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**MINISTRY OF HOME AFFAIRS**

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**HOANG NGOC DUNG**

**ADMINISTRATIVE COMPLAINT RESOLUTION  
IN THE  
ADMINISTRATIVE REFORM IN VIETNAM**

**Major : Management of Public Administration**

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**SUMMARY OF DOCTORAL DISSERTATION  
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## INTRODUCTION

### 1. Necessity of the theme

Appeal rights are one of the fundamental human rights recognized in the Constitution of Vietnam in 2013: “*Everyone has the right to lodge complaints and denunciations with competent agencies, organizations and individuals for the unlawful actions of the agencies, organizations and individuals*” (Article 30). However, how that appeal rights are under guarantee depends on the resolution of the State’s administrative agencies and inspection, monitoring activities of the State’s competent agencies.

The Party and State of Vietnam always take great interests in leadership and direction of the settlement of complaints by citizens as having issued a lot of legal documents, resolutions in terms of complaints and complaint resolutions, giving instructions about reorganizing and strengthening the complaint resolutions; regarding the complaint resolutions as one of the key political tasks of the State’s administrative agencies and the responsibility of all political systems towards ensuring, better and better, the human rights, the rights of citizens under conditions of building a socialist law-governed State, reforming the state administration. However, the situation of the complaint in the state administration for recent years has complicatedly happened because of several subjective and objective reasons; activities to address administrative complaints of state administrative agencies are of more reform, innovation, achieving certain results but revealing many limitations and shortcomings, slowly overcoming, accordingly, efficiency of solutions is not so high, not meeting the requirement of the current administrative reform. Therefore, the postgraduate selected the theme “*Resolving administrative complaints in administrative reform in Vietnam*” as the subject of his doctoral theme in the field of Management of Public Administration.

### 2. Research aims and tasks

- *Research aims*: To clarify theoretical issues, practices of settlement of complaints in the state administrative management for recent years to give comments and evaluation in order to provide perspectives and propose some solutions to settling administrative complaints meeting the requirements of the administrative reform.

- *Research task*: To clarify rationale resolving administrative complaints in administrative reform. To investigate, to assess the status of complaints and resolving administrative complaints to clarify these results, limitations to provide perspectives and propose some solutions to ensure settlement of administrative complaints meeting administrative reform goals in Vietnam today.

### 3. Object and scope of research

- *Research object*: Situation of complaints and resolving administrative complaints under conditions of administrative reform in Vietnam today.

- *Scope of research*:

*About research time*: Research in complaints and administrative complaint resolutions in Vietnam since 1999 (when the Law on Complaints and Denunciations become valid) until now.

*About research field*: Focus on some fields emerging state management, topically as influential to the social relations (XH) at the present like: Resources - environment, housing, labor - invalids and social affairs. . .

*About legal documents:* Besides the relevant legislation, the theme is mainly based on the legal documents on settlement of administrative complaints.

#### **4. Methodology and research method**

- *Methodology:* The theme is based on the methodology, the viewpoints of Marxism - Leninism and Ho Chi Minh's thoughts on human rights and ensuring and protecting human rights, including the right to complain; in terms of the state and law; the viewpoints and ways of the Communist Party of Vietnam in resolving administrative complaints, administrative reforms; ensuring the rights and lawful interests of individuals and organizations under conditions of building a Vietnam socialist law-governed State.

- *Research method:* The theme employs the method of dialectical materialism and historical materialism and other methods such as systematic method, methods of analysis, summary method, comparative method, linking theory with practice to choose scientific knowledge of research on resolving administrative complaints. Besides traditional methods, the theme also applies multi-disciplinary approaches, interdisciplinary ones between administrative sciences between and legal sciences.

#### **5. New scientific contributions of the theme**

*Firstly,* giving the scientific concepts on complaints and resolving administrative complaints; pointing out features of settling administrative complaints; the role of the administrative complaint settlement in the administrative reform.

*Secondly,* analyzing, clarifying interactions between administrative reform and administrative complaint settlements.

*Thirdly,* giving some solutions to secure the settlement of administrative complaints. Providing additional scientific arguments in order that agencies in charge of administrative complaint settlement could improve the resolving efficiency as well as consider the research to perfect the law on complaints.

#### **6. Theoretical and practical significance of theme**

The theme is overall study of issues of solving administrative complaints in Vietnam in terms of administrative reform with the aim of giving scientific arguments and theoretical and practical viewpoints, solutions aiming at perfecting the legal provisions concerning administrative complaint settlement as well as executing the law on resolving administrative complaints. The research results of the theme will additionally contribute, complete the theory on resolving administrative complaints.

The theme can be used as references for research, teaching and learning about resolving administrative complaints.

The theme can also serve the legislation and practical activities on administrative complaint settlement; enable staffs and civil servants and people to raise awareness of resolving administrative complaints in order to, accordingly, to have proper conducts in the administrative complaint and administrative complaint settlements.

#### **7. Research assumptions and questions**

- *Research assumptions:* Over the years, the State's administrative agencies have tried significantly but the settlement of administrative complaints has not met the requirements, social expectations as barely delayed and annoying to persons lodging complaints, and there are so many cases resolved out of with law. The administrative complaint settlement will meet the requirements, social expectations if both institutional innovation and processes, procedures are changed and enhance accountability, capacity of

civil servants who are in charge of these tasks, the responsibility of the header of State's administrative agencies in accordance with the objectives of the administrative reform, firmly attached to the administrative reform, and training the team of civil servants involving this work by addressing the grievance situation assumed.

- *Research questions:* What issues are addressed thanks to scientific works domestically and abroad on complaints and what issues need further study and address in the theme? What are administrative complaints and administrative complaint resolutions? Which characteristics are different from those of administrative complaints, judicial complaints? What are relations between administrative reforms and administrative complaint resolutions? Situation of administrative complaints and administrative complaint resolutions in Vietnam are since 1999 up to now, advantages and limitations and causes? Which perspectives, any solution should be taken to secure the settlement of administrative complaints in condition, context of administrative reform.

### **8. Structure of the theme**

Besides the introduction, theme consists of 4 chapters:

Chapter 1: Overview of research situation concerning the theme

Chapter 2: Rationale for resolving administrative complaints during the administrative reform in Vietnam

Chapter 3: Administrative complaints and settlement of administrative complaints in Vietnam since 1999 up to now.

