

# NOTABLE CONTENTS OF THE ORDINANCE ON SANCTIONS OF ADMINISTRATIVE VIOLATIONS FOR ACTS OF OBSTRUCTING PROCEDURAL ACTIVITIES

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To create a legal basis to strictly handle the acts that obstruct procedural activities of competent agencies and persons, on August 18, 2022, the National Assembly Standing Committee promulgated the Ordinance on sanctions of administrative violations for acts of obstructing procedural activities (the **Ordinance**). The Ordinance regulates acts of obstructing procedural activities subject to sanctions for administrative violations; forms and levels of penalties; remedial measures; measures to prevent and ensure the handling of administrative violations; competence, procedures in sanctioning, enforcement of sanctioning decisions and coercive enforcement of decisions on sanctioning administrative violations for acts of obstructing procedural activities. It should be noted that the penalties specified in the Ordinance is applicable to individuals, the penalties for organizations with similar violations will double the ones for individuals. In this Legal Newsletter, NHQuang&Associates will introduce some notable contents of the Ordinance, which focuses on procedural obstructing acts to be sanctioned in criminal, civil, administrative areas.

*First*, stipulating acts that obstruct criminal proceedings. In criminal procedures, the Ordinance stipulates **7** acts which are considered to obstruct criminal procedures, including:

- (i) Acts of denouncing or reporting crimes untruthfully;
- (ii) Acts of disclosing investigation confidentiality;
- (iii) Acts of violating regulations on attendance under summons;
- (iv) Acts of obstructing representatives of agencies, organizations, or individuals from participating in



proceedings;

(v) Acts of obstructing evidence verification and collection;

(vi) Acts of preventing the issuance, delivery, receipt, notification, or failure to perform the responsibility to issue, deliver, transfer, send, post or notify procedural documents;

(vii) Acts of offending the honor, dignity, reputation, or health of procedure-conducting persons.

Depending on the subject, nature and consequences of the acts, individual offenders shall be subject to a warning or a fine from 100,000 Viet Nam dong to a maximum of 40 million Viet Nam dong. For example, the act of untruthful denouncing and false reporting is subject to 3 penalty frames: (i) a fine within the range of 1 million Viet Nam dong to 5 million Viet Nam dong for an individual's act of intentionally denouncing or reporting crimes untruthfully ; (ii) a fine ranging from 5 million Viet Nam dong to 15 million Viet Nam dong for an individual's acts such as intentionally denouncing or reporting crimes untruthfully, affecting the reputation of competent agencies and persons; (iii) a fine from 15 million Viet Nam dong to 30 million Viet Nam dong for lawyers who intentionally denouncing or reporting crimes untruthfully, affecting the reputation of competent agencies and persons. In addition, exhibits, means used for violations of the individual or organization denouncing or reporting untruthful crimes may be confiscated.

*Second*, stipulating acts of obstructing civil and administrative proceedings, the consideration, and decision to apply administrative handling measures at the people's courts, the consignment of drug addicts from full 12 years old to under 18 years old to

compulsory detoxification establishments. Specifically, there are **7** acts as follows:

- (i) Acts of willful absence under the summons of the Court;
- (ii) Acts of obstructing representatives of agencies, organizations, or persons from participating in proceedings at the Court's request;
- (iii) Acts of obstructing evidence verification and collection of competent agencies or persons;
- (iv) Acts of obstructing the issuance, delivery, receipt, service, or notification of procedural documents of the Court;
- (v) Acts of interfering the settlement of cases;
- (vi) Acts of offending, infringing the sanctity and prestige of the Court; offending the honor, dignity, reputation, infringing the health of competent persons or other persons performing their duties at the Court's request;
- (vii) Acts of spreading disinformation.

Individuals who commit the above violations, depending on the subjects, the level of danger and consequences of the acts caused, shall be subject to a warning or a fine with a minimum of 100,000 Viet Nam dong to a maximum of 40 million Viet Nam dong together with corresponding additional sanctions (if any). For example, individuals who threaten, assault, or abuse any dependence to obstruct representatives of agencies, organizations, or individuals from participating in procedural activities at the Court's request will be fined from 1 million Viet Nam dong to 5 million Viet Nam dong, and may be subject to the additional sanction of confiscating exhibits, means used for violations.

*Third*, stipulating acts of violating the court rules, rules of meetings, and other acts that obstruct procedural activities. Accordingly, the Ordinance specifically stipulates the following **2** groups of acts:

- (i) *The group of acts violating the court rules* such as causing disorder behaviors in the courtroom (a fine of from 500,000 Viet Nam dong to 1 million Viet Nam dong for individuals, and application of additional penalties such as confiscating exhibits and means used for violations), failing to present summons, invitations and other relevant papers at the Court's despite being reminded (a fine from 500,000 Viet Nam dong to 1 million Viet Nam dong for individuals).
- (ii) *The group of other acts obstructing procedural activities* including (i) Distributing documents or spreading account information to log in the online adjudication system and (ii) Destroying transmission lines and network gear, sound system (speakers, microphones, amplifiers, sound mixers), etc. These acts will be fined from 1 million Viet Nam dong to 7 million Viet Nam dong for individuals with additional penalty of confiscating exhibits, means used for violations.

## COMMENTS AND RECOMMENDATIONS

The above regulation on the above-mentioned acts that obstruct the proceedings in criminal, civil and administrative fields is to overcome practical problems when the obstruction of procedural activities tends to increase, causing difficulties in case settlement, significantly affecting the quality of case settlement of competent agencies and persons, the solemnness and authority of the judiciary. Meanwhile, there used to be no systematic document on the sanctioning of acts obstructing procedural activities but only some general and unclear provisions on handling acts of obstructing procedural activities are regulated in the Criminal Procedure Code, the Civil Procedure Code, and the Law on Administrative Procedure. Types of acts, sanctioning forms, competence, order, and procedures for sanctioning acts obstructing procedural activities have not been specified, leading to many difficulties and obstacles in sanctioning violations. The promulgation of a unified and detailed legal document shall create a legal basis for strictly handling acts that obstruct procedural activities of competent agencies and persons; preventing potential violations. The Ordinance takes effect from September 1, 2022. Individuals and organizations should update and research the provisions of the Ordinance to ensure proper performance of obligations during proceedings and avoid unnecessary legal risks.