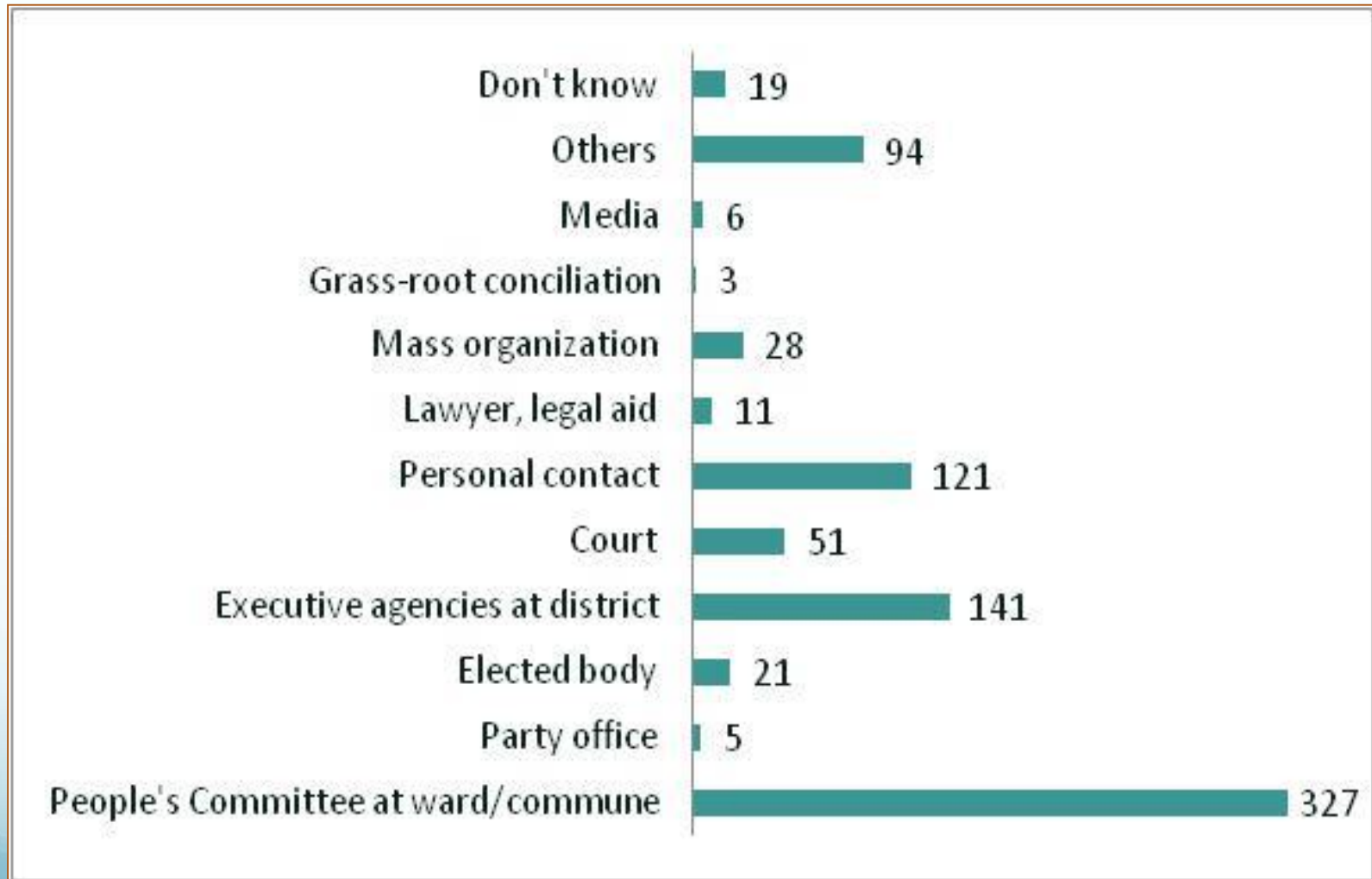


**ADMINISTRATIVE REFROM IN COURTS**  
**Proposal for amendment of**  
**Law On People's Court Organization**

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# How to settle a dispute

## *Justice Index 2012*



**Institution/individual**

**Number of case involved**

# Overview on procedures for receiving the civil cases in the court system

Under the CPC and Resolution No. 02/2006/HDTP the general procedures are as follows:

- **The courts** only adopts the petition which it is made in writing and includes **the contents prescribed in Article 164 of the CPC**.
  - The courts must have a **receipt book** to record the date of receiving the application which is the basis for determining the date of initiating the lawsuit and the time limit for initiating the lawsuit.
  - After receiving the petition, **the courts** has to grant the **written receipt** to the petitioner. If receiving a petition sent by post, **the courts** have to send the notice of petition receipt to the petitioner.
  - Within **5 business days** from the date of receiving the petition, **the judge** who is assigned to consider the petition must make one of the following decisions (case acceptance, petition return or petition transfer).
- *Law on People's Court Organization does not mention this issue. Should it supplement to the principles of the administrative works in court in the law draft?*

## Administrative works in the court system

Model 1: A judge will be assigned to receive directly new cases in a week (specialized court). The judge will study the cases and response the cases has been accepted or not.