Chapter 4: The viewpoints and solutions to secure the settlement of administrative complaints in administrative reform in Vietnam today

**Chapter 1**  
**OVERVIEW OF RESEARCH SITUATION**  
**CONCERNING THE THEME**

**1. 1. Research situation relating to the theme at home and abroad**

***1. 1. 1. Group of researches related to complaints and law on complaints***

There are a number of typical works such as: “*Improving the laws on complaints and denunciations in our country in the current period*” the scientific theme at ministerial level implemented by Ph.D. Pham Hong Thai and Ph.D. Vu Duc Dan (National Academy of Public Administration, Hanoi, 2001). “*Strengthening the socialist legal system in settling activities of complaints and denunciations of the State’s administrative agencies today*” doctoral thesis in law by Tran Van Son (Ho Chi Minh National Academy of Politics, Hanoi, 2006). “*Completing the legal on complaints and denunciations in the context of building a socialist law-governed State of Vietnam*” doctoral thesis in law by Ngo Manh Toan (Graduate Academy of Social Sciences, Hanoi, 2008) . . .

Overall, the above works mainly refer to basic theoretical studies on complaints from the angle of administrative law, the characteristics of complaints, distinguishing of complaint rights and denunciation ones, jurisdiction to settle complaints, practical implementation of the law on complaints, in order to, accordingly, propose scientific solutions ensuring socialist legal system, improving the law on complaints and enhancing the effectiveness and efficiency of settlement of complaints in Vietnam...

***1. 1. 2. Group of researches on state administrative reform***

There are a number of typical works such as: “*Some issues on the development and reform of the state administration in Vietnam*” edited by Prof. Doan Trong Tuyen (National Political Publishing House, Hanoi, 1996). “*Reform of the national administration in our country,*” by Ass. Prof. Dr. Sc. Nguyen Duy Gia (National Political Publishing House, Hanoi, 1996). “*Innovation, perfection of state apparatus in the current period*” by Ass. Prof. Dr. Bui Xuan Duc (Justice Publishing House, Hanoi, 2007). “*Measures to promote administrative reform in Vietnam*”, reference book edited by Dr. Nguyen Ngoc Hien (National Political Publishing House, Hanoi, 2001). “*Reform of Vietnam’s public administration, the situation and solutions*”, the program developed by the United Nations in Vietnam (National Political Publishing House, Hanoi, 2009). “*Some issues of administrative reform*” by Dr. Mai Huu Khue and Dr. Bui Van Nhon (National Political Publishing House, 1995). “*Public administration reform in Vietnam: Situation and Prospects*”, 2003 research paper written by Dr. Martin Painte, Faculty of Public and Social Management, University of Hong Kong, China ....

Overall, the above works with content mainly refers to the issues of administrative reform; administrative reform in trends of building a state of law, international integration; administrative reform to improve the efficiency of the state administration - the public administration to serve the people better and better. From administrative reform, it puts forth the issues of public administration reform, institutional reform in the field of settlement of administrative complaints in order to improve effectiveness and efficiency in resolving administrative complaints.

### **1.1.3. Group of researches on resolving administrative complaints, administrative claims**

There are a number of typical works such as: *“Improving the effectiveness of the law on settlement of citizens’ complaints and denunciations in Vietnam today,”* doctoral thesis in law by Nguyen The Thuan (Hanoi Law University, 2001). *“The role of the state inspection agencies in resolving administrative complaints in Vietnam,”* Master’s thesis in Law by Nguyen Van Kim (Hanoi Law University, 2004). *“Completing the legal procedures for resolving complaints of citizens,”* doctoral thesis in law by Nguyen Hanh (Graduate Academy of Social Sciences, Hanoi, 2005). *“Enhancing capacity of civil servants in administrative complaint settlement”* Master's thesis in administrative management by Hoang Ngoc Dung (National Academy of Public Administration Hanoi, 2006). *“Resolving complaints of the people - current situation and the lessons learned”* the scientific theme at ministerial level chaired by Dr. Nguyen Van Manh (Ho Chi Minh National Academy of Politics, Hanoi, 1999). *“The jurisdiction of administrative complaints of the Court - Guarantee of justice in the relationship between state and citizens”* by Dr. Nguyen Thanh Binh (Justice Publishing House, Hanoi, 2004). *“Distinguishing administrative complaints with an administrative proceedings”* Dr. Vu Trong Hach (Review of State Management, edition No. 3/2008 Management) ...

Overall, the above research project refers to every aspect of resolving administrative complaint and administrative proceedings, distinguishing administrative complaint with administrative proceedings; reality of settling administrative complaints and matters on finishing order and legal procedures concerning resolution of administrative complaints; maintaining two mechanisms of administrative complaint settlement of the State’s administrative agencies and courts. . .

#### **1.2. Research results of the projects at home and abroad inherited by the theme**

- The notion of complaints and resolving administrative complaints should be from the view of administrative law and practices of implementation of the law on claims to offer scientific solutions and proposals ensuring the socialist legal system, perfecting law on complaints.

- Administrative reform is to improve the efficiency of the state’s modern administration, to serve people better and better; and ensuring and protecting the rights and legitimate interests of citizens, including the rights to complain. Administrative reform requires administratively institutional innovation on resolving administrative complaints.

- To build the legally constitutional state, it is essential to reform the state apparatus, fulfill obligations and responsibilities for resolving complaints and protecting the rights and legitimate interests of citizens and making state compensation to citizens upon being available with administrative decisions, administrative acts contrary to law, infringing upon rights and legitimate interests of citizens.

- The state apparatus is innovated; there is a certainty that the governmental operations will be more efficient, including activities to address administrative complaints.

- It is necessary to expand the settlement mechanism for administrative complaint of the Court to ensure more objective and the citizens have the opportunity to choose their own way of settling complaints.

#### **1.3. The issues set forth, the theme should continue to clarify**

The research works at home and abroad have significantly contributed in clarifying many theoretical and practical issues about complaints and administrative complaint settlements. However, there are some issues more or less referred in the work but not fully resolved, and then the theme should continue to clarify, in particular:

*Firstly*, deeply clarifying main causes of arising complaints as administrative decisions, administrative acts contrary to law for “at-root” handling the state of complaints today.

*Secondly*, studying and giving recommendations on accountability mechanisms applied to competent persons settling complaints about infringing violations of specified resolution period.

*Thirdly*, the working capabilities of civil servants in charge of counsel to settle complaints are one of the key factors determining the settlement of complaints lawfully and effectively. Therefore, it is necessary to study and propose solutions to improve the working capacities of civil servants who are in charge of these tasks.

*Fourthly*, researching and giving innovation proposals in terms of officials and staffing with respect to civil servants in charge of resolving complaints.

*Fifthly*, clarifying the dialectical relationship between the administrative complaint settlement and administrative reform in order to propose solutions to ensure administrative complaint settlement in the current administrative reform.

*Sixthly*, in the trend of integration, democracy, law on complaints must be continually improved in the direction that the first complaint settlement process should only be considered as self-review by the State’s administrative agencies with respect to their appealed administrative decisions, administrative actions to self-correct, not being considered as one time for settling complaints shall ensure more objectivity, democracy.

*Seventhly*, clarifying models, processes of resolving current administrative complaints is limited and does not ensure the objectivity, renovated but not much and not really subject to the profound impact of administrative reforms.

