

REPORT

Results of the workshop on commenting and making suggestions on the handbook of sanctioning of administrative violations in the fields of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, enterprise and cooperative bankruptcy

Implementing the Operational Plan 2014 within the framework of the Project 58492 ‘Strengthening Access to Justice and Protection of Rights in Vietnam’ (hereinafter called the Project) and being permitted by Ministry of Justice's leaders, the MOJ’s Inspectorate collaborated with the Project to organize “**The workshop on commenting and making suggestions on the Handbook of sanctioning of administrative violations in the fields of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, enterprise and cooperative bankruptcy**” on 27 June 2014 in Quang Ninh Province. The results of the workshop shall be reported as follows:

1. The general information about the workshop

1.1. Time and venue

The workshop was held within 1 working day on 27 June 2014 at Bach Dang Hotel, No. 2 Ha Long Street, Ha Long City, Quang Ninh Province, which is compatible with the plan.

1.2. Agencies being responsible for holding the workshop

The sub-project the MOJ’s Inspectorate collaborated with the Project and relevant departments to hold the workshop.

The workshop was chaired by Mr. Nguyen Thang Loi – The director of the sub-project, Deputy Chief of the MOJ’s Inspectorate.

1.3. Delegates

The national experts, scientists from ministries and central agencies, and delegates with rich experience on administrative violation sanctions from localities participated in the workshop, as follows:

- Delegates from ministries and central agencies: The Supreme People's Court, and relevant departments of Ministry of Justice including General Department of Civil Judgment Enforcement, Department of Judicial Affairs Support, Department of Criminal - Administrative Laws, Department of Legal Aids, National Centre for Criminal Record, Department of Civil - Economic Laws and Department of Child Adoption.

- Delegates from localities: Representatives of the following provincial level Departments of Justice: Nam Dinh, Lang Son, Ha Noi, Hai Duong, Thai Nguyen, Tuyen Quang, Vinh Phuc, Thai Binh, Quang Ninh; Representatives of Quang Ninh Department of Civil Judgment Enforcement and some Divisions of Civil Judgment Enforcement in Quang Ninh; and Representatives of some district-level Justice Divisions in Quang Ninh.

1.4. Budget

Budget for organizing the workshop was covered by the budget allocated for action 3.5 (the sub-project of the MOJ's Inspectorate) approved by UNDP Viet Nam and PMU of the Project 58492.

2. The main issues discussed at the workshop

The workshop aimed to seek comments of national experts, related agencies and organizations, especially those with practical experience in the fields of inspection and administrative violation sanctions. For such purposes, the workshop focused on the following main issues:

2.1. The necessity of the workshop

The participants stated that the organization of the workshop was very necessary. The workshop was organized from the practical needs of administrative violation sanction in the judicial fields in recent years to discuss and comment on critical contents of the Handbook; to share experiences and exchange ideas about the difficulties, problems and shortcomings; and to propose solutions to overcome such difficulties and obstacles in order to create positive change in the actual implementation of the Decree No. 110/2013/ND-CP.

2.2. Comments on Part 1: The main contents and new provisions of the Decree No. 110/2013/ND-CP

Participants have not had any comments on this part.

2.3. Questions and answers about judicial assistance

There were several comments of participants on the part of judicial assistance, including those from Department of Judicial Affairs Support, Departments of Justice of Thai Nguyen and Quang Ninh. These comments focused on a number of matters including the basis for determining the right to use and private ownership of property which is subject of the contract or transaction; if a branch of a lawyer practicing organization commits administrative violations, such branch or lawyer practicing organization shall be sanctioned?; the sanctions imposed on the failing of purchasing lawyers' professional liability insurance and so on.

2.4. Questions and answers about judicial administration

The comment of Deputy Director of the Quang Ninh Department of Justice emphasized the situation that it is very difficult to detect and sanction violations of illegal repair or erasure of papers and records. Such violations have usually been detected by local officials; the Department of Justice just checks the documents filed, therefore the Department of Justice's Inspectorate has not sanctioned such violations.

