative action and the regulatory documents based on which the administrative action was taken, and submit a written statement of defense. The people's court shall, within five days of receipt of the written statement of defense, serve a copy thereof on the plaintiff.

The defendant's failure to submit a statement of defense shall not affect the trial of the case by the people's court.

Article 68 To try an administrative case, a people's court shall form a collegial bench consisting of judges or a collegial bench consisting of judges and assessors. The members of a collegial bench shall be in an odd number of three or more.

Article 69 Where the alleged administrative action has been taken under statutory procedures with conclusive evidence and correct application of laws and regulations, or the grounds for the plaintiff's application for the defendant to perform its statutory duties and responsibilities or make payment are unfounded, the people's court shall enter a judgment to dismiss the plaintiff's claims.

Article 70 Where the alleged administrative action falls under any of the following circumstances, a people's court shall enter a judgment to entirely or partially revoke the alleged administrative action, and may enter a judgment to require the defendant to take an administrative action anew:

- (1) Insufficiency in primary evidence.
- (2) Erroneous application of any law or regulation.
- (3) Violation of statutory procedures.
- (4) Overstepping of power.
- (5) Abuse of power.
- (6) Evident inappropriateness

Article 71 Where a people's court enters a judgment to require that the defendant take an administrative action anew, the defendant shall not take an administrative action

起诉状副本之日起十五日内向人民法院提交作出行政行为的证据和所依据的规范性文件，并提出答辩状。人民法院应当在收到答辩状之日起五日内，将答辩状副本发送原告。

被告不提出答辩状的，不影响人民法院审理。

第六十八条 人民法院审理行政案件，由审判员组成合议庭，或者由审判员、陪审员组成合议庭。合议庭的成员，应当是三人以上的单数。

第六十九条 行政行为证据确凿，适用法律、法规正确，符合法定程序的，或者原告申请被告履行法定职责或者给付义务理由不成立的，人民法院判决驳回原告的诉讼请求。

第七十条 行政行为有下列情形之一的，人民法院判决撤销或者部分撤销，并可以判决被告重新作出行政行为：

- (一) 主要证据不足的；
- (二) 适用法律、法规错误的；
- (三) 违反法定程序的；
- (四) 超越职权的；
- (五) 滥用职权的；
- (六) 明显不当的。

第七十一条 人民法院判决被告重新作出行政行为的，被告不得以同一的事实和理由作出与

which is basically the same as the original administrative action based on the same facts and reasons.

Article 72 Where, through trial, a people's court holds that the defendant has failed to perform its statutory duties and responsibilities, it shall enter a judgment to require the defendant to perform its statutory duties and responsibilities during a specified period.

Article 73 Where, through trial, a people's court holds that the defendant has a legal obligation to pay, it shall enter a judgment to require the defendant to perform the payment obligation.

Article 74 Where the alleged administrative action falls under any of the following circumstances, a people's court shall enter a judgment to confirm the illegality of the alleged administrative action but not to revoke it:

(1) An administrative action shall be revoked according to the law, but the revocation will cause any significant damage to the national interest or public interest.

(2) A petty violation of the statutory procedures in taking an administrative action will not have any actual impact on the plaintiff's rights.

Where the alleged administrative action falls under any of the following circumstances, a people's court shall enter a judgment to confirm the illegality of the alleged administrative action, if it is not necessary to revoke it or enter a judgment to require the defendant to perform:

(1) An administrative action is illegal, but there is nothing revocable.

(2) The defendant has modified the original illegal administrative action, but the plaintiff still requests confirmation of the illegality of the original administrative action.

(3) The defendant fails to perform or delays the performance of its statutory duties and responsibilities, and it is meaningless to enter a judgment to require the defendant to perform.

