

Newsletter

Strengthening Access to Justice and Protection of Rights in Vietnam

Issue No. 13, October 2014

This is the Internal Newsletter on activities of the Project "Strengthening Access to Justice and Protection of Rights in Viet Nam"

Activities conducted

Research study on conciliation in civil proceedings in the court system of Vietnam Institute of Judicial Science, SPC

Development of the Manual on Handling of Administrative Violations in relation to the judicial activities (Decree No. 110/2013) MOJ's Inspectorate

Trainings on handling administrative violations in the areas of legal aid, judicial administration, family and marriage, civil execution, bankruptcy of enterprises and cooperatives MOJ's Inspectorate

Consultative workshop to comment on solutions to improve the MOJ's score and position in the Ministerial Effectiveness Index of Business Law Development and Implementation (MEI) Office of MOJ

Research study on amendment, supplement of the Penal Procedure Code to meet requirements of the Judicial reform Central Internal Affairs Committee

Workshop on the innovation of the organisation and functioning of the People's Courts in accordance with the Judicial reform Central Internal Affairs Committee

Responsibility of legal entities in the amendments of the Penal Code Supreme People's Court

On-going Research

Research studies on selected issues to recommend for the amendments of the Penal Code – criminalization / decriminalization of certain offences Department of Criminal and Administrative Legislation, MOJ

Research studies on selected issues to recommend for the amendments of the Penal Code – Responsibility of legal entities Department of Criminal and Administrative Legislation, MOJ

Research study on amendment of the Penal Code, focusing on environmental offences Department of Criminal and Administrative Legislation, MOJ

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Survey to give recommendations toward improvement of regulatory protection mechanism of civil and property rights of individual and legal entity in amending the Civil Code	Department of Civil and Economic Legislation, MOJ
Overall assessment of the Draft Law on Civil Status from the perspective of protection of human rights	Bureau of Civil Status, Nationality and Authentication, MOJ
Research study on organization and operations of Legal Partnership Group to enhance aid coordination in legal/judicial area	Department of International Cooperation, MOJ

Event:

Legal Policy Dialogue: “Amending the Penal Code: A step toward implementation of the 2013 Constitution” (22/10/2014) MOJ in coordination with UNDP



Legal Policy Dialogues held in 2013 and early 2014

The 16th Meeting Session of the Central Steering Committee on Judicial Reform (13/9/2014)



In the morning of 13/9, in Hanoi, the Central Steering Committee on Judicial Reform (JRSC) held the 16th meeting session. The State President Truong Tan Sang, Politburo member and Head of the JRSC hosted the meeting session. The members of the JRSC heard and commented on the research report on the results and proposals for the draft documents of the 12th National Party Congress relating to judicial reform and organization. They also discussed reports by the Party members in the Ministry of Justice on amendment and supplements to Vietnam's Penal Code 1999 and the Civil Code 2005.

In the closing remarks, the State President and Head of the JRSC highly appreciated the preparations and qualified draft documents of the 12th National Party Congress and stressed that the Intersectoral research team report's recommendations and assessments were close to the implementation of judicial reform tasks over the past time and highlighted viewpoints and directions for judicial work in the coming time. The reports by the Party members in the Ministry of Justice on amendment and supplements to Vietnam's Penal Code and the Civil Code indicated the essential to amend and supplement these two codes. The amendment target, viewpoint and content stayed in line with the policy and guidelines on perfecting the criminal and civil policy and legal system stipulated in the Politburo Resolution 48-NQ/TW on Vietnamese law system building and perfecting strategy to 2010 and visions to 2020, and Resolution 49-NQ/TW on judicial reform to 2020, Conclusions of the Political Bureau on judicial reform as well as the new contents of the 2013 Constitution.

Mr. Truong Tan Sang urged the Standing Committee to collect ideas and proposals from its members to revise and completed the report and proposal for the content of the draft documents of the 12th National Party Congress, to submit the Sub-Committee documents XII Congress of the Party.

The Party members in the Ministry of Justice were asking for continued effort to close co-ordination among relevant agencies in instructing the adjustment of the draft amendments to Penal Code and Criminal Code. For different opinions should be presented with two solutions with scientific and persuasive arguments for each selected solution and reflected the views of the Drafting Committee. The new issues were required to consider on the basis of conformity with the Party line and the Constitution; expeditiously finalize the drafts before submitting the National Assembly in 2015.

He also emphasized that the institutionalization of judicial reform policies focusing on completing criminal and civil laws is an urgent task. This period of time provided favorable opportunity for the institutionalization of the policy, the Party line regarding judicial work and reform. The central justice agencies and relevant sectors should seize this opportunity to finalize law projects timely on the laws and ordinances making schedule of the National Assembly XIII and to ensure Party guidelines on judicial work and reform stipulated in Resolution 49-NQ/TW are timely and fully institutionalized. The

difficulties and obstacles in the process of institutionalization should be reported to the JRSC to discussion, disassembly, meet the requirements of the judicial reform and international integration.

Mr. Truong Tan Sang urged the Committee to collect ideas and proposals from its members to the content of the draft documents of the 12th National Party Congress, focusing on strengthening the rule of law, judicial work and reform, through which to raise the members' awareness about the importance of judicial reform, the determination in carrying out the duties of judicial reform to ensure the judicial reform must be timely, synchronized with the administrative reform, economic innovation, contribute to the successful implementation of the comprehensive innovation of the country./.