*Eighthly*, the complaint relating to land accounts for a large proportion; to solve situation radically, it is require to modify the regulations on management and use of land more closely for avoidance of any abuse.

*Ninthly*, most of the state administrative agencies are always violating the time limit for settling complaints; statute of limitations of complaints is unreasonable; it is essential to study, and overcome this issues.

#### **1.4. Settlement of administrative complaints in several countries and wielded suggestions may be applied in Vietnam**

##### ***1. 4. 1. Settlement of administrative complaint in the Federal Republic of Germany***

The Federal Republic of Germany maintains the settlement mechanism for administrative complaints of State’s administrative agencies and courts. First of all, people lodge complaints to the state agencies having administrative decisions, administrative acts complained; if founding that the settelement is unsatisfactory, it is possible to complain to the State’s superior administrative agencies; and if disagreeing with the settlement of such State’s superior, make claims to the administrative court of first instance. The complainant has the right to appeal judgements of administrative court of first instance to the court of administrative appeal, appealing the judgment of the

administrative court of appeal to the Supreme courts, appealing the rulings of the Supreme administrative court to the Federal administration court.

#### ***1. 4. 2. Resolving administrative complaints in Japan***

In Japan, citizens have the right to make complaint immediately to the superior administrative agencies to ones having administrative decision complained of. Resolving administrative complaints through administrative consulting activities by conducted consultants, without receiving any remuneration; however such consultants are paid by the State for actual costs they spent during their administrative advice to the complainant. Administrative consultancy is “pre-settlement” stage of all administrative complaints in Japan, has contributed to a 50% reduction of administrative complaints within the consultation period. The Parliament is also responsible for resolving administrative complaints during its session by way of secret ballot.

#### ***1. 4. 3. The suggestions may be applied in Vietnam***

*Firstly*, at the present, Vietnam still maintain the pattern of administrative complaint settlement conducted by the State’s administrative agencies and courts but need tighter rules to ensure objectivity in the handling of the State’s administrative agencies and the principle of judicial independence of the Court.

*Secondly*, there need to study the model of administrative consultancy in Japan to be able to manipulate when there is match in the socio-economic conditions.

*Thirdly*, it is required to study, improve the laws on complaints in direction of resolving administrative complaints only by state administrative agencies immediately superior to ones making the administrative decisions complained of, the resolution of such agencies is only the self-review of their administrative decisions when there is a complaint for the first settlement decisions with low quality, often keeping such claimed administrative decisions unchanged.

*Fourthly*, to study continually to develop the models of administrative tribunals in the system of law enforcement agencies but independent to administrative agencies. Disagreeing with administrative decisions, administrative actions or decisions on administrative complaints settlement, citizens have the right to bring cases to administrative tribunals or initiate administrative lawsuits in the court.

## Chapter 2

### RATIONALE FOR RESOLVING ADMINISTRATIVE COMPLAINTS DURING THE ADMINISTRATIVE REFORM IN VIETNAM

#### 2. 1. Administrative complaints and administrative complaint resolution

##### 2. 1. 1. *Concept, characteristics and objects of the administrative complaint*

- *The concept of administrative complaints:* Complaints of individuals and organizations for administrative decisions, administrative acts in State's administration management called administrative complaints. Administrative complaints are the rights of individuals and organizations (acting as managed objects) require the State's administrative agencies, other governmental agencies or public-service organizations (acting as management entity) to review the administrative decisions, administrative acts or disciplinary decisions against officials and public servants when there are grounds that those decisions or acts are illegal, infringe upon the rights and interests of them.

##### - *Characteristics of administrative complaints*

*Firstly*, the administrative complaint arises only in the operation of the State's administrative management (execution - operation between managed objects as individuals, organizations with management entities as the State's administrative agencies).

*Secondly*, the administrative complaints stem from the subjective perception of the complainants, is a reactive form of the complainants with the phenomena of violations against regulations on their lawful rights and interests protected by law.

*Thirdly*, administrative complaints originally carry information on the violation against rights and legal interests of citizens, agencies, organizations or officials and civil servants.

*Fourthly*, the complainants cannot restore their rights, legitimate interests infringed upon by the illegal acts of state bodies against which they lodge complaint, look forward to resolutions of the State's administrative agencies.

*Fifthly*, resolving administrative complaints by the State's administrative agencies conducted with certain administrative procedures, simpler than the administrative proceedings conducted by the Court.

*Sixthly*, the aim of resolving administrative complaints is to restore rights and legitimate interests of the complainants who are violated by the illegal acts of state agencies.

*Seventhly*, arising range of administrative complaint is very wide, in the State's management activities in the economic, social and disciplining areas of officials and public servants. . .

*Eighthly*, the subject of extensive administrative complaints, including all the agencies, organizations and individuals with ties to the rights and interests with government agencies in state management.

##### - *The object of the administrative complaint*

*Firstly*, the object of the administrative complaint is an administrative decision; interpreted as documents issued by the State's administrative agencies to decide on a

specific issue in the state administration, is applied once for one object or a specific number of objects and issued in the form of text, called the decision (separate-specific decisions on state management).

*Secondly*, the object of administrative complaints are administrative acts; interpreted as acts of competent persons in the State's administrative agencies who perform or do not perform the tasks and duties as stipulated (unlawful acts). illegal administrative act in the form of action is an act done improperly or incompletely, *ultra vires*. Unlawful administrative act in the form of non-action is an act of failing not to fulfil a task, a public mission which must be performed by them as stipulated.

*Thirdly*, the object of the administrative complaint is disciplinary decision on officials and civil servants; understood as a written decision of the head of the agencies or organizations to apply one of the disciplinary forms against officials and civil servants under its management as prescribed by law on officials and public servants.

## ***2. 1. 2. Concept, characteristics and competence to settle administrative complaints***

### *- Concept of settling administrative complaints*

Administrative complaint settlement is operation of the State's administrative agencies in the handling and verifying, concluding and making decisions on complaint settlement for individuals, organizations with respect to administrative decisions, administrative acts when they have grounds to believe that such decisions or acts are contrary to law, infringe upon their rights, legitimate interests.

### *- Characteristics of settling administrative complaints*

*Firstly*, the subject in charge of addressing administrative complaints is the State's administrative agencies with complained administrative decisions, administrative acts (called the resolving subject of the first complaint) and State's directly higher administrative agencies of the first subject (called the resolving subject of the second complaint) settle the complaints against decisions on settling the first complaint.

*Secondly*, the object of resolving the administrative complaint is statutorily protected rights, legitimate interests of complainants.

*Thirdly*, through the resolution of administrative complaints, the right holder of the complainants is infringed by restored administrative decisions or administrative acts.

*Fourthly*, in essence, solving administrative complaint is the attitude, the State's response to complaints of citizens to resolve the relationship between the State and citizens in the good way.