Article 75 Where the alleged administrative action has been taken by a party other than an administrative agency, is baseless, or otherwise seriously and evidently violates

原行政行为基本相同的行政行为。

第七十二条 人民法院经过审理，查明被告不履行法定职责的，判决被告在一定期限内履行。

第七十三条 人民法院经过审理，查明被告依法负有给付义务的，判决被告履行给付义务。

第七十四条 行政行为有下列情形之一的，人民法院判决确认违法，但不撤销行政行为：

（一）行政行为依法应当撤销，但撤销会给国家利益、社会公共利益造成重大损害的；

（二）行政行为程序轻微违法，但对原告权利不产生实际影响的。

行政行为有下列情形之一，不需要撤销或者判决履行的，人民法院判决确认违法：

（一）行政行为违法，但不具有可撤销内容的；

（二）被告改变原违法行政行为，原告仍要求确认原行政行为违法的；

（三）被告不履行或者拖延履行法定职责，判决履行没有意义的。

第七十五条 行政行为有实施主体不具有行政主体资格或者没有依据等重大且明显违法情

the law, a people's court shall enter a judgment to confirm the void of the alleged administrative action if the plaintiff so requests.

Article 76 Where a people's court enters a judgment to confirm the illegality or void of the alleged administrative action, it may concurrently order the defendant to take remedial measures; and, if the plaintiff has sustained losses from the alleged administrative action, order the defendant to assume compensatory liability according to the law.

Article 77 Where an administrative punishment is evidently inappropriate, or any other administrative action is erroneous in determining or recognizing an amount, a people's court may enter a judgment to modify it.

A modification judgment of a people's court may not aggregate the plaintiff's obligations or impair the plaintiff's rights and interests, unless the plaintiffs include any interested party with opposing claims.

Article 78 Where the defendant fails to perform according to the law or as agreed upon or illegally modifies or rescinds an agreement as mentioned in item (11), paragraph 1, Article 12 of this Law, a people's court shall enter a judgment to require the defendant to continue to perform, take remedial measures, or compensate for losses, among others.

Where the defendant legally modifies or rescinds an agreement as mentioned in item (11), paragraph 1, Article 12 of this Law, but fails to provide indemnity as required by the law, the people's court shall enter a judgment to require the defendant to provide indemnity.

Article 79 Where the reconsideration agency and the administrative agency taking the original administrative action are co-defendants in a case, a people's court shall adjudicate concurrently on the reconsideration decision and the original administrative action.

Article 80 Whether a case is tried openly or in camera, a people's court shall, without exception, pronounce its judgment publicly.

形，原告申请确认行政行为无效的，人民法院判决确认无效。

第七十六条 人民法院判决确认违法或者无效的，可以同时判决责令被告采取补救措施；给原告造成损失的，依法判决被告承担赔偿责任。

第七十七条 行政处罚明显不当，或者其他行政行为涉及对款额的确定、认定确有错误的，人民法院可以判决变更。

人民法院判决变更，不得加重原告的义务或者减损原告的权益。但利害关系人同为原告，且诉讼请求相反的除外。

第七十八条 被告不依法履行、未按照约定履行或者违法变更、解除本法第十二条第一款第十一项规定的协议的，人民法院判决被告承担继续履行、采取补救措施或者赔偿损失等责任。

被告变更、解除本法第十二条第一款第十一项规定的协议合法，但未依法给予补偿的，人民法院判决给予补偿。

第七十九条 复议机关与作出原行政行为的行政机关为共同被告的案件，人民法院应当对复议决定和原行政行为一并作出裁判。

第八十条 人民法院对公开审理和不公开审理的案件，一律公开宣告判决。

If a judgment is pronounced in court at the end of a trial, a written judgment shall be served within ten days; or if the pronouncement of a judgment is scheduled for a later date, a written judgment shall be served immediately after pronouncement.

When a judgment is pronounced, the parties must be informed of their rights to appeal, the period for filing an appeal, and the appellate court.

Article 81 A people's court of first instance shall enter a judgment within six months from the day when a complaint is docketed. Any extension of the aforesaid period as needed under special circumstances shall be subject to the approval of a Higher People's Court. Where a Higher People's Court trying a case as a court of first instance needs to extend the aforesaid period, the extension shall be subject to the approval of the Supreme People's Court.

Section 3 Summary Procedure

Article 82 In trying the following administrative cases, a people's court of first instance may apply the summary procedure if it deems that the facts are clear, the rights and obligations between the parties are clear, and the dispute is minor:

(1) The alleged administrative action was taken on the spot according to the law.