By H.Giang (source: [http://: www.moj.gov.vn](http://www.moj.gov.vn))

The 2nd of the Advisory expert drafting group of the Penal Code (amended) (15/7/2014)

On 15 July 2014, the Advisory expert drafting group of the Penal Code (amended) held its 2nd session co-chaired by Minister of Justice Ha Hung Cuong, Deputy Minister of Justice Dinh Trung Tung and former-Deputy Minister of Justice Hoang The Lien. Attended the meeting were experts, members of the Drafting Committee, and participants from the Supreme Court, the Supreme Procuracy and the Ministry of Public Security...



In the opening speech at the session, Minister Ha Hung Cuong affirmed that the Penal Code is a major and critical code of the State. Therefore, this amendment and supplement aim to build a quality and feasible Penal Code by taking into account the forecast. The Penal Code must create a sharp legal basis to effectively prevent and combat crime; to protect human rights, civil rights, and the socialist regime; and to promote the development of market economy and to ensure a safe and healthy environment for citizens.



The session focused on the great contents proposed amendments and supplements to the General Part of the Penal Code, which were three following issues: (1) A number of contents for modification and supplementation of the General Part of the Penal Code, the provisions relating to crime, punishment and penal policy for juvenile. (2) A number of new contents added to the Penal Code are expected to alter traditional notions of crime, punishment and penal policies, regulations related crime and punishment in the specialized laws, criminal liability the legal entity, alternative measures to criminal penalties for juvenile offenders. (3) The adjustment of the structure of the General Part of the Penal Code.

According to the Resolution No. 22/NQ-CP of the Government in thematic sessions on law making in March 2014, the Government agreed with the proposal of Ministry of Justice on major directions drafting the Penal Code (amended) and emphasized some basic issues. *Firstly*, the Code needs to reduce the possibility of applying the imprisonment, expand the scope of application of non-custodial punishment, limit the application of the death penalty, and further improve related criminal policies. *Secondly*, sources of criminal law should be expanded in a reasonable manner. According to this, some specific offenses and penalties for such crimes can be defined in specific laws to ensure the timeliness and flexibility in the fight against crimes. *Thirdly*, it is necessary to legalize criminal liability of economic legal persons on the basis of research and identifying specific issues involved, ensuring conformity with the practice. *Fourthly*, repealing offenses defined in the current Penal Code are now no longer in accordance with the Constitution 2013, socio-economic conditions, and international integration of Vietnam. At the same time, some violations which have high danger to society and have not been defined in the Penal Code must be criminalized in the Penal Code (amended) and incorporate into domestic law the provisions of all binding international treaties to which Vietnam is a member.

At the session, experts, members of the Drafting Committee and participants discussed and exchanged major issues related to amending and supplementing the Penal Code. The speeches focused on some significant contents of general provision part which need to be amended. Participants also commented and made suggestions on some new provisions of the Penal Code (amended) changing traditional notions of crime, punishment and criminal policies. In addition, participants commented on adjustment of the structure of the general provision part of the Penal Code./.



(Source: <http://moj.gov.vn>)

The fourth session on the Penal Code (amendment) Drafting Committee (08/8/2014)

On 8 August 2014, the Penal Code (amendment) Drafting Committee held its fourth session to discuss significant issues of the general provisions of the Penal Code (amendment). Minister of Justice Ha Hung Cuong chaired the session. Attended the meeting were Le Thi Thu Ba, the member of the Party's Central Committee, the Deputy Chief of the Party's Central Committee Secretariat, the Deputy Head of the Standing Committee of the JRSC, Mr. Nguyen Doan Khanh, the member of the Party's Central Committee, the Deputy Chief of the Central Internal Affairs Committee, Mr. Kieu Dinh Thu, the Vice Chairman of the Government Office, Mr. Tran Cong Phan, the Deputy Head of the Supreme People's Procuracy, Mr. Le Minh Tam, the Vice President and Secretary General of the Vietnam Lawyer's Association, Mr. Dang Quang Phuong, the Former Standing Vice Chief Justice of the People's Supreme Court, Mr. Pham Quy Ty, the Former Deputy Minister of Justice, Mr. Dao Tri Uc, the President of the Scientific and Educational Council, Vietnam National University Law School and members of the Drafting Committee.



At the session, Mr. Nguyen Van Hoan, representative of the Editorial Team introduced briefly five significant issues asking for comments of the Drafting Committee, namely new provisions of the Penal Code (amendment), amendment regarding crimes, amendment regarding punishments, amendment of criminal policy for juvenile delinquency and adjustment of the general provisions. Members of the Drafting Committee and national experts discussed and commented on issues suggested by the Editorial Team, focusing on some matters including the widening of sources of criminal provisions, criminal responsibility of legal persons, criminal policy for juvenile delinquency, narrowing prison and death penalty, and promoting the applying of non-custody penalty. In general, comments and speeches at the session agreed with options suggested by the Editorial Team. The participants believed that such options are in accordance with judicial reform policy mentioned in Resolution No. 49-NQ/TW and the orientation of drafting the Penal Code (amendment).

Addressing the session, Minister of Justice Ha Hung Cuong highly appreciated preparation of the Editorial Team for the session. Mr. Cuong stressed that the amendment of the general provisions sticks closely on Resolution No. 49-NQ/TW and the spirit of the new Constitution. For other significant issues, the Minister directed the Editorial Team asking for comments of the Central Steering Committee for Judicial Reform, the Politburo and other relevant agencies to complete the Draft./.



Source: <http://moj.gov.vn>

Seminar on "Situation and solutions to improve the Ministerial Effectiveness Index of Business Law Development and Implementation (MEI) of the Ministry of Justice"



On 25 and 26 August 2014, the Ministry of Justice (MOJ) organized Seminar on “Situation and solutions to improve the Ministerial Effectiveness Index of Business Law Development and Implementation (MEI) of the Ministry of Justice”. The purpose of the seminar is to assess the overall results and clarify the shortcomings and causes of business law development and implementation of the MOJ in order to propose solutions, which will contribute to the effectiveness of the business law development and implementation, improve the Ministerial Effectiveness Index of the MOJ, meet the requirements and needs of people and businesses in the coming time.