The Chief of Quang Ninh Department of Justice's Inspectorate believed that the issuing of civil status papers for individuals is very easy. Accordingly, in many cases, they have not kept such papers issued carefully. For this reason, a provision on sanctioning such behavior should be considered to add.

2.5. Questions and answers about marriage and family

A discussion of the representative from the Department of Civil - Economic Laws focused on the scope of the Handbook. According to this comment, the sub-project may broaden the scope of the Handbook. The contents base not only on provisions of Decree No. 110/2013/ND-CP, but also on provisions of the Law on Marriage and Family (amended). By the way, the participant also provided some new provisions of this Law related to contents of the Handbook.

Some participants also commented on a question and answer about the violation called "*Living together as husband and wife*" and other relevant questions.

2.6. Questions and answers about civil judgment enforcement

The representatives from the Supreme People's Court and Quang Ninh Department of Civil Judgment Enforcement had some comments on questions and answers about civil judgment enforcement. In terms of the question no. 128,

according to participants, bailiffs have been authorized to enforce some activities of civil judgment enforcement. In this case, do they have right to make written records of administrative violations? How to deliver such records to persons who are competent to sanction? These contents should be added to Handbook to guide widely.

The representative from Quang Ninh Department of Civil Judgment Enforcement mentioned the situation that administrative violation sanction in the field of civil judgment enforcement has been very rare. It is due to the fact that the activity of civil judgment enforcement is hard and difficult; therefore, enforcers mentally do not want to perform more work.

2.7. Questions and answers about enterprise and cooperative bankruptcy

Generally, the participants agreed with contents of the Handbook on enterprise and cooperative bankruptcy. The representative from the Supreme People's Court recommended the sub-project should review and restructure questions and answers about such fields avoiding duplication of contents.

In addition, several participants suggested that the sub-project should review all questions and answers to shorten the Handbook if necessary, similar to suggestions for questions and answers about enterprise and cooperative bankruptcy as reported above. Some participants asked the sub-project to supplement related legal documents, samples of written and decisions to the Handbook. Additionally, some specific questions arising from the practice should be added to the Handbook, such as the behavior of not registering representative offices of lawyer practicing organizations.

3. Evaluation of the workshop's results

The workshop was held with time, venue, participants, national experts and keys speeches as set in the plan approved by the Project. The initial purposes of the workshop which is to receive comments on the contents of the Handbook have been reached.

The MOJ's Inspectorate found that the organization of the workshop is very good preparation for developing of the Handbook of sanctioning of administrative violations in the fields of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, enterprise and cooperative bankruptcy.

The workshop was organized with the guarantee of security and politics, contents of key speeches and exchange in accordance with the provisions of Vietnamese laws.

4. Proposals and recommendations

This Handbook is a practical signification helping people with sanctioning competence easily implement their tasks in reality. Hence, the MOJ's Inspectorate in particular and the workshop's participants in general expect this Handbook shall be completed soon.

At present, UNDP and the Project 58492 'Strengthening Access to Justice and Protection of Rights in Vietnam' have sponsored budgets for developing the Handbook excluding its publishing fee. Therefore, if the writing of the Handbook is completed and there is no fee for publishing this Handbook, it will not be delivered to beneficiaries. Thus, the MOJ's Inspectorate kindly suggests that UNDP and the Project will sponsor for the Handbook publishing fee when it is completed.

The contents above are report of the MOJ's Inspectorate about results of **"The workshop on commenting and making suggestions on the handbook of sanctioning of administrative violations in the fields of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, enterprise and cooperative bankruptcy"**.

Recipients:

- As above;
- Deputy Minister Nguyen Thuy Hien (for reporting purpose);
- Chief of Inspectorate (for reporting purpose);
- For filling purpose: Archives, Inspectorate.

**FOR CHIEF OF INSPECTORATE
DEPUTY CHIEF OF INSPECTORATE**

(Signed)

Nguyen Thang Loi