(2) The amount involved in the case is not more than 2,000 yuan.

(3) The case involves the disclosure of open government information.

For administrative cases other than those as mentioned in the preceding paragraph, the summary procedure may be applied with the consent of all parties.

The summary procedure may not apply to a case remanded for retrial or a case retried under the trial supervision procedure.

Article 83 An administrative case to which the summary procedure is applied shall be tried by a sole judge, and be closed within 45 days from the day when the complaint is docketed.

当庭宣判的，应当在十日内发送判决书；定期宣判的，宣判后立即发给判决书。

宣告判决时，必须告知当事人上诉权利、上诉期限和上诉的人民法院。

第八十一条 人民法院应当在立案之日起六个月内作出第一审判决。有特殊情况需要延长的，由高级人民法院批准，高级人民法院审理第一审案件需要延长的，由最高人民法院批准。

第三节 简易程序

第八十二条 人民法院审理下列第一审行政案件，认为事实清楚、权利义务关系明确、争议不大的，可以适用简易程序：

（一）被诉行政行为是依法当场作出的；

（二）案件涉及款额二千元以下的；

（三）属于政府信息公开案件的。

除前款规定以外的第一审行政案件，当事人各方同意适用简易程序的，可以适用简易程序。

发回重审、按照审判监督程序再审的案件不适用简易程序。

第八十三条 适用简易程序审理的行政案件，由审判员一人独任审理，并应当在立案之日起四十五日内审结。

Article 84 Where a people's court discovers during trial that the application of the summary procedure is not appropriate for the case, it shall enter a ruling to try the case under the formal procedure.

Section 4 Procedures at Second Instance

Article 85 Against a judgment of a people's court of first instance, a party shall have the right to file an appeal with the people's court at the next higher level within 15 days of the service of the written judgment. Against a ruling of a people's court of first instance, a party shall have the right to file an appeal with the people's court at the next higher level within 10 days of the service of the written ruling. If the party fails to appeal upon expiry of the aforesaid period, the judgment or ruling of the people's court of first instance shall take effect.

Article 86 A people's court shall form a collegial bench to try an appeal case in court. Where, after reviewing the case file, conducting investigation, and questioning the parties, no new fact, evidence, or ground is submitted, the collegial bench may try the appeal case without holding court if the collegial bench deems it unnecessary.

Article 87 In trying an appeal case, a people's court shall comprehensively review the judgment or ruling of the people's court conducting the original trial and the alleged administrative action.

Article 88 A people's court trying an appeal case shall enter a final judgment within three months of receipt of a written appeal. Any extension of the aforesaid period as needed under special circumstances shall be subject to the approval of a Higher People's Court. Where a Higher People's Court trying an appeal case needs to extend the aforesaid period, the extension shall be subject to the approval of the Supreme People's Court.

Article 89 A people's court trying an appeal case shall:

(1) enter a judgment or ruling to dismiss the appeal and sustain the original judgment or ruling, if the original judgment or ruling is clear in fact finding and correct in application of laws and regulations;

第八十四条 人民法院在审理过程中,发现案件不宜适用简易程序的,裁定转为普通程序。

第四节 第二审程序

第八十五条 当事人不服人民法院第一审判决的,有权在判决书送达之日起十五日内向上一级人民法院提起上诉。当事人不服人民法院第一审裁定的,有权在裁定书送达之日起十日内向上一级人民法院提起上诉。逾期不提起上诉的,人民法院的第一审判决或者裁定发生法律效力。

第八十六条 人民法院对上诉案件,应当组成合议庭,开庭审理。经过阅卷、调查和询问当事人,对没有提出新的事实、证据或者理由,合议庭认为不需要开庭审理的,也可以不开庭审理。

第八十七条 人民法院审理上诉案件,应当对原审人民法院的判决、裁定和被诉行政行为进行全面审查。

第八十八条 人民法院审理上诉案件,应当在收到上诉状之日起三个月内作出终审判决。有特殊情况需要延长的,由高级人民法院批准,高级人民法院审理上诉案件需要延长的,由最高人民法院批准。

第八十九条 人民法院审理上诉案件,按照下列情形,分别处理:

(一) 原判决、裁定认定事实清楚,适用法律、法规正确的,判决或者裁定驳回上诉,维持原判决、裁定;

(2) enter its own judgment or ruling, revoke the original judgment or ruling, or enter a modification judgment or ruling according to the law, if the original judgment or ruling is erroneous in fact finding or application of laws and regulations;

(3) remand the case to the people's court conducting the original trial for retrial or enter its own judgment after fact finding, if the original judgment is unclear in the finding of the basic facts; or

(4) enter a ruling to revoke the original judgment and remand the case to the people's court conducting the original trial for retrial, if the original judgment omits a party, is a default judgment illegally entered, or otherwise seriously violates the statutory procedures.

Where, after the people's court conducting the original trial enters a judgment for a case remanded for retrial, a party appeals, the people's court of second instance shall not remand the case for retrial again.

Where a people's court trying an appeal case needs to change the original judgment, its own judgment shall also contain a determination regarding the alleged administrative action.

Section 5 Trial Supervision Procedure

Article 90 A party to a case may petition the people's court at the next higher level for retrial if the party deems that the effective judgment or ruling for the case is erroneous, but the execution of the judgment or ruling shall not be suspended.

Article 91 Where a party's petition for retrial falls under any of the following circumstances, a people's court shall conduct retrial:

(1) A ruling not to docket a complaint or a ruling to dismiss a complaint is erroneous.

(2) There is any new evidence which suffices to overturn the original judgment or ruling.

(3) The primary evidence for the fact finding in the original judgment or ruling is insufficient, has not been cross-examined, or is forged.

(二) 原判决、裁定认定事实错误或者适用法律、法规错误的，依法改判、撤销或者变更；

(三) 原判决认定基本事实不清、证据不足的，发回原审人民法院重审，或者查清事实后改判；

(四) 原判决遗漏当事人或者违法缺席判决等严重违反法定程序的，裁定撤销原判决，发回原审人民法院重审。

原审人民法院对发回重审的案件作出判决后，当事人提起上诉的，第二审人民法院不得再次发回重审。

人民法院审理上诉案件，需要改变原审判决的，应当同时对被诉行政行为作出判决。

第五节 审判监督程序

第九十条 当事人对已经发生法律效力判决、裁定，认为确有错误的，可以向上一级人民法院申请再审，但判决、裁定不停止执行。

第九十一条 当事人的申请符合下列情形之一的，人民法院应当再审：

(一) 不予立案或者驳回起诉确有错误的；

(二) 有新的证据，足以推翻原判决、裁定的；

(三) 原判决、裁定认定事实的主要证据不足、未经质证或者系伪造的；

(4) There is any erroneous application of laws and regulations in the original judgment or ruling.

(5) There is any violation of statutory proceedings, which may affect the impartial trial of the case.

(6) The original judgment or ruling has omitted any claims.

(7) The legal instrument based on which the original judgment or ruling is entered has been revoked or modified.

(8) In trying the case, a judge commits embezzlement, accepts bribes, practices favoritism, makes falsification, or adjudicates by bending the law.

Article 92 Where the president of a people's court at any level discovers that any effective judgment or ruling of the court falls under any of the circumstances as set out in Article 91 of this Law or discovers that any mediation was conducted by the court in violation of the free will principle or any part of an effective consent judgment of the court is in violation of the law, and deems a retrial necessary, the president shall submit the case to the judicial committee of the court for deliberation and decision.

Where the Supreme People's Court discovers that any effective judgment or ruling of a local people's court at any level, or a people's court at a higher level discovers that any effective judgment or ruling of a people's court at a lower level, falls under any of the circumstances as set out in Article 91 of this Law, the Supreme People's Court discovers that any mediation was conducted by a local people's court at any level in violation of the free will principle or any part of an effective consent judgment of a local people's court at any level is in violation of the law, or a people's court at a higher level discovers that any mediation was conducted by a people's court at a lower level in violation of the free will principle or any part of an effective consent judgment of a people's court at a lower level is in violation of the law, the Supreme People's Court or the people's court at a higher level shall have the power to directly retry the case or specify the people's court at a lower level to retry the case.