Attended the meeting were representative leaders of the MOJ’ Departments: MOJ’s Office, the Center of National Criminal Record, Bureau of Adoption, Bureau for Justice Affair in Southern Provinces and cities; representative leader of Provincial Justice Department (PJD) in Hai Duong, legal experts and officers of Bureau of Judicial Affairs Support, Bureau of National Secured Transaction Registration, Bureau of Administrative Procedure Control, Bureau of Handling administrative violation and law implementation monitoring), PJDs and Bureaus of Civil Execution from 12 provinces.



At the seminar, participants were provided comprehensive information about MEI index, the perception of the business associations, businesses about business law development and implementation of the MOJ; heard the experts, representatives of the departments of the MOJ’s presentations such as: Overview of MEI and Effectiveness Index on the business law development and implementation of the MOJ in 2011 and 2012; current situation of the business law development and implementation of the MOJ; practice of law implementation in lawyer and judicial expertise areas – solutions to improve effectiveness in the coming time, practice of law implementation in secured transactions, secured transactions registration areas and a number of measures to improve efficiency in the future.

Participants actively discussed and commented about the issues related to business law development and implementation of the MOJ, focusing on the causes of the decline in point targets and indices of

MEI in 2012 compared to 2011, specifically targets on the necessity, quality of legal normative document, the type of information provided (legal dissemination and education), basic law enforcement operations, the promulgation of legal normative documents guiding the implementation of the law and accountability.



Participants' comments and suggestion clarified the situation of the business law development and implementation of MOJ and proposed solutions to improve the effectiveness of this work in the future, including: the necessity of a systematic and specific review on the issues related to MEI Index, a proposal to the Leadership of MOJ to issue a legal document requiring the MOJ's department in the implementation of MEI index in their areas, seriously collect the opinions of the VCCI in the process of building legal documents on business; making warning indicators for MEI Index in 2012 that the MOJ reduced points compared to 2011; promote legal dissemination and education as well as the media during the process of the development of business legal normative documents in order to raise awareness of MEI Index ...

(By Thu Ha, MOJ's Office)

The research activities have been completed:

Research study on conciliation in civil proceedings in the court system of Vietnam

This report was developed by an expert team and finalized in August 2014 under directions of the Supreme People's Court. The report supports studies on the amendment of the Civil proceedings code in the coming time.

Mediation in conflict resolution is a traditional method of resolving disputes in all areas of the society. Once a dispute occurs, the parties often try to negotiate, arrange with each other or find a neutral third person for assistance in looking for suitable solutions for resolving conflict, ending the dispute, discord.

If the parties fail to negotiate settlement of dispute resolution, they may require the Court to resolve, since then the dispute will be resolved by the Court under the provisions of the civil proceeding law.

Civil proceeding law determines conciliation is one of the basic principles of civil proceedings,

and also is a procedure which the Court and the parties are responsible to conduct in handling civil cases. Conciliation is an effective alternative dispute resolution method not only in Vietnam but also in many countries around the world. In the court dispute resolution methods are not only effective in Vietnam, but in many countries around the world. Base on the principle: "it better to settle civil issue bilaterally and not to bring the case to court", laws tend to create conditions for the parties negotiate agreements themselves to resolve their dispute.

Conciliation procedure in court is one of the institutions in order to implement that principle. In Vietnam, during the court proceedings, the

parties have the right to self-determination and decision resolving the dispute, ensuring that the resolution is not contrary to law and social ethics.

However, the practice of conciliation in court shows a large number of limitations and shortcomings related to the conciliation institution, such as: specific provisions by law have not been significant and comprehensive, a number of provisions are not consistent with reality, not to encourage the parties to participate in mediation; sequence, procedure have not ensured the rights and legal benefits of stakeholders; not specified conciliation procedures for civil cases have specific characteristics such as disputes in: marriage and family, the right to use land, inheritance, labor, business and trade etc. Therefore, many cases, the judges have not conducted conciliation in accordance with law and the judgments/decisions have been modified, cancelled by the Court; a large proportion of cases must be brought to trial due to the low rate of conciliation or mediation is not effective. As a result, the requirement of legislative improvement in conciliation institution has been raised both theoretical and practical sides in order to further improve the quality and efficiency of mediation in resolving disputes in court.

The purposes of the research are to comprehensively and objectively assess the conciliation institution, especially to review the practice of implementation of the law on conciliation in civil proceedings, thereby propose the amendments of civil proceedings law in the new context, in accordance with the

requirements of judicial reform in the light of Politburo Resolution No. 49 / NQ-TW dated 02-6-2005 on the judicial reform strategy in 2020: *“Encouraging the settlement of conflicts by using alternative dispute resolution, such as bargaining, conciliation, mediation, or arbitration, through court support for legal recognition of such settlements”*. At the same time, the study and application of the research findings on conciliation in civil proceedings are required to be appropriate and ensure the implementation of the National Assembly Resolution No. 37/2012/QH13 dated 23-11-2012 on fight against crimes and law violations, the work of the Supreme People's Court and the Supreme People's Procuracy and law judgment enforcement in 2013 affirmed: the Supreme People's Court should direct the Courts *“... Improving the ratio of successful conciliation of civil cases...”*

On the basis of research on regulations and implementation practices of conciliation, the research report has put forward proposals to improve the law, the quality and effectiveness of conciliation in civil cases the Court system of Vietnam, including: (i) Complete reconciliation legislation on civil cases; (ii) Establish a mechanism responsible for the conciliation of civil cases in the court system, research to establish a conciliation center at the Court; (iii) Strengthen capacity building of the mediators in civil cases; (iv) Strengthening the infrastructure, equipments served to conciliation of civil cases in courts./.

