

## **Discussion on litigants and the resolution of lawsuits in the current stage of land acquisition, compensation, support, and resettlement**

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### **Abstract:**

**Administrative litigation concerning land acquisition, compensation, support, and resettlement constitutes one of the most sensitive and frequent categories of administrative justice in Vietnam. In practice, disputes in this field account for a large proportion of administrative cases and often give rise to prolonged social tensions between the State and land users. Despite the existence of an established legal framework, significant shortcomings persist in both access to administrative litigation and the standards of judicial review. Vietnamese law primarily permits lawsuits against specific administrative decisions and acts, while excluding normative or policy-based decisions that frequently serve as the root causes of land-related disputes. In addition, judicial review remains largely confined to assessing legality, without adequately considering the reasonableness or proportionality of administrative decisions. This approach has resulted in many formally lawful decisions producing substantively unfair outcomes, such as inadequate compensation and prolonged grievances. This article examines the persons**

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**and entities eligible to initiate administrative lawsuits and the mechanisms for resolving such disputes. Based on doctrinal legal analysis, case-law analysis, and comparative perspectives, it proposes reforms to expand access to litigation, incorporate reasonableness into judicial review, and enhance judicial independence.**

**Keywords: administrative courts, administrative litigation, compensation, land acquisition, legality, reasonableness, resettlement.**

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## **1. Introduction**

Land is a special resource, collectively owned by the people, uniformly managed by the State, and serving as a fundamental basis for socio-economic development [1]. Over recent decades, alongside rapid urbanisation and infrastructure expansion, the number of administrative lawsuits related to land - particularly in the areas of land acquisition, compensation, support, and resettlement - has steadily increased. According to a summary report of the Supreme People's Court, from 1 October 2021 to 30 September 2022, courts nationwide handled 11,746 administrative cases, of which 78.71 per cent concerned administrative decisions and acts related to land management, including land recovery, site clearance, compensation, and resettlement support [2]. These figures reflect not only the prevalence of land-related administrative disputes but also their central position within Vietnam's administrative justice system.

However, the current legal framework governing administrative litigation continues to reveal structural limitations that reduce the effectiveness of judicial protection. First, the scope of eligible plaintiffs and litigable administrative decisions remains narrow, as access to the courts is primarily restricted to specific administrative decisions and acts. This approach excludes normative or policy-

based decisions that often constitute the legal basis for subsequent land recovery and compensation measures. Second, judicial review mechanisms focus predominantly on examining legality, without empowering courts to assess the reasonableness or proportionality of administrative decisions. These limitations constrain the judiciary's ability to resolve disputes in a manner that adequately reflects their broader social and economic context.

Against this backdrop, the present article analyses two core issues: (i) the persons and entities eligible to initiate administrative lawsuits, and (ii) the mechanisms for resolving administrative disputes in the field of land acquisition, compensation, support, and resettlement. By clarifying existing legal shortcomings and examining judicial practice, the article seeks to identify the gap between formal legality and substantive justice. On that basis, it proposes several legal reforms aimed at improving access to administrative litigation and strengthening the role of the courts in supervising executive power, thereby contributing to more effective protection of the legitimate rights and interests of land users.

To achieve these objectives, the article adopts a qualitative legal research approach combining doctrinal legal analysis with case-law analysis of representative administrative judgments. In addition, a comparative law method is employed, drawing on selected experiences from France, Germany, and Japan in order to assess the limitations of the current framework and inform the proposed reforms.

## **2. Legal framework and current litigation practice in land acquisition, compensation, support, and resettlement**

### ***2.1. Object of complaints***

According to land law and administrative procedural law, land users have the right to initiate lawsuits when they believe that an administrative decision or administrative act has infringed upon their legitimate rights and interests [1, 3]. This right constitutes a fundamental procedural guarantee enabling individuals and organisations to seek judicial protection against unlawful exercises of administrative power. In reference to Clause 1, Article 3 of the Law on Administrative Procedures 2015, the subjects of lawsuits include administrative decisions concerning specific matters in administrative management, applied once to one or several specific individuals or entities, as well as administrative acts performed by competent agencies or individuals in the exercise of public authority.

In the field of land acquisition, compensation, support, and resettlement, typical administrative decisions that may be subject to lawsuits under the 2024 Land Law include:

- (i). Decision on land recovery - Clause 5, Article 13 of the 2024 Land Law.
- (ii). Decision on compulsory inventory - Final part of Clause 2, Article 87.
- (iii). Decision on enforcement of compulsory inventory - Final part of Clause 2, Article 87.
- (iv). Decision approving the compensation, support, and resettlement plan - Point c, Clause 3, Article 87.
- (v) Decision on enforcement of land recovery - Point b, Clause 7, Article 87.