Article 93 Where the Supreme People's Procuratorate discovers that any effective judgment or ruling of a

(四) 原判决、裁定适用法律、法规确有错误的;

(五) 违反法律规定的诉讼程序, 可能影响公正审判的;

(六) 原判决、裁定遗漏诉讼请求的;

(七) 据以作出原判决、裁定的法律文书被撤销或者变更的;

(八) 审判人员在审理该案件时有贪污受贿、徇私舞弊、枉法裁判行为的。

第九十二条 各级人民法院院长对本院已经发生法律效力判决、裁定, 发现有本法第九十一条规定情形之一, 或者发现调解违反自愿原则或者调解书内容违法, 认为需要再审的, 应当提交审判委员会讨论决定。

最高人民法院对地方各级人民法院已经发生法律效力的判决、裁定, 上级人民法院对下级人民法院已经发生法律效力的判决、裁定, 发现有本法第九十一条规定情形之一, 或者发现调解违反自愿原则或者调解书内容违法的, 有权提审或者指令下级人民法院再审。

第九十三条 最高人民检察院对各级人民法院已经发生法律

people's court at any level, or a people's procuratorate at a higher level discovers that any effective judgment or ruling of a people's court at a lower level, falls under any of the circumstances as set out in Article 91 of this Law, or the Supreme People's Procuratorate discovers that any effective consent judgment of a people's court at any level, or a people's procuratorate at a higher level discovers that any effective consent judgment of a people's court at a lower level, is detrimental to the national interest or public interest, the Supreme People's Procuratorate or the people's procuratorate at a higher level shall file an appeal.

Where a local people's procuratorate at any level discovers that any effective judgment or ruling of a people's court at the same level falls under any of the circumstances as set out in Article 91 of this Law or discovers that any effective consent judgment of a people's court at the same level is detrimental to the national interest or public interest, the people's procuratorate may provide the people's court at the same level with procuratorial recommendations, and report such recommendations to the people's procuratorate at the next higher level for recordation; or request that the people's procuratorate at the next higher level file an appeal with the people's court at the same level.

A people's procuratorate at any level shall have the power to provide a people's court at the same level with procuratorial recommendations regarding the violations of the law by judges in trial procedures other than the trial supervision procedure.

Chapter VIII Enforcement

Article 94 The parties must comply with an effective judgment, ruling, or consent judgment of a people's court.

Article 95 Where a citizen, a legal person, or any other organization refuses to comply with a judgment, ruling, or consent judgment, the administrative agency or a third party may apply to the people's court of first instance for enforcement, or the administrative agency may conduct enforcement according to the law.

Article 96 Where an administrative agency refuses to comply with a judgment, ruling, or consent judgment, the people's court of first instance may take the following measures:

效力的判决、裁定，上级人民检察院对下级人民法院已经发生法律效力效力的判决、裁定，发现有本法第九十一条规定情形之一，或者发现调解书损害国家利益、社会公共利益的，应当提出抗诉。

地方各级人民检察院对同级人民法院已经发生法律效力效力的判决、裁定，发现有本法第九十一条规定情形之一，或者发现调解书损害国家利益、社会公共利益的，可以向同级人民法院提出检察建议，并报上级人民检察院备案；也可以提请上级人民检察院向同级人民法院提出抗诉。

各级人民检察院对审判监督程序以外的其他审判程序中审判人员的违法行为，有权向同级人民法院提出检察建议。

第八章 执行

第九十四条 当事人必须履行人民法院发生法律效力效力的判决、裁定、调解书。

第九十五条 公民、法人或者其他组织拒绝履行判决、裁定、调解书的，行政机关或者第三人可以向第一审人民法院申请强制执行，或者由行政机关依法强制执行。

第九十六条 行政机关拒绝履行判决、裁定、调解书的，第一审人民法院可以采取下列措施：

(1) By a notice, requiring a bank to transfer the amount of a fine that shall be refunded or the amount payable from the administrative agency's account.

(2) If the administrative agency fails to comply during a specified period, imposing a fine of 50 to 100 yuan per day on the person in charge of the administrative agency from the expiry date of the specified period.

(3) Issuing a public announcement on the administrative agency's refusal to comply.

(4) Providing the supervisory authority or the administrative agency at the next higher level with judicial recommendations. The authority or agency receiving judicial recommendations shall handle such recommendations according to the relevant provisions, and inform the people's court of the results.

(5) If the administrative agency's refusal to comply with the judgment, ruling, or consent judgment has any adverse social impact, detaining the directly liable supervising official and other directly liable persons of the administrative agency; and if the circumstances are so serious that any crime is constituted, subjecting the offenders to criminal liability according to the law.

Article 97 Where, during the statutory period, a citizen, a legal person, or any other organization neither files a complaint against an administrative action nor complies with an administrative action, the administrative agency may apply to a people's court for enforcement, or conduct enforcement according to the law.

Chapter IX Foreign-Related Administrative Litigation

Article 98 This Law shall apply to administrative litigation conducted by foreign nationals, stateless persons, and foreign organizations in the People's Republic of China, except as otherwise provided for by any law.

Article 99 Foreign nationals, stateless persons, and foreign organizations conducting administrative litigation in the People's Republic of China shall have equal litigation rights and obligations as citizens and organizations of the People's Republic of China.

Where the courts of a foreign country impose any restrictions on the rights of citizens and organizations of

(一) 对应当归还的罚款或者应当给付的款额, 通知银行从该行政机关的账户内划拨;

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

(三) 将行政机关拒绝履行的情况予以公告;

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

(五) 拒不履行判决、裁定、调解书, 社会影响恶劣的, 可以对该行政机关直接负责的主管人员和其他直接责任人员予以拘留; 情节严重, 构成犯罪的, 依法追究刑事责任。

第九十七条 公民、法人或者其他组织对行政行为在法定期限内不提起诉讼又不履行的, 行政机关可以申请人民法院强制执行, 或者依法强制执行。

第九章 涉外行政诉讼

第九十八条 外国人、无国籍人、外国组织在中华人民共和国进行行政诉讼, 适用本法。法律另有规定的除外。

第九十九条 外国人、无国籍人、外国组织在中华人民共和国进行行政诉讼, 同中华人民共和国公民、组织有同等的诉讼权利和义务。

外国法院对中华人民共和国公民、组织的行政诉讼权利加以限

the People's Republic of China in administrative litigation, the people's courts shall apply the principle of reciprocity to the rights of citizens and organizations of the foreign country in administrative litigation.

Article 100 Where foreign nationals, stateless persons, and foreign organizations retain lawyers to represent them in administrative litigation in the People's Republic of China, they shall retain lawyers of law firms of the People's Republic of China.

Chapter X Supplementary Provisions

Article 101 Where this Law is silent regarding any period, service of process, property preservation, court session, mediation, suspension of proceedings, termination of proceedings, summary procedure, or enforcement, among others, for administrative cases tried by the people's courts or regarding the supervision by the people's procuratorates over the acceptance, trial, adjudication, and enforcement of administrative cases, the relevant provisions of the Civil Procedure Law of the People's Republic of China shall apply.

Article 102 The people's courts shall collect court costs for the trial of administrative cases. The court costs shall be assumed by the losing party or, if both sides are liable, assumed by both sides. The specific measures for the collection of court costs shall be developed additionally.

Article 103 This Law shall come into force on October 1, 1990.

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制的，人民法院对该国公民、组织的行政诉讼权利，实行对等原则。

第一百条 外国人、无国籍人、外国组织在中华人民共和国进行行政诉讼，委托律师代理诉讼的，应当委托中华人民共和国律师机构的律师。

第十章 附 则

第一百零一条 人民法院审理行政案件，关于期间、送达、财产保全、开庭审理、调解、中止诉讼、终结诉讼、简易程序、执行等，以及人民检察院对行政案件受理、审理、裁判、执行的监督，本法没有规定的，适用《中华人民共和国民事诉讼法》的相关规定。

第一百零二条 人民法院审理行政案件，应当收取诉讼费用。诉讼费用由败诉方承担，双方都有责任的由双方分担。收取诉讼费用的具体办法另行规定。

第一百零三条 本法自1990年10月1日起施行。