(Focal point: Institute of Judicial Science, SPC)

Research report on the development of the Manual on handling administrative violations in relation to the judicial activities

This report is developed by an expert team and finalized in Septmeber 2015 following the workshop collecting comments of national experts, scientists from ministries, agencies and provinces, who have extensive experience in the fields of sanctioning of administrative violations in July 2014. The report provides practical significance and contributed to the implementation of Decree on handling of the administrative violations in relation to the judicial activities. It also helps officials authorized to sanction administrative violations clearly understand regulations, skills and procedures on administrative violation sanctions in the fields of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, enterprise and cooperative bankruptcy and solve difficulties occurring in the practice.

The sanctioning of administrative violations in the field of management of the Ministry of Justice (MOJ) is an important tool to contribute

to strengthening the effectiveness and efficiency of state management of the Ministry. Actually, there are only a small number of administrative

violations which have been sanctioned, and the efficiency of the sanctions is also limited.

On 24 September 2013, the Government issued Decree No. 110/2013/ND-CP providing for the sanctioning of administrative violations in the fields of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, enterprise and cooperative bankruptcy. The Decree comes into effect from 11 November 2013.

This is a complex and major decree managing many different areas of the social life. The Decree was issued on the basis of the provisions of the Law on Handling of Administrative Violations, in which several new provisions were set including the principle of handling of administrative violations, the system of sanctioning forms, remedial measures, competence to make violation records, and competence to sanction administrative violations. According to the Decree, a number of new acts were stipulated as administrative violations leading to the increase of responsibilities of Justice Inspectorates for inspecting and examining to detect and handle administrative violations in the fields within management scope of the MOJ.

The purposes of the handbook are to specially guide administrative violation sanctions, to help officials authorized to sanction administrative violations clearly understand regulations on

administrative violation sanctions in the fields of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, enterprise and cooperative bankruptcy. Additionally, the handbook will help officials to clearly understand skills and procedure for administrative violation sanctions and solve difficulties occurring from the practice of administrative violation sanctions in those fields.

For those purposes, the Study Report contains 02 parts: 1) Contents and new major provisions of the Decree No 110/2013/ND-CP providing for the sanctioning of administrative violations in the fields of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, enterprise and cooperative bankruptcy; 2) Questions and Answers for specific situations and cases, prepared from experiences and skills dealing with cases in practice, combining with experiences in making Decree No 110/2013/ND-CP.

The Manual will contribute to create the new positive in the implementation of Decree No. 110/2013 / ND-CP in practice.

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Study report on amendment, supplement of the Penal Procedure Code to meet requirements of the Judicial reform (Support to the amended Criminal Procedure Code)

To ensure the provisions of the amendment of the Penal Procedure Code in accordance with the Judicial reform Strategy in 2020, the Central Internal Affairs held an in-depth research on the amendment of the Penal Procedure Code. This report was developed by an expert team in 2013 and completed in 2014. The report pointed out the difficulties and shortcomings of the implementation of the criminal procedure law in recent years and the requirements to the amendment of the Code. Based on the overall analysis of the researches on amending and supplementing the Penal Procedure Code published, the study report made specific recommendations and proposals of amendments and supplements. Besides that, the international consultants also raised international legal issues for amending the Code in the context of international integration, to the implementation of international treaties that Vietnam has signed to participate.

The report is the result of hard - working research with the support of the Project “Strengthening access to Justice and Protection of rights in Vietnam” supported by UNDP. After reviewing and taking over the research, it will be referenced document, which supports the Central Internal Affairs as a foundation for its valuable and useful suggestions and comments to the amendment of the Penal Procedure Code. The research will also help the authorities’ consideration and decision during process of reviewing the Penal Procedure Code (Amendment), ensuring to meet the requirements of the Judicial reform has been recorded in the resolutions of the Party, contribute to building a socialist rule of law country and international integration; and concretize the important contents of the Resolution 49-NQ/TW of the Political Bureau on the Judicial Reform Strategy to 2020.

The Judicial reform Strategy in 2020 (the Resolution 49-NQ/ TW) is actively implemented in Vietnam. One of the priorities of the Judicial reform in Vietnam is *“Paying great attention to the improvement of criminal policy and judicial procedures” with the goals of ensuring uniformity, democracy, openness, transparency, respect and protection of human rights”.*

With the objective is building an ethical, healthy, strong, democratic, discipline, fair and justice- protecting judiciary, as well as ensuring that the judiciary will be modernised on a step-by-step basis to serve the Socialist Fatherland of Vietnam and its people and that judicial activities, among which adjudication plays the key role, will be highly efficient and effective, Resolution 49-NQ/ TW has identified one of the important orientations of the Judicial reform is: *“Improving criminal and civil policy and legislation in line with the socialist-oriented market economy; building Vietnam’s socialist rule-of-law State of the people, by the people, and for the people; improving judicial procedures to ensure that they will be consistent, democratic, and transparent, as well as respect and protect human rights”.*

The Penal Procedure Code 2003 (PPC 2003) is one of the core principle legal normative documents of the criminal law system. The improvement of the criminal law system would be incomplete without the improvement of the provisions of the PPC 2003. Besides the achievements, the practice of implementation of the PPC 2003 after more than 10 years has revealed a number of limitations and shortcomings from the basic principles to specific regulations such as: the identification of the basic functions of the criminal procedure (prosecution function – defense function –

accusatory function); provisions on the role, competence, assignment, coordination and control among agencies and authorities to conduct legal proceedings; on mechanisms to ensure that the proceedings could be public, transparent and democratic... The rules on evidence, on preventive measures, on investigation, prosecution and trial create various obstacles and difficulties. In addition, a number of major policies of judicial reform, such as improving the quality of adversarial litigation at the trial, enhancing public prosecution in investigative activities... has not been studied comprehensively and has not been fully institutionalized in the Penal Procedure Code.