Court leaders will only know the cases after the cases were accepted

Model 2: The court have one or more than one clerk in charge of receiving the application, the judge shall be assigned weekly to receive the cases. The clerk will examine requirements for accepting the cases and submit to the judge for answering.

Court leaders will only know the cases after the cases were accepted

Model 3: Court has a specialized division for receiving cases (so called as Judicial Administrative Division). The division receives the cases and guide citizen on requirements of the case file, its contents, proceedings  
Court leaders keep track at the beginning

# OVERVIEW OF JUDICIAL ADMINISTRATIVE REFORM

- *“Implementing the Judicial Reform Strategy to 2020 in conformity with the process of legislative reform and administrative reform program” (Resolution 49/NQ-TW ).*
- *“To study step by step carry out judicial administrative reform in courts towards openness to the public, simplicity, and convenience which facilitates citizens to easily exercise the right to initiate lawsuit to the court, and it is the courts’ duty to identify which body has jurisdiction to settle the case to transfer case file and announce the petitioner thereof; to publicize the procedures to access to case files, to provide documents and information, extracts of judgments and decisions of the courts in accordance with the laws” (SPC 2005)*
- The People’s Court of Hanoi applied the model of “Judicial administrative team” since 1998 and terminated in 2003 (unsuccessful).
- The People’s Court of Ho Chi Minh City applied the model of “Judicial administrative Team” since 1997 and has effectively operated.
- The People’s Court of Binh Duong province applies ISO 9001:2000.
- Three pilot courts of JUDGE Project: Provincial Courts of Vinh Long, Thua Thien Hue, Hung Yen

## Judicial administrative unit

- The model of the judicial administrative unit should be organized under the “one stop shop” model which is implemented by Vietnamese administrative agencies nationwide. This unit will be responsible for petition receipt, reporting to the court leaders, delivery of judgment and other clerical works
- ***Advantages of the “One stop shop”***: (i) The receipt of first instance criminal case files, initiation files of non-criminal cases, complaints or protest and the return of result will be centralized into the court’s judicial administrative unit; (ii) Archiving, providing and extracting the judgment will be systematically; (iii) The judicial administrative unit manages case files from the input stage and output stage, therefore, it is easy to perform statistical tasks, track and report the number of accepted cases

## Access to justice in other activities

- Everyone is equal when submitting petitions and being solved by clear, transparent and accountable processes between the state and the people and among the state divisions and organizations.
- The people are convenience in submitting petitions at the judicial administrative unit instead of seeking for judges, court clerks or court leaders for approval of the petition.
- The refusal of receiving the people's case files which is not under the regulations and not monitored, or controlled by court leaders will be restricted.
- The possibility of corruption with the people in order to make their case files be accepted will be restricted.

## Access to justice in other activities (cont.)

- The mechanism of issuing receipts, appointment slips and documentation of administrative activities will ensure the right to initiate lawsuits of the people, for example by not going beyond the time limit for lawsuit initiation or loss of the case files or papers.
- The reform judicial administrative model in pilot courts will reduce the times that citizens have to come to the courts for submission of petitions, complaints or request for copies of judgment.
- This model also impacts on forming the attitude and behavior of “*serving the people*” of courts and judges.



## Possibility of impact on the judicial independence and the quality of judicial activities

- The model of establishing judicial administrative team as performed by several pilot courts has separated some administrative tasks from judicial tasks
- The tasks in which Chief Judges are responsible for direct assignment of cases for judges to handle under the model of the pilot courts is to ensure the responsibility in judicial management of Chief Judges;
- It will restrict the situation that the judges only choose the cases for their own advantage to handle.
- Providing judgments in a timely manner, upgrading the judgment archiving capacity for a long-term and recording of trial sessions will impact on the responsibility of judges, the quality of adjudication and the publicity and transparency in the court's operation.

# Possibility of impact on the behavior for serving people and application of this model nationwide

- ✓ The procedure for settlement of case documents will be quickly performed by the professional administrative unit.
- ✓ Judges and court staff understand their responsibilities under pressure of time limit certifying by the appointment notes, receipt notes and their works will be under supervised by the Court leaders.
- ✓ The judicial administrative model can be implemented in the courts with different jurisdiction, workload, and other socio-economic conditions.
- ✓ The model of “one stop shop” also shares the work pressure for judges.
- ✓ This model will not necessarily require additional staff, expenses or equipment
- ✓ Evaluating performance of the "one stop shop" by the compliance cost measure, the courts applied this model significantly reduce the compliance cost for the people and also for the courts (from 50-70%).

# Notes

- Relationships at work within the court between the "one-stop" (judicial administration) with specialized parts, specialized courts should be established clearly. For example, deciding to accept the petition will be judges in the "one stop shop" or the judge assigned to the case decided?
- There are necessarily specialized staff with experience in the "one stop shop".
- The "one stop shop" may increase the time pressure on the judges to handle the cases.
- The "one stop shop" may be a "filter" to limit the new cases.

**THANK YOU FOR YOUR  
ATTENTION**