*Fifthly*, resolving administrative complaints always contains inside the information, certain evidence of a violation of the rights and legitimate interests of the complainant and considered as a form of state administration.

*Sixthly*, resolving administrative complaints must be made in specific documents called "decision" do not use official dispatches or notice in place of "decision" to settle complaints. The issuance of decisions on complaint settlement is not the result of an will-based agreement between the person resolving complaints and the complainant.

*Seventhly*, decision to settle administrative complaints is individual administrative decisions, applies only once, after the execution, it is invalidated itself; whereas normative decisions applied repeatedly, invalidated when there are new normative documents replaced.

- *Competence to resolve administrative complaints:*

Understood as rights to consider, resolve and obligations to consider and resolve the administrative complaints as stipulated by law. The subject having competence to settle complaints is specified in the Law on Complaints of 2011, namely: Chairman of People's Committee at communal level, heads of agencies under the district-level People's Committee; Chairman of the district-level People's Committee; Heads of departmental and equivalent-level agencies; Director of Departments or equivalent level; Chairman of the provincial People's Committee; Heads of ministries and agencies under ministries of government agencies; Ministers; Inspector General; Chief Inspector at all levels; the Prime Minister.

Prevailing regulations, administrative complaints are resolved through two levels: heads of administrative agencies will resolve for the first time with respect to complaints against his administrative decisions, administrative acts (including administrative acts of officials and civil servants under their management complained) and heads of immediately superior administrative bodies of the administrative agency of the first settlement will resolve for the second time complaints against decisions on the first complaint; disagree with decisions on the second complaint settlement, the complainant may initiate an administrative lawsuit at the Court under the provisions of the Administrative Procedure Law.

**2.1.3. Distinguishing administrative complaints, administrative lawsuits and judicial complaints**

- *Administrative complaint:* That individuals, organizations require the State's administrative agencies to review their administrative decisions, administrative acts when there are grounds those decisions or acts are unlawful, infringe upon their rights, legitimate interests. Administrative complaints are addressed by the State's competent administrative bodies according to administrative procedures stated in law on complaints.

- *Administrative lawsuits:* That the complainant brings an action against administrative decisions, administrative acts to the court, also known as administrative lawsuit in the court. Administrative lawsuits will be settled by the Court subject to administrative procedures stipulated in the Law on Administrative Procedure.

- *Judicial complaints:* That the individuals or organizations request judicial authorities (including the People's Procuracy, the People's Court, investigating authorities) to reconsider the judgment and decisions of judicial authorities or civil-service-related behaviors of prosecutors, judges, investigators in the investigation, prosecution and adjudication in the areas of criminal, labor, economics, administration, civil prescribed in Criminal procedure law, Civil procedure law, Administrative procedure law.

**2.2. Administrative reform and interactions between administrative reform and administrative complaints settlement**

**2.2.1. Concept, objectives and tasks of the current administrative reform in Vietnam**

- *Concept of administrative reform:* Administrative reform is intended changes to perfect administration, organizational structure and operational mechanism of the State's administrative apparatus at all levels and administrative and public-finance civil servants to raise the effectiveness, capacity and performance of public administration to serve people.

- *Objectives of the administrative reform in the period of 2011-2020:* Institutional reform, construction, quality improvement of staff, civil servants, officials, focusing on

reform of wage policy in order to create real momentum so that officials and servants fulfill their public duties with high quality and efficiency; improving the quality of administrative services and public services.

- *Task of administrative reform in the period of 2011 - 2020:* Focusing on the main tasks as administrative institutional reforms; reform of administrative procedures; organizational reform of State's administrative apparatus; building and enhancing the quality of officials and civil servants and employees; public finance reform; administrative modernization.

### ***2.2.2. Interactions between administrative reform and administrative complaint settlements***

- Administrative reform has effects over consciousness and responsibility of public servants in administrative activities and administrative complaint settlements. The administrative reform improves the quality of officials and civil servants, has an impact on consciousness, responsibility, professionalism of officials and civil servants in performing duties, duties in general and in the work of the administrative complaint settlements in particular.

- Administrative reforms has effects operational efficiency of the administration, including activities of addressing administrative complaints, so the administrative reform will improve the efficiency of the administrative complaint settlement.

- Resolving administrative complaint is contribution of implementation of objects and tasks of the administrative reform, and enhancement of administrative reform by:

*Firstly*, resolving administrative complaints in order to ensure the rights and legitimate interests of citizens in accordance with law.

*Secondly*, resolving administrative complaints to consolidate legislation, reorganize and strengthen discipline and rules of activities of State's administrative management.

*Thirdly*, resolving administrative complaints is the basis to examine, evaluate and improve the effectiveness and efficiency of the State's administrative management.

*Fifthly*, resolving administrative complaints is the methods to ensure the monitoring of the people with respect to the State's management activities and public officials.

### Chapter 3

## CHAPTER 3: ADMINISTRATIVE COMPLAINTS AND SETTLEMENT OF ADMINISTRATIVE COMPLAINTS IN VIETNAM SINCE 1999 UP TO NOW

### 3. 1. Situation of administrative complaints since 1999 up to now

#### 3. 1. 1. *General situation of the administrative complaint*

Since 1999 (the Law on Complaints and Denunciations came into effect in 1998) until now, the situation of administrative complaints is very complex, occurs in almost all localities of the whole country; many times, many places beyond the control of local governments, becomes “hot spots” of social order. In particular, there are many complaints appearing with more crowded delegation, regarding transgression upto the central level, especially on the occasion of important political events of the country such as meetings of the central government, National Assembly...

#### 3. 1. 2. *Nature of administrative complaints*

*Firstly*, the attitude of complaints more and more severe, urgent and complicated.

*Secondly*, there are many complaints appearing with more crowded delegation, improperly and organizational transgression upto central level (with the head, representative associating the complainant groups), inducing the elderly, children and policy objects to participate in.

*Thirdly*, many cases of abuse, inciting, instigating complaints with extreme attitudes, self-immolation, threatening self-immolation; performing illegal acts such as insulting, intimidating, arresting officials who are in charge of receiving citizens.

*Fourthly*, the hostile forces at home and abroad and some political opportunists took advantage of citizen complaints to incite, instigate a mass complaints against the Vietnam state in all aspects.

#### 3. 1. 3. *Contents of administrative complaints*

The contents of administrative complaints are mainly related to the field of natural resources and the environment, housing, construction, labor - Invalids and social affairs, justice. Particularly, administrative complaints in compensation, support and resettlement when the State reclaims land account for about 70% of cases.

#### 3. 1. 4. *Main causes as result of administrative complaints*

- *In the area of natural resources and environment*: Main causes are because governments at all levels have not grasped thoroughly, strictly abided by the laws of land; State management of land was slacken in the long time, many violations were not detected in time, unprocessed. On the other hand, the provisions on the land law and the law on complaint are inadequate, not matching reality with the weakness in the land acquisition, compensation and land-clearance. . .