Currently, the Supreme People's Procuracy is coordinating with relevant agencies to draft the Penal Procedure Code (amendment). In recent years, there have been many studies related to the assessment of the implementation of the PPC 2003 as well as the proposals to amendment and supplement the Code in accordance with requirements of judicial reform by different agencies and organizations. Systemization, analysis and evaluation of the proposals in those studies to provide recommendations to amend and supplement the PPC are necessary and the requirement of revising the Code is objective.

With supports of Project “Strengthening Access to Justice and Protection of Rights in Viet Nam” (funded by UNDP), the Central Internal Affairs held an in-depth research on the amendment of the Penal Procedure Code to ensure the provisions of the Code are in accordance with the Resolution 49-NQ/ TW on the Judicial Strategy reform to 2020. In this duty, they will co-ordinate with the Project and UNDP Vietnam to build a study report on amending and supplementing a number of provisions in the

current Penal Procedure Code to meet the current requirements of judicial reform.

There are 4 major components of the Research report:

1) *Difficulties and shortcomings of the implementation of the criminal procedure law in recent years and the requirements to the amendment of the Code.*

2) *Overall review on studies related to amending and supplementing the PPC 2003 published from 2003 to present;*

3) *The International legal aspects for the amendment PPC in the context of International integration to implementation the International treaties which Vietnam has been a member;*

4) *Proposals to amendmend the PPC 2003.*

The report has analyzed specific, comprehensive difficulties and shortcomings in practice of the implemenation of the PPC 2003 in last 10 years, which is the foundation to propose amendments and supplements to the regulations of the PPC, including 29 difficulties and shortcomings. All 29 difficulties and problems are needed to be amended, supplemented and improved in the CPP 2003.

At the same time, from the overall review on studies related to amending and supplementing the PPC 2003 published from 2003 to present, the report analyzed, assessed the appropriateness of the proposed amendment the PPC 2003, such as: the basic principles of the CPC (the presumption of innocence, the right to a fair trial, adversarial litigation, the right to prosecution, the right to defence), proposed amendment, supplement the agency conducting the proceedings, legal proceedings, and the change of litigators, persons involved in the proceedings etc. The assessment was on the basis of analysis consistent with the principles and judicial reform process, the international legal practices, the recognition of the international legal instruments (such as the Universal Declaration of Human Rights, the International Convention on civil and political Rights), the provisions of the legal system of Vietnam, proceedings model and current social - economic conditions of Vietnam.

The International legal aspects for the amendment PPC in the context of International integration to implementation the International treaties which Vietnam has been a member was prepared and supported by International experts based on 5 of the 9 “core” International human rights treaties to which Vietnam is a member. Particularly, the ICCPR, CRC and CEDAW are very important in criminal proceedings, including the provisions on the right to fair trial, prevention of arbitrary arrest and procedures in the trial process. The report also refers to the rights of juvenile delinquency and special juvenile justice, the rights to pre-trial stage, during the trial and after trial with in-depth analysis, the legal basis of the rights, the conflict between the PPC with the relevant International conventions and proposed amendments and supplements to the specific provisions of the PPC relating to the rights as International standards.

From the analyses of the first three compnents, the report submitted proposals and recommendations for the PPC 2003 with the following directions:

1) Identify the policies and directions of the Party related to criminal law at the Party Congress documents, the Politburo's Resolutions (Resolution 08, 48, 49) on the general policies for the judicial activities and related to each agency conducting the proceedings;

2) Propose amendments and supplements to the PPC 2003 in a comprehensive and basic manner, with 80 specific contents related to almost 100 Articles of the total 346 articles of PPC 2013, including:

- Supplement the presumption of innocence principle with its specific contents'

- Amend and supplement articles: 4, 6, 11, 19 relating to the basic citizens' rights, articles: 35, 36 relating to duties, powers and responsibilities of litigators, articles: 48, 49, 50 relating to person in custody, the accused or defendants, article 51 on victim, articles 56, 57 on defender, articles 64, 65, 66 on evidence, article 76 on evidence handling, articles: 80, 81, 86, 88, 89 on arrest, detention and custody, articles: 91, 94 on preventive measures,

articles: 101, 103 on whistleblower and crime reports, articles: 104, 105, 107, 108 on criminal prosecutions, articles from 110 to 121, and 126, 127, 131 on responsibilities and powers of the proceedings agency in the investigation process, article 166 on the prosecution time limits, article 167 on Indictment, article 176 on the duration of the trial preparation, article 177 on apply, change or cancel deterrent measures, articles: 181, 189, 234 and 239 on procuracy, prosecutor, the way to determine the duration of the Procuracy appeal, articles: 196, 248, 249, 247, 256 about the limits of judicial competence of the Court of Appeal, the appeal court procedures, court's judgment and decisions enforcement procedures, articles: 257, 259, 260, 261, 262, 267 on judgment and decisions enforcement, articles: 273, 274, 279, 281, 283, 284 on cassation, article 301 on scope of application, sections 1, 2 article 303 on arrest, custody or detention, articles: 304, 305, 306, 307 on the adjudication, supervision of juvenile offenders, the participation of families, schools, organizations in the proceedings, article 313. Procuracy's decision after completed the investigatio, suplement: article 324a. Simplified procedures during trial,

article 324b, article 324c the proceedings in the primary and appeal trial court, article 342, refuse to comply with requests for mutual legal assistance.