Additionally, administrative acts are also considered subjects of lawsuits when they involve actions (or inaction) by competent agencies or individuals in performing duties or public functions as prescribed by law, where such conduct directly affects the legitimate rights and interests of land users.

From a legal perspective, these provisions establish the formal scope of judicial review in administrative litigation related to land acquisition, compensation, support, and resettlement. Thus, the current legal framework recognises the right of land users to initiate lawsuits against specific administrative decisions and administrative acts directly related to land acquisition, compensation, support, and resettlement activities.

Although the Land Law and the Law on Administrative Procedures recognise the right of land users to initiate lawsuits against specific administrative decisions and administrative acts, the scope of this right remains significantly limited in both normative design and judicial application. According to Clause 1, Article 3 of the 2015 Law on Administrative Procedures, only administrative decisions “on specific matters in administrative management, applied once to one or several specific subjects” are considered eligible for litigation. Consequently, normative administrative decisions - classified based on their legal nature [4] - cannot be challenged before the courts, even where such decisions constitute the legal basis for subsequent individual administrative decisions, such as land-use planning and zoning decisions underlying land recovery measures.

This limitation has led to structural inconsistencies in administrative adjudication. Specifically, if a “root” decision (such as land use planning or zoning) is issued unlawfully or unreasonably, any subsequent specific administrative decision based on it may still be deemed lawful. In resolving complaints, courts are only authorised to assess the conformity of the specific decision with the normative or policy-based administrative decision, without jurisdiction to evaluate the legality or reasonableness of the normative or policy-based administrative decision itself [5]. As a result, citizens’ legitimate rights and interests may be restricted, and in many cases, plaintiffs are compelled to accept inequitable outcomes despite being able to demonstrate injustice in the land recovery and compensation process.

This issue has been pointed out by numerous legal scholars and researchers. The restriction to specific decisions renders Vietnam's administrative complaint mechanism insufficiently comprehensive and equitable, especially when compared to judicial systems in more developed countries, where individuals may challenge normative decisions or administrative policies if they directly affect their rights.

Accordingly, the current limitation on eligible subjects for administrative litigation constitutes a significant barrier to the protection of land users' lawful rights and interests, while simultaneously undermining the effectiveness of judicial oversight over executive power in the field of land management.

The practice of administrative adjudication in Vietnam has revealed numerous shortcomings in the judicial identification of litigable administrative decisions. Some courts have held that decisions approving compensation, support, and resettlement plans are general in nature and not specific administrative decisions, and therefore not subject to litigation. This approach has led to the rejection of many legitimate claims by citizens, undermining public trust in the judiciary.

However, Precedent No. 10/2016/AL, issued by the Council of Judges of the Supreme People's Court on 17 October 2016, marked an important clarification in judicial practice. A notable example is an administrative case in Vinh Long province concerning a decision on compensation, support, and resettlement. Ms. Vo Thi Luu filed a lawsuit against the Vinh Long provincial People's Committee. The first-instance court dismissed the case, the appellate court overturned the ruling and suspended the proceedings, but the cassation court annulled both judgments and ordered a retrial. On the basis of this case, Precedent No.10/2016/AL was established, affirming that administrative decisions with specific content that directly affect individual rights - such as decisions approving compensation plans - are indeed subject to administrative litigation [6].

The case also highlighted serious procedural deficiencies in judicial handling: the first-instance court failed to clarify the purpose of land recovery, while the appellate court prematurely suspended the case without examining the substantive impact. This underscores the essential role of cassation procedures in protecting citizens' rights. The publication of Precedent No. 10/2016/AL clarified the criteria for identifying litigable administrative decisions - not merely based on form, but on substance and actual consequences.

Nevertheless, the application of precedent and the practical resolution of complaints remain inconsistent. Some courts still struggle to distinguish between specific and normative decisions, resulting in uneven adjudication.

## ***2.2. Judicial review of administrative complaints in land acquisition, compensation, support, and resettlement***

According to Article 193 of the 2015 Law on Administrative Procedures, when adjudicating administrative cases, the court has the authority to annul part or all of an administrative decision or act if it determines violations relating to: (i) the issuing authority; (ii) the form of the decision; (iii) procedural requirements; or (iv) the lawfulness of its content. Accordingly, the scope of judicial review in administrative litigation is primarily confined to the criterion of legality, focusing on whether an administrative decision or act complies with statutory requirements in terms of competence, form, procedure, and substance.