- *In the area of housing*: The process of renovating housing policy has shortcomings on the order and procedures or lack of precision and management and using process of renovated land was available with faults. The system of legal documents as basis for settling complaints is asynchronous and missing.

- *In the area of Labor - Invalids and Social Affairs:* The implementation of social insurance policies, persons who deserve well of the country... is still available with limitations, shortcomings and weaknesses.

- *In the field of justice:* Agencies in charge of enforcing civil judgment were mostly not proactive, positive, even irresponsible, dishonest in the execution of judgments and decisions in legal effect of the Court. Coordination mechanisms between agencies in the enforcement of civil judgments is not firm.

### **3.2. Situation of resolving administrative complaints in Vietnam since 1999 up to now**

#### ***3. 2. 1. Direction work to resolve administrative complaints***

The Party Central Committee, the National Assembly, the Government are very interested in directing the settlement of administrative complaints, issuing many directives and resolutions to regulate, inspect and strengthen the responsibility of heads of State's administrative agencies at all levels in addressing the administrative complaints. The Prime Minister directly hosted online conferences to direct the settlement of complaints and directly chaired several meetings addressing the complex, crowded, unresolved, stretching complaints. It is possible to say that the settlement of the administrative complaints from 1999 to present has been achieved certain results thanks to the participation by the whole political system.

#### ***3.2.2. Results of reception of citizens, handling petitions and resolving administrative complaints***

From 1999 to the first quarter of 2004, the State's competent administrative agencies solved 459.243/639.590 complaints, (70%)

From 2005 to 2007, the State's administrative agencies at all levels solved 166.015 cases (84.5%).

From 2008 to 2011, the State's administrative agencies settled 257.419/290565 cases (over 88%). Through analysis it showed that the number of proper complaints accounted for 19.8%; number of wrong and proper cases accounted for 28%; number of wrong cases accounted for 52.2%.

In 2012, the State's administrative agencies settled 54.786 cases of complaints and denunciations under the jurisdiction and responsibilities assigned.

In 2013, the State's administrative agencies solved 39.013/43.932 cases of complaints and denunciations within their competence (reaching 88.8%).

In 2014, the State's administrative agencies settled 36.750/42.783 cases of complaints and denunciations within their competence (reaching 85.9%).

#### ***3.2.3. Comments, assessments on the results of administrative complaint settlement***

- *Results and reasons*

+ *Results*

*Firstly*, the amendment and supplementation of the Law on Complaints and Denunciations in 1998 conducted in 2004, 2005 and issuance of the Administrative Procedure Law of 2010, Law on Complaints of 2011, Law on reception of citizens in 2013 have created a significant legal bases for citizens to exercise their rights of complaints and complaint resolution of the State's administrative agencies.

*Secondly*, the settlement of administrative complaints with the positive changes, gradually goes into order; the State's administrative agencies have resolved bulk of complaints, quality has improved; many complicated, unresolved and lengthily-lasting cases have been definitely settled.

*Thirdly*, the reception of citizens becomes more and more routine, achieving remarkable results, especially since the implementation of innovating scheme of citizen-reception was approved by the Prime Minister in Decision No. 858 / QD TTg dated 14/06/2010.

*Fourthly*, the state management of the administrative complaint settlement achieved significant results in various contents: promulgation of legal documents; inspection, examination of responsibilities of the heads of all levels and branches is made more frequently.

+ *Reasons:*

*Firstly*, the direction of the Government on resolving administrative complaints get more and more aggressive and available with more active measures to improve the efficiency of resolving complaints.

*Secondly*, the ministries, branches and localities have had many attempts, efforts to resolve complaints, especially crowded and complicated complaints.

*Thirdly*, the legal propagation and dissemination, education on complaints are more concerned.

- *Limitations and causes*

+ *Limitations*

*Firstly*, the administrative institutions on complaints and resolve administrative complaints were attached much importance for perfection, innovation but implementation guidelines were delayed in issuance.

*Secondly*, the direction in resolving complaints in some places is not so aggressive, uncomprehensive; but direction but lack of inspecting and supervising the implementation.

*Thirdly*, the situation of delay in settling remains, resolving within the jurisdiction but not paying attention to the quality of settlement, incompletely, not correct upon detecting wrongdoings or cover up for violations. . .

*Fourthly*, inspection of responsibility for implementing the law on complaints has been made but not strongly; through inspections, in spite of discovering several violations, handling post-inspection violations has not been strict.

*Fifthly*, content of legal dissemination and education and raising awareness of law observance to officials and people in communes, wards and towns in many places still so sketchy, superficial, forms of communication keeps monotonous.

*Sixthly*, the content of professional training on inspection, reception of citizens, settlement of complaints are late for renovation; number of programs, classes are inadequate, unprofessional; team of lectures has not yet met the requirements.

*Seventhly*, officials receiving citizens in some places have not good accountability, and blaming each other, dodging, and receiving citizen in perfunctory way, even challenging people to lodge complaints.

*Eighthly*, a lot of agencies have inadequate accountability in the acceptance of a complaint under their jurisdiction, do not report in writing reasons for not accepting the settlement whether accepting or not.

*Ninthly*, ways of resolving complaints conducted by many the State's administrative agencies are rigid, afraid of responsibility, of lack of attention to the legal rights of citizens, particularly resolving the legal rights of citizens as giving them as alms.

*Tenthly*, some governmental levels have not focused on directing acceptance and prompt resolution of the complaints within their jurisdiction; there are many cases delayed in resolving, with inaccurate conclusions, handling violation in lax way.

+ *Main reasons of the limitations*

*Firstly*, policies and legislation, particularly laws on land of each period differ, often change.

*Secondly*, the work of state management, especially in the land sector is still weak, available with irregularities and slackened for so long time, many violations are undetected, handled in lax way, and of lack of timeliness.

*Thirdly*, complaint resolution mechanisms now remain complicated in respect to both competence and the order and procedures for settlement, even troubling to citizens.

*Fourthly*, no satisfactory mechanism for compensation for damage and overcoming the consequences of illegal administrative decisions, administrative acts caused to the complainants.

*Fifthly*, the public servants in charge of resolving complaints are in general still weak and of lack of professional capacity, do not meet the requirements and tasks.

*Sixthly*, the coordination between all levels, branches and localities in the complaint resolution process remain unclear, lack of coordination, discussion.

*Seventhly*, disciplines, administrative disciplines in settling complaints are not severe, and the offender shall not responsibly be dealt with.

*Eighthly*, consciousness of abiding by the law as well as the understanding on the law of the part of citizens is limited.

*Ninthly*, the settlement of administrative complaints with broad and complex content, scope.