- Proposed amendment, supplement the provisions of the order and proceedings at the trial and the rights and obligations of the proceedings subjects; amending and supplementing regulations on determining the effective time of the primary legal verdict;

- Proposed supplement and additional (new) article to propose the prosecution resolution and prosecution recommendations and statutory immunity.

Although the total number of articles that report research proposed amendment, supplement accounts for nearly 30% of the total number of articles of the PPC 2003, the contents of the above articles as well as the analyses and the basis for the proposals for amendments and supplements showd that the amendment of these articles if approved will alter the basic contents of the PPC 2003 /.

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Responsibility of legal entities in the amendments of the Penal Code (amendment)

The Penal Code (PC) in 1999 defined the criminal prosecution of a person without criminal liability provisions for legal entities. In the context of the market economy, international economic integration, economic organizations, businesses expanding and developing in larger scales, an appropriate legal framework is required to govern the activities of these organizations and businesses, including acts of serious violations of the law. Especially, in the economic field, violations such as speculation, tax evasion, illegal trading, smuggling or violations of banking regulations, securities, environment and labour protection... regulations on criminal liability of legal entities are necessary.

Similar to Vietnam, many countries around the world exist the traditional opinion that legal entities have no psychology, no mental state (guilty mind), therefore should not be the subject to prove in criminal law. However, the trans-national organised crimes, corruption, terrorism, money laundering ... are more serious, in which the primary role of legal entities replacing individuals in violations... therefore, the opinion of sole individual criminal responsibility has been changing rapidly, particularly at the time of the second half of the twentieth century, at International as well as national levels.

A number of International conventions stipulate the obligations of State Members in incorporating criminal liability of legal entities in national

legislation, such as the United Nations Convention on Organized Crime, the UN Convention against Corruption, the European Community Convention against Corruption etc.

Many of the proposed theories have indicated that, despite their different interpretations of the criminal liability of legal entities, there are following common characteristics of the criminal liability of legal entities:

- Legal entity always is responsible through the criminal offences of persons. No human behaviour, there is no criminal liability of legal entities;
- There are certain ties in the relationship between legal entity and person. A legal entity must bear criminal responsibility for the offence of which the person to perform legal acts on behalf of the legal entity under the supervision and for the interests of the legal entity. At the same time, that person commits legal acts within the scope of functions and powers and their assigned tasks;
- The prosecution for criminal liability of legal entity does not exclude criminal liability of individuals who have committed acts constituting a specific crime.

From a practical perspective of Vietnam, the urgency of the provisions of criminal liability of legal entities is interpreted by the following factors:

- (1) The formation and development of market economy mechanisms together with the equal participation of all economic sectors.
- (2) In Vietnam society, the governance and management follow the principle of democratic centralism, collective leadership principles, individual responsibility...
- (3) Without prosecution for criminal liability of legal entities will greatly affect the efficiency of the processing of violations of law, the settlement of the damages compensation, material remedy

as well as spiritual damage by crime perpetrators.

(4) In many cases, no prosecution of criminal liability of legal entities has caused difficulties in handling violations.

(5) Without provision for criminal liability of legal entities is creating inconsistency and inequality of the legal system, lack of fairness in handling crimes and violations of law. The same offence, but with different actors are being treated differently from the perspective of the charges as well as criminal liability measures.

Moreover, the offence of legal entities is done through the behaviour of an individual or individuals who are members of its legal entity. Individuals carry out criminal acts in the name of, on behalf of the interests of legal entities. However, if the criminal law provides that individual may be subject to criminal liability, legal entities that can benefit from such acts are not subject to criminal liability is unreasonable and unconvincing, which may become invisible incentive for serious violations of legal entities.

From the theoretical and practical basis, the trend of regulations for criminal responsibility of legal entities increasingly popular around the world shows that the criminal responsibility of legal entity is an urgent in criminal law of Vietnam to meet the following goals: 1/ Preventing of serious violations of legal entities, which are increasing; 2/ Ensuring efficient, fair, equal handling the violations of citizens as well as legal entities before the law; 3/ Ensuring the consistence of the legal system of Vietnam.

The basic contents of criminal liability of legal entities should be regulated in the Penal Code including the basis and principles of criminal liability of legal entities, punishments for crimes, type of legal entity need to be subject of criminal liability, types of crimes which legal entities are responsible for./.

Focal point: The Supreme People's Court

On-going research: Study research on selected issues to recommend for the amendments of the Penal Code – criminalization/ decriminalization of certain offences

Criminalization or decriminalization of certain offences, which are dangerous to the society, is always of concern in the process of the development and improvement of the criminal policies in any country in order to ensure the appropriateness of criminal policy with the requirements of human rights protection, with the development of politic, economic, culture, society in each country as well as the development trend of the world.

Especially for Vietnam is being in the period of economic transition, expanding international integration and continuous development in all aspects, researching to decriminalization of inappropriate offences and criminalization the new violations are essential, expressed in following aspects:

First, the economy market-oriented socialism has brought tremendous benefits to Vietnam, but also poses many problems to be solved, including fight crimes. Some current provisions of the Criminal Code are no longer suitable to the conditions of the market economy (for examples: speculation, deliberately acting against the State's regulations on economic management, causing serious consequences) should be considered to decriminalize; many new crimes were not timely supplemented or insufficiently and incomprehensively supplemented, such as crimes arising in taxation, finance, securities, natural resources, minerals, food safety, etc. These shortcoming significantly affected the development of the economy as well as the effectiveness of the fight against crimes.