This approach reflects the traditional perspective of Vietnamese law, which views administrative adjudication as a mechanism for verifying the legality of administrative actions, thereby upholding the rule of law and controlling executive power. However, under the current legal framework, judicial review in administrative cases remains primarily focused on legality, while the assessment of the reasonableness of administrative decisions - such as the balancing of interests, proportionality, or contextual appropriateness - has not yet been clearly or consistently recognised in judicial practice.

As a result, many administrative decisions in the field of land acquisition, compensation, support, and resettlement, while formally legal, may lack fairness in reality. For instance, compensation for land is often based on state-issued price brackets, which are significantly lower than market values. This causes substantial losses for affected citizens, yet courts are often compelled to dismiss their claims, creating a wide gap between legal formalism and practical justice, as these decisions are “legally correct” in form.

In legal theory, the distinction between legality and reasonableness is a critical element in the mechanism for controlling administrative power. While legality reflects compliance with statutory requirements, reasonableness is tied to fairness, proportionality, and contextual appropriateness. International experience demonstrates that combining both legality and reasonableness in judicial review is a progressive trend, ensuring a balance between effective state governance and the protection of citizens’ legitimate rights. For example, in France, administrative judges are empowered to assess both the legality and reasonableness of decisions, including policy decisions, through the principle of *contrôle de proportionnalité* [7].

Compared with Vietnam, several jurisdictions have gradually expanded the scope of judicial review to include substantive assessments of administrative decisions. In France, administrative courts apply the principle of proportionality to evaluate both legality and reasonableness. Similarly, German and Japanese administrative adjudication allows courts to scrutinize policy-based or normative decisions when they directly affect individual rights. These comparative experiences highlight the relative limitations of the current Vietnamese framework and support the need for reform [8].

Therefore, it is evident that the current legal grounds for resolving administrative complaints in cases related to land acquisition, compensation,

support, and resettlement only partially fulfil legal requirements and fall short of ensuring the function of protecting social justice.

Practical experience in resolving administrative complaints in the field of land management reveals a notable limitation in the current adjudication mechanism: the independence of the courts in handling administrative cases is not yet fully guaranteed. Although administrative judgments are pronounced “In the name of the Socialist Republic of Vietnam”, symbolising supreme judicial authority, in reality, many rulings remain largely formalistic. This stems from limitations in professional competence, practical experience, and especially the independence and objectivity of some administrative judges.

For instance, in certain cases involving land recovery decisions, judges have reportedly faced influence or pressure from local executive authorities, resulting in the dismissal of citizens’ claims despite clear evidence of procedural errors affecting their rights. Such deference or dependence on executive agencies undermines public trust in the fairness, transparency, and impartiality of the judiciary, and weakens the court’s role in overseeing executive power.

Moreover, courts are currently only authorised to assess the legality of administrative decisions, without the power to evaluate their reasonableness. In many cases, although decisions are issued with proper authority and follow correct procedures, their content fails to ensure fairness for affected individuals. As a result, land-related complaints often become prolonged and repetitive, increasing social costs and eroding public confidence in the judicial system.

A typical example is the first-instance administrative judgment No.23/2017/HC-ST dated 28 August 2017, issued by the People’s Court of Khanh Hoa province, which dismissed Ms. Tran Thi Kim Bich’s lawsuit requesting the annulment of decisions by the Dien Khanh district People’s Committee and the Khanh Hoa provincial People’s Committee regarding compensation pricing in a land recovery case [9]. Although the recovery decision and compensation plan

were issued with proper authority and followed legal procedures, the compensation rate was extremely low and failed to meet the principle of fairness. However, the court, limited to assessing legality, faced difficulty in annulling or amending the decision. This case exemplifies the inadequacy of the current legal framework, which does not empower courts to evaluate the reasonableness of administrative decisions.

Nonetheless, judicial practice is gradually shifting toward reform, with increasing attention to reasonableness, helping to align adjudication with real-world conditions and reduce harm to citizens. A notable development is reflected in Notice No. 48/TB-VS-HC dated 1 October 2018, issued by the High People's Procuracy in Da Nang regarding the aforementioned case. The High People's Court in Da Nang accepted the Procuracy's recommendation, annulled the first-instance judgment, and returned the case for retrial. The reason was that Ms. Bich's land, although classified as agricultural, was located within a residential area and was recovered for subdivision and resale to individuals in need of housing. Applying a compensation rate of 32,000 VND/m<sup>2</sup> failed to reflect the actual planning context, especially when the post-recovery starting price was 3,401,200 VND/m<sup>2</sup>. The Procuracy concluded that "reasonable consideration is needed to ensure the lawful rights and interests of Ms. Tran Thi Kim Bich" [10].

Such reforms not only bring Vietnam's legal system closer to international standards but also help restore public trust in the judiciary, ensuring transparency and sustainability in land management and use.

### **3. Recommendations**

#### ***3.1. Expanding the scope of litigable administrative decisions***

From the foregoing analysis, it is evident that the current limitations on the subjects of administrative complaints in the field of land acquisition, compensation, support, and resettlement do not fully meet the requirements for

protecting the legitimate rights of land users. To address this shortcoming, the author proposes that the law should be amended to allow citizens to initiate lawsuits not only against specific administrative decisions but also against overarching or normative administrative decisions. This would enable land users to file complaints or lawsuits against any document issued by any state agency, provided that such decisions directly affect their lawful rights and interests.

Accordingly, it is necessary to expand the scope of litigable administrative decisions to allow citizens to initiate lawsuits not only against specific administrative decisions but also against overarching or normative administrative decisions, provided that such decisions directly affect their lawful rights and interests. This approach would enable land users to challenge the legality of foundational administrative documents, such as land-use planning and zoning decisions, which may otherwise remain beyond judicial scrutiny despite their decisive impact on land recovery and compensation outcomes.

This proposed adjustment is entirely consistent with Clause 1, Article 30 of the 2013 Constitution and aligns with international practices, where many countries have already recognised broader scopes of administrative litigation. For example, in the Federal Republic of Germany, the administrative court system allows citizens to challenge regulations and normative administrative decisions if they directly impact their rights. In addition to administrative complaint mechanisms within government agencies, Germany also maintains an independent judicial oversight system through administrative courts operating alongside civil courts. Japan likewise recognises the right to sue over broader administrative decisions, including policy-based decisions, when they affect the lives of individuals or communities. These experiences reflect an international trend toward maximising the right to litigation as a means of controlling executive power and safeguarding social justice [11].

### ***3.2. Institutional and procedural reforms for effective administrative complaint resolution***

In light of the aforementioned shortcomings, to ensure a fair and effective mechanism for resolving administrative complaints in the areas of land acquisition, compensation, support, and resettlement, several legal and practical reforms should be implemented:

Firstly, incorporate the criterion of reasonableness into the legal grounds for resolving complaints. The Law on Administrative Procedures should be amended to empower courts not only to assess the legality but also to evaluate the reasonableness of administrative decisions and actions. This would serve as a tool for courts to ensure a balanced distribution of interests and proportionality in administrative relations, in line with international trends.

Secondly, strengthen mechanisms for dialogue and effective mediation in administrative proceedings. Establishing genuine dialogue sessions between administrative authorities and citizens, under the independent facilitation of the court, would help reduce the number of cases brought to trial, shorten resolution time and costs, and improve acceptance of outcomes by all parties involved.

Thirdly, apply information technology in complaint resolution. Digitising the processes of filing petitions, managing case files, and publicly tracking case progress will enhance transparency and convenience for citizens - especially in land-related cases involving multiple parties in remote areas.

Fourthly, improve the competence and independence of administrative judges. A robust framework for specialised training and skill development in land-related adjudication is essential, along with legal safeguards to protect judges from interference by local executive authorities. This is a prerequisite for ensuring objectivity and fairness in judicial proceedings.

If implemented comprehensively, these solutions will help overcome current limitations, better protect the legitimate rights and interests of land users, and strengthen the judiciary's role in overseeing executive power - especially in the context of building a rule-of-law state in Vietnam.

#### **4. Conclusions**

Administrative litigation in the field of land acquisition, compensation, support, and resettlement constitutes one of the most complex and socially sensitive areas of administrative justice in Vietnam. This article has demonstrated that the current legal framework remains constrained by two fundamental limitations: a narrow scope of litigable administrative decisions and an exclusive focus on legality in judicial review. To address these shortcomings, the article proposes expanding access to administrative litigation to include normative and overarching decisions that directly affect citizens' rights, while incorporating reasonableness as a substantive criterion of judicial review and strengthening judicial independence. If implemented comprehensively, these reforms would enhance the protection of land users' legitimate rights and interests, reinforce the judiciary's supervisory role over executive power, and contribute to greater public trust in the administrative justice system.

#### **CRedit author statement**

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#### **COMPETING INTERESTS**

The authors declare that there is no conflict of interest regarding the publication of this article.

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