*Tenthly*, the work of administrative and civilian enforcement is also very complex things, complaints in this area is very difficult to solve and the some cases meet with difficulties due to historical factors left.

### **3.3. Situation of administrative reform in the administrative complaint settlement**

#### ***3.3.1. Institutional reform, procedures for settling administrative complaints***

*- Institutional reform in terms of complaints and administrative complaint settlement*

Institution of complaints and resolving administrative complaints is a part of the public administration institutions; perfection of this institution is a fulfillment of one of the key tasks of administrative reform during current period because it will contribute to improving the effectiveness and efficiency of administrative complaint settlement.

Institution of complaints and resolving administrative complaints is increasingly completed in content and form, expressed through the promulgation of several relevant ordinances and laws, enforcement guidelines. This is the fundamental institutional innovation on complaints and resolving administrative complaints for the aims of administrative reform taking place in Vietnam.

*- Renewed procedures for complaints and settling administrative complaints*

In directing the construction and renewal of settlement mechanism for administrative complaints, proposal preparation of administrative appeals submitting competent authorities for consideration and decision in the spirit of direction by the Politburo in Notice No. 130-TB/TW dated 10/01/2008, the Prime Minister express an opinion "... *the perfection of complaint resolution mechanisms needs strengthening accountability of administrative agencies, while ensuring the rights to initiate a suit with respect to administrative cases of citizens and held in the court. . . Complaint resolution mechanisms should ensure the principle of objectivity, transparency, democracy and timeliness. . .* "

Procedures of complaints and resolving complaints specified in more certain and evident way in law on Complaints in 2011, towards comprehensible, easy to carry out and convenient to the complainant and the person in charge of resolving complaints and increase the responsibilities of heads of the State's administrative agencies in settling complaints.

The most clearest innovation is defined that the claimant may sue immediately to the court to resolve administrative disputes under the provisions of the Administrative procedure act, unnecessary to lodge a complaint to the State's administrative agencies.

*- Jurisdiction of administrative complaint resolution is more clearly defined*

*- The rights and obligations of the complainant, the persons in charge of complaint settlement are more clearly defined.* In particular, additional provisions on complaints and resolving complaints in a public service units, state enterprises; more specifically outlining the provisions for cases where multiple people jointly complain about one content and responsibility for settlement.

**3.3.2. Reform of the apparatus, renovation of staffing in resolving administrative complaints**

*- Renovating and strengthening advisory bodies to settle complaints*

*- The staffing in resolving complaints is of more reform, innovation*

**3.4. Some conclusions drawn through practice of settling administrative complaints in administrative reform from 1999 to 2014**

*- Firstly*, foremost, Party committees and local governments at all levels should fully grasping the viewpoints of the Party and State for the settlement of administrative complaints in the context of the current administrative reform in order to have the reform, innovation mechanisms, processes, procedures of proper administrative complaint settlement.

*- Secondly*, anywhere the Party committees, local governments properly and sufficiently aware of demand, the role of the settlement of administrative complaints and really interested in this work, then the complaints are resolved promptly there, the situation gets more stable, less likely to occur "hot spot" of complaints.

*- Thirdly*, although legislation on complaints was completed, there are still some limitations remaining. So, through the settlement of complaints, it is essential to draw the

issues to continue to improve, reform and renovate, meet the requirements of the administrative reform.

- *Fourthly*, the responsible mechanism for persons who are competent in issuing administrative decisions, have administrative acts which are contrary to the law unspecific so subject to effect deficiency of restricting causes arising complaints need to be completed to have bases of responsible treatment for these cases.

- *Fifthly*, many decisions on settling complaints with low quality for the first time largely due to the capacity of civil servants in charge of advising to resolve complaints unsatisfactorily; it is necessary to make plans to continue training and retraining specialized knowledge and skills in reception of citizens and general advice to improve the quality of administrative complaint settlement.

- *Sixthly*, the phenomena of violation concerning complaint resolution period (both first time and second one) were fairly common, this is one of the causes of complaints of transgression and complexity at the present; It is necessary to do research to have an effective mechanism for dealing with this condition.

- *Seventhly*, for the complicated and crowded complaints, Party committees and local governments must jointly involved, strengthen the contact and dialogue, and setting up an advisory council of resolution to make optimum plans, and minimize to become “hot spot” of claims; and must prepare backup plans for dealing with “hot spot” of complaints upon occurrence.

- *Eighthly*, inspecting, examining and supervising resolution of complaints by State’s administrative agencies superior to the State’s subordinate administrative agencies and supervisory role of the state power agencies places of interest and respect, then there occurs less complicated situation on the complaint, in which social order is more stable.

- *Ninthly*, receiving citizens and advising to resolve complaints are hard work, with lot of pressure, directly from the people, hence the need for further reform of the regime, remuneration policy to attract and motivate public servants to serve their duties with high performance.

- *Tenthly*, the heads of the State’s administrative agencies are important and decisive factors to settle complaints according to law. Therefore, it is necessary to enhance the role and increase the responsibilities the the heads of the State’s administrative agencies in settling administrative complaints.

## Chapter 4

### VIEWPOINTS AND SOLUTIONS TO SECURE THE SETTLEMENT OF ADMINISTRATIVE COMPLAINTS IN ADMINISTRATIVE REFORM IN VIETNAM TODAY

#### **4.1. Viewpoint ensuring administrative complaint settlement in administrative reform**

***4.1.1. It is essential to consider that the administrative complaint settlement is an important task contributing to successful implementation of the objectives and tasks of the administrative reform***

The main objective of the administrative reform is to serve, resolve any requirements, work of people on a better and better basis and resolve the administrative complaints is part of the activities of state administration; so, the administrative complaint settlement is now conducted well contributing to the victory of the objectives and tasks of the administrative reform.

***4.1.2. Promoting the administrative complaint settlement is contributing to ensuring the rights of citizens in the context of building a Vietnam socialist law-governed State***

Complaints are constitutional rights of citizens and resolution of complaints is the responsibility of the State's administrative agencies. So resolving administrative complaints promoted considered as respect and ensure the rights of citizens, including the right to appeal, will meet the requirements of building a Vietnam socialist law-governed State.

***4.1.3. Solution of the administrative complaint is to contribute to ensuring the effectiveness and operational performance of the State's administrative management***

Administrative complaints arising in the operation of state administrative management reflect the real situation of state administration. So resolving administrative complaints will help the subject of administrative management overcome the shortcomings in management, force management goals and tasks to be conducted, the reputation of subject to be advanced, effectiveness and results of the state administration is guaranteed.

#### **4.2. Some solutions to ensure the settlement of administrative complaints in administrative reform in Vietnam today**

***4.2.1. Continuing to improve institutions for resolving administrative complaints on the basis of goals and tasks of administrative reform***

Institution of resolving administrative complaints is a part of the administrative institutions. To perfect the administrative complaint settlement, it is necessary to depend on objectives and tasks of the administrative reform, which should focus on the following tasks:

- Settlement mechanism for administrative complaints to ensure complete objectivity, openness and democracy in the settlement process, overcome the status of closed settlement in the State's administrative agencies at present.