Secondly, the practice of the fight against crimes evidenced that, some serious acts are

dangerous for the society, seriously violating human rights, causing damages to individuals, agencies and organizations, pressing in public opinion, but can not be processed because they have not been prescribed in the Penal Code, or can only handle administrative violations or other legal remedies that are not handled by the Penal Code for examples child labour abuse, appropriation, illegal trading human organs and fetuses, no pay social insurance contributions for employees etc. More over, some acts are punished too strictly and not suitable to the new conditions of the society, need to study to decriminalize.

Thirdly, in the context international integration of Vietnam is increasing deeply and widely, including in the field of criminal justice, Vietnam has participated in many multilateral treaties on crime prevention, such as the Convention against transnational organized crime; Convention against Corruption; The International Convention on the protection of children etc. However, the Criminal Code has not reflected fully, comprehensively the features and requirements of fighting and preventing crimes in that context, has not created an adequate legal basis, has not facilitated International cooperation to prevent and combat crimes in general and the implementation of mutual legal assistance in criminal between Vietnam and other countries in particular. The incorporation of mandatory provisions of the international treaties to which Vietnam is a member into domestic law and taking measures to ensure effectiveness of the implementation of the commitments are also a requirements set out in the Criminal Code (amended).

Therefore, the study of criminalization of a number of dangerous criminal acts to society as well as the decriminalization of certain acts in accordance with the provisions of the Penal Code 1999 are really necessary to ensure a Criminal Code in accordance with the new development in all aspects of the country, to promote economic development, protect human rights in accordance with international standards and practices in preventing and fighting crime. This purpose is entirely consistent with the requirements of the Politburo Resolution No. 49/2005 NQ-TU on the judicial reform strategy in 2020, which emphasizes one of the key tasks

in the strategy judicial reform policy is improving criminal policy and legislation in order to "Redressing the criminalisation of economic and civil relations and the omission of criminal offences. Recognising some socially dangerous offences, which have emerged in the recent process of socio-economic, scientific, and technological development, as well as international integration, as crimes", which is one of the major contents should be amended and supplemented this time and was passed by the Government.

The purposes of the study are to analyze the necessity of criminalisation and decriminalisation for specific acts of the Penal Code 1999 and propose amendments and supplements. In the framework of the 2014 work plan of Project "Strengthening Access to Justice and Protection of Rights in Viet Nam" funded by UNDP, the Ministry of Justice (Department of Criminal and Administrative Laws) will collaborate with independent experts to research with the method of on-site evaluation study based on research, analysis, synthesis documents, reports, studies related to criminalization and decriminalization to build the

report; and hold a Workshop for comments to complete the draft report.

The expected outputs of the report:

- Analysis of practical shortcomings in the handling of violations and the need to criminalize or decriminalize for a number of specific acts. The research on criminalization focuses on certain types of violations occur in the market economy, in maintaining the security and public order, and protection of the legitimate rights and interests of people in the light of the 2013 Constitution and compliance/incorporation into domestic legislation the principles defined in the International conventions that Vietnam has participated: the Convention on Civil and Political rights, on children's Rights, on prevention transnational organized crime, anti-corruption, etc...
- Propose amendments and supplements to the specific provisions of the Penal Code for criminalization and decriminalization, clarify acts should be criminalized, the acts needs to be removed from the Penal Code and directions for handling.
- Specify expected articles on acts should be criminalized./.

Focal point: Department of Criminal and Administrative Legislation, MOJ

On – going research: Research study on amendment of the Penal Code, focusing on environmental offences

The development of a sustainable environment is vital issues of each country in the world, where environmental protection is critical, core and profound social mission. The task is closely related to issues of social development such as mining resources, technology transfer, poverty alleviation, human resource development, employment, and associated with the struggle for the peace, advances across the world. Environmental protection is increasingly respected in all countries around the world.

For Vietnam, the country is in the process of industrialization and modernization, the environmental protection has always been the Party and State's concern. For Vietnam, the country is in the process of industrialization and modernization of the country, the issue of environmental protection has always been the concern of the Party and State. Documents relating to environmental protection has been issued, such as the Environmental Protection Act; Directive No. 36-CT / TW of the Politburo (VIII) to strengthen environmental protection during industrializing, modernizing the country; Politburo's Resolution No. 41-NQ/TW dated

15.11.2004 on the protection of the environment in the period of accelerated industrialization and modernization of the country. Those documents are important legal basis for the protection of the environment. And according to the law, the acts causing serious damage to the environment will be handled under criminal law.

The Penal Code 1999 provided a separate chapter (Chapter XVII) for regulations on environmental crimes. In 2009, the provisions were amended and supplemented by the Law amending and supplementing a number of articles of the Criminal Code 1999 to meet the practical requirements of the fight against crimes. However, in recent years, the environmental crimes becoming complicated. Environmental law violations taking place in almost all the areas of economic and social areas, such as: toxic waste-water discharge of Vedan Vietnam, Tungkuang Co., Ltd. Miwon; illegally import of waste, garbage, dioxins, including radioactive substances; hunting, trading, transporting of precious and rare wildlife occurring in many places. Therefore, it has a profound influence on the development of the national economy, directly infringes upon the rights of the people, in a particular locality, violations of environmental laws have become the risk affects to the security. The situation of environmental violations requires strict penal sanctions to handle effectively the violations. However, in practice, the handling of violations of the law on environmental protection under the provisions of the Penal Code is extremely difficult due to the provisions of the Penal Code remain problematic.