- It is necessary to institutionalize attitudes, policies and guidelines of the Party to resolve administrative complaints in the context of the current administrative reform into law on complaints.

- The law on complaints must be completed in accordance with the Strategy of building and perfecting the legal system of Vietnam until 2010 and orientations to 2020 according to the Resolution No. 48-NQ/TW dated 05/24/2005 by the Politburo.

- Improving the institution of resolving administrative complaints should have special interest in limiting the main causes arising administrative complaints, which are administrative decisions, administrative acts contrary to law, and therefore the complaints are likely settled “at root”.

- It is necessary to reduce and improve the quality of administrative procedures for resolving administrative complaints; strictly control the issuance of new administrative procedures; publicize all administrative procedures for resolving administrative complaints; strengthen dialogue, mediation in resolving administrative complaints.

- More clearly defining the subjects of complaints, that is: Only administrative decisions issued to implement state management function for the society, having direct effects over the rights and duties of citizens and the administrative decisions of the head enacted to serve internal functions of state management in that agency is the subject of administrative complaints.

- In the long term, it is necessary to provide a number of legal documents as also the subject of administrative complaints because the state agencies often use them as grounds for its issuance of administrative decisions, performance of administrative actions.

- To amend and supplement the provisions on the rights and obligations of the complainant, the defendant and lawyers in more specific way in order that the people have the grounds for monitoring the resolution of complaints by the State’s administrative agencies.

- To amend the law on complaints towards creating an activeness for the State’s administrative agencies to quickly self-repair the flaws and shortcomings of administrative decisions, administrative acts.

- To complement and complete rules for settling crowded complaints.

- To complement rules on the consideration of complaints against decisions on second complaint when the complainant decides not to sue such decisions at court, then only make complaints to administrative agencies and actually the State’s administrative agencies still have to solve them.

- There should be specific sanctions for handling responsibilities applied for persons who are competent to settle complaints but violate resolution period.

- It is necessary to supplement provisions that the person competent to settle complaints for the second time issues decision on the settlement of complaints in case the time limit for the first settlement expires while the complaints have not been resolved.

- To complete the regulations on implementation of the decision on settling administrative complaints with legal effect in the spirit of Directive No.09-CT/ TW dated 06/3/2002 by the Party Central Committee's Secretariat (decisions on settling complaints with legal effect must be executed immediately).

- To continue research to establish administrative tribunals in the system of law enforcement agencies but independent with respect to administrative agencies in the spirit of 5<sup>th</sup> Resolution, the Party Central Committee, session X on basis of summarizing practices and consulting international experience.

- In the long term, institution of resolving administrative complaints should be elevated to the resolution of administrative tribunals and courts; settlement of administrative agencies is only considered the initial process of self-review of administrative decisions, administrative acts complained to avoid settling the closed situation of settlement amongst the civil servants in the State's administrative agencies, as "kicked the ball, and blow the whistle".

#### ***4.2.2. Accelerating the innovation and completing procedures for resolving complaints on the basis of goals and tasks of administrative reform***

Administrative reform speeds up the reform of procedures for administrative complaints. To promote the reform and perfection of procedures for settling administrative complaints, it is necessary to focus on some basic tasks as follows:

*Firstly*, current inadequacies are that the persons in charge of receiving citizens do not advise the resolution of complaints, which wasted time, effort of citizen-reception and limited to advising quality of settlement; It is necessary to change the citizen-receiving activities towards linking citizen-reception with advise of settling complaints.

*Secondly*, to simplify procedures for complaints and cut unnecessary procedures, and gradually leading to that the people only have to send a complaint (once) and receive decisions to settle complaints within time limit as prescribed by law at the "one-stop" department for administrative settlement.

*Thirdly*, to innovate dialogues in settling complaints to be really open, democratic, avoiding formality, considering the complaint settlement decision sa illegal if as prescribed it is required to dialogue but no dialogue.

*Fourthly*, to determine the obligations of proof which belong to the parties in dialogue to settle complaints.

*Fifthly*, for complex cases of complaints which have been resolved for the second time or unresolved, lasted, crowded cases, it is essential to consult the advisory council before issuing a decision on settlement to ensure the results of resolution lawful, and the decision of settling complaints is feasible.

#### ***4.2.3. Raising service responsibility and ethics of civil servants of the state management in general and administrative complaint settlement in particular***

*- First of all, in state management, officials and civil servants shall be responsible for the legality and reasonableness of administrative decisions, administrative actions to limit the rise of complaints.*

Issued administrative decisions must comply with the provisions of law for the authority of issuance; content, scope of adjustment; forms and procedures; reflect the will of the State, describe the objectives, tasks and requirements of the state management; ensure harmoniousness of three interests (interests of the State, of the collectives and people); must be specific, as appropriate; tight, clear, straightforward, easy to understand, easy to implement; be issued in prompt and timely manner; acts of officials and public servants must be prescribed by law.

*- To raise the responsibility of the head of the reception of citizens and complaint resolution*

The heads of committees, government agencies at all levels and of departments must be responsible for errors in the state management resulting in administrative complaints and in activities receiving citizens, resolving complaints. Effectiveness of receiving citizens, settling complaints is an important standard for capacity assessment, and annual operating results of collective or individual heads.

*- To enhance political quality, service ethics, working capacity of civil servants in charge of resolving administrative complaints*

People are the central and important element to determine quality and the efficiency of the administrative complaint settlement. Improving the quality of civil servants to settle complaints is to implement the objectives of the administrative reform for being available with civil servants to settle complaints with good moral characters, political acumen, devotion to serve people because those who have talents without virtue are considered as useless.

#### ***4.2.4. Improving the working capabilities of the civil servants in charge of resolving administrative complaints***

Working capacities of civil servants are created by the elements of knowledge, skills, virtues, attitudes, experience, relationships and a number of other factors such as physical, intellectual, gifted ones; public servant who have faith without talent would be difficult in any work. Therefore, to improve the working capacities of civil servants in charge of resolving complaints, it is required to focus on some following basic tasks:

*Firstly*, all levels and departments need building the planning, plans of training, and retraining civil servants in charge of resolving complaints in a reasonable manner.

*Secondly*, to focus on building civil servants in charge of resolving complaints with good moral character, political acumen, thorough understanding of law, deep theoretical and practical knowledge, professional, dedicated to serving people.

*Thirdly*, to open regular courses of training, retraining civil servants in charge of settling complaints about fundamental contents of the Law on Complaints and guiding Decree; some related laws and subjects. Particularly for civil servants who is in charge of receiving citizens, it is required to train and retrain them with basic set of skills (communication, listening, conduct, analysis, guidance, persuasion, restraining and easing of crowd tension...). Simultaneously, it is also necessary to systemize some types of complaints commonly occurring in specific fields of State management (land, house, building...) and the applicable legal bases for resolution so that levels, branches have grounds for application to assess and ensure standpoints of consistency settlement.

*Fourthly*, to continue to improving policies of more rational treatment for public servants in charge of resolving complaints and enforcing of quality service, to be dedicated to their work.

#### ***4. 2. 5. Improving officials and staffing with respect to civil servants in charge of resolving administrative complaints***

*- To renovate the civil servants in charge of settling complaints:* Firstly, it is required to renovate their standpoints, how to evaluate civil servants and working capacities and effectiveness of settlement will be taken as a measure of quality; staffing for

this task is not allowed redundancy; the work assignment must be based on the strengths, weaknesses, personality accordingly civil servants appropriately because there are no servants matching all types of complaint cases.

- *To improve the layout, use of civil servants in charge of settling complaints:* it is essential to instill the teachings of our ancestors “*employing human as doing carpentry*” as “*like father like son*”; to determine the capacity of each civil servant to assign complaint cases reasonably.

- *To improve the management of civil servants in charge of settling complaints:* issuing legal documents on management of civil servants, with appropriate, tight characteristics without loophole for abuse of power by the civil servants, civil harassment because of a very simple reason, it is easy to understand that *no matter what do the people create; for good staff, things are easily done; all the success or failure, are due to so good or poor staff, it is a truth.*

#### **4. 2. 6. Strengthening inspection and supervision with respect to activities of administrative complaint settlements**

Inspection, testing is an important step and indispensable in state management so that managing subject not only grasp the implementation guidelines, policies, laws, decisions and directives from the superior bodies to subordinate ones; detect violations and shortcomings of the investigated objects but also found good people, good deeds for replication, and drawing overall experience. Therefore, the inspection authorities must continue regular inspections of responsibilities for executing law on appeal, namely:

- *Firstly*, to inspect responsibilities of the heads of State’s administrative agencies in the reception of citizens (regular and irregular), resolving administrative complaints.

- *Secondly*, it is required to focus on the content: Development and implementation of processes of inspection in serious way and examination of responsibilities, focused and key inspection; being responsible for resolving administrative complaints under jurisdiction; assessment of the situation of administrative complaints, the limitations and remedies.

- *Thirdly*, in the long term, it is necessary to develop the regulations on inspection, examination of responsibilities of State’s administrative agencies in the implementation of the law on complaints.

- *Fourthly*, to strengthen the handling of administrative responsibility, material for civil servants issuing administrative decisions, performing administrative acts contrary to law and resolving complaints unlawfully.

#### **4.2.7. Strengthening the supervision of the State’s power agencies, the Vietnam’s Fatherland Front and its member organizations for the settlement activities of administrative complaints**

Monitoring is one of the methods to control state power in order to serve the people. Strengthening the supervisory role of the State’s power agencies, the Vietnam’s Fatherland Front and its member organizations for settlement activities of administrative complaints in order to create administrative complaint consensus of the whole political system in resolving administrative complaints through two following basic forms:

- *State-power-natured monitoring:*

This is the monitoring form carried out by the State’s power agencies, including the National Assembly (including the authorities of the National Assembly, members of

the National Assembly) and the People's Councils at all levels (the bodies of People's Council and deputies of People's Council). Monitoring from the promulgation of legal documents, of state management on complaints and resolving complaints within its authority.

*- Non-state-power-natured monitoring:*

This is monitoring form carried by the Vietnam's Fatherland Front and its member organizations, press agencies, social organizations, people's inspection boards and individuals through giving recommendations, reflecting activities of issuing normative acts, of state management on complaints and resolving administrative complaints.

***4.2.8. Ensuring facilities for activities of receiving citizens, resolving administrative complaints***

Facilities also contribute to improving the quality and the efficiency of the administrative complaints. Therefore, there need to strengthen infrastructure for the receiving citizens and settling administrative complaints towards:

- To arrange, organize the reception offices of citizens under the scheme to renew the reception of citizens approved by the Prime Minister in Decision No. 858 / QD-TTg dated 14/06/2010 securing spacious and sufficient necessary equipment.

- To promote the application of information technology - the media in civic activities, administrative complaint settlement, strive by 2020, 90% of documents, official documents exchanged between the State's administrative agencies in citizen-receiving activities, complaint settlement is executed in electronic form; Here is the implementation of administrative reform tasks and administrative modernization subject to objectives of the administrative reform.

- In the long term, to accelerate the implementation of the scheme of computerization of activities of inspection and reception of citizens, handling of petitions and resolving complaints and denunciations are now presided by the Government Inspectorate.

## CONCLUSIONS

Complaining is one of the fundamental rights of citizens recognized in the Constitution of Vietnam. The administrative complaint is an objective social phenomenon, arising in the operation of state administration, it is both the form for citizens to participate in state management and methods to protect their rights and legitimate interests upon being infringed upon by administrative decisions or administrative acts contrary to law. Lawful complaint settlement (both in time and content) is the responsibility of the State and has very important implications for the development of the country, building a Vietnam socialist law-governed State. Therefore, the Party and State of Vietnam are very interested in the settlement of complaints of citizens, and in the fact that the whole political system has jointly come into action. However, resolving administrative complaints in recent years is still unsatisfactory and does not meet the requirements of the ongoing administrative reform.

Administrative complaint settlement and administrative reform have close ties, interactions; administrative reform is a prerequisite, ensuring conditions for the quality and efficiency of the resolution of administrative complaints; administrative complaint settlement is a method guaranteeing human rights, civil rights, disciplines and legislation in the state administrative management, promoting administrative reform.

In the context of Vietnam's ongoing strong administrative reforms in the fields of state management, administrative complaint settlement is a part of the management of state administration. So the settlement of administrative complaints must also be reformed, innovated in term of constitution, order and procedures as required by administrative reform to ensure convenient for citizens to exercise the right to appeal and the resolution of the State's administrative agencies to be executed quickly and timely shortly after being incurred at root; settlement process to ensure the objective, public and democratic factors, its content must be lawful to raise the effectiveness and the efficiency of appeal. Also is it required to promptly restore the rights and interests of citizens infringed upon by administrative decisions or administrative acts contrary to law, and to strictly handle those who have caused faults. With high effort and determination of the State's administrative agencies and the participation of the whole political system, there is a certainty that the settlement of administrative complaints in Vietnam in the coming time will achieve fruitful and successful results, contributing to improving effectiveness, efficiency of state management, situation of complaints arising in the fields of state administrative management will be reduced, and administrative complaint settlement will meet the objectives and tasks of the administrative reforms today, contributing to the success of revolutionary goals that the Party and people of Vietnam have chosen. /.

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