Among the 11 offenses defined in Chapter XVII - The environmental crimes, there were 08 offenses stipulated facts "make the environment seriously contaminated or other serious consequences" or "serious consequences" are important factors to crime, as a basic of criminal prosecution for the offense. This has made difficulty, embarrassment for the agency conducting the proceedings in application:

First, the environmental damage is difficult to be fully demonstrated because the environment is constituted by many factors closely related to each other, the environmental damage can not express directly, immediately and impact in a long process. Therefore, to prove environmental

damage should have time and need to determine the impact of violations to environmental factors. This is the great difficulty.

Second, the consequences, human suffer from pollution or environmental degradation can be direct or indirect due to the resonance, combination of other causes. In fact it is difficult to determine the environmental damage caused by the combined effects of many persons, many reasons, especially when the impacts hidden, interwoven, or in the case of environmental damage by causing offense lies in the damage caused by environmental accidents, environmental changes.

Third, in some cases, it is impossible to determine the causal relationship between the offense and the consequences, because the consequences would occur due to many causes, or consequences would not occur immediately after the offense, but will appear after a very long time. More over, people's lives and health effects or property damage (crops, livestock ...) do not only depend on the severity of offenses but also depend on the ability to detect and deal with the environmental problems of the state agencies. In these cases, the determination of the severity faces certain difficulties.

Fourthly, the criteria for determining the nature of a less serious or serious, very serious, particularly serious violations of environmental laws in the country have not been established, such as the classification of environmental damages, the nature, scope and extent of the damage impacts to the environment and to all aspects of the economy and the society.

In addition, there are also limitations in handling environmental crimes in the provisions of the Penal Code on the subject of crimes. Under the provisions of the Penal Code, the criminal prosecution applied only to persons, no criminal liability for legal entities, but in practice, the major of environmental violations conducted by legal entities. Consequently, many cases would not be handled for environmental violations as crimes.

With the limitations and shortcoming, the study on improvement of the provisions related environmental crimes in the Penal Code is essential. The purposes of the study are to specify the limitations and shortcomings of the

Penal Code provisions on environmental crimes, and on that basis make suggestions and proposals for improvement of the regulations, in particular, provisions on the subject of environmental crimes, the constituent elements of crimes and improving the system of penalties for environmental crimes in order to enhance the effectiveness of the fight of crimes in the environmental field.

In the framework of the 2014 work plan of Project “Strengthening Access to Justice and Protection of Rights in Viet Nam” funded by UNDP, the Ministry of Justice (Department of Criminal and Administrative Laws) will collaborate with independent experts to research with the method of on-site evaluation study based on research, analysis, synthesis documents, reports, studies related to criminalization and decriminalization to build the report; and hold a Workshop for comments to complete the draft report.

In the framework of the 2014 work plan of Project “Strengthening Access to Justice and Protection of Rights in Viet Nam” funded by UNDP, the Ministry of Justice (Department of Criminal and Administrative Laws) will collaborate with independent experts to research a study research to improve provisions of the Penal Code in the field of environment and hold a Workshop for comments to complete the draft report.

Research report will complete the provisions of the Penal Code related to environment crimes, including:

- Review and analyze the limitations and shortcomings of the current provisions of the Penal Code for environmental crimes; analyze the overall of Vietnam law on handling violations in the environmental field (from civil to criminal and administrative laws). The evaluation of these shortcomings should be overall and comprehensive, in relation to the relevant regulations such as handling of administrative violations in the field of environment; Law on Environmental Protection, thereby, clarifying the type of violations and severity levels need to be punished, additional measures/sanctions to ensure effectiveness of the enforcement of the criminal provisions.

- Submitting proposal to improve the the Penal Code provisions relating to environmental crimes, in particular the provisions relating to the subject, the elements of the crime and the criminal sanctions applicable to environmental crimes to ensure effectiveness of the enforcement of the Penal Code.

The report is expected to assess comprehensively the limitations and shortcomings of the Penal Code provisions relating to environmental crimes, including the subject, the elements and criminal sanctions applicable to environmental crimes. On those analyses, the report will make recommendations to improve the provisions of the Penal Code relating to environmental crimes in order to effectively fight against crimes in this area.

The report includes the following main contents:

- Evaluation of the inadequacies, limitations of the criminal law on environmental crimes, including 02 sub-sections: 1) The limitations and shortcomings of the Penal Code provisions on environmental crimes: criminal trends, types of major violations, severity; 2) Practices, limitations and shortcomings in the implementation of the Penal Code provisions relating to the crimes: Ability to apply prescribed criminal penalties for environmental violations (difficulties on legal issues, management, technique - expertise, technical evidence etc.).

The assessment of the limitations and shortcoming of the criminal law on environmental crimes should be compared with the provisions on handling of administrative violations in the field of environment, civil law on compensation by environmental pollution and the law on environmental protection.

- Proposals and recommendations to improve the Penal Code provisions for environmental crimes.

- Drafting regulations of the Penal Code for environmental crimes in accordance with the proposed plans.

(Focal point: Department of Criminal – Administrative Legislation, MOJ)

On – going research: Overall assessment of the Draft Law on Civil Status from the perspective of protection of human rights

Vietnamese Communist Party and State have always respected and protected human rights, especially in the context of Vietnam has become a member of many important international treaties on human rights¹. Most of those human rights treaties have incorporated into domestic law, expressed more fully and clearly in the Constitution and Vietnamese laws, with compatibility. The 2013 Constitution provides: *“In the Socialist Republic of Vietnam, human rights and citizens’ rights in the political, civil, economic, cultural and social fields shall be recognized, respected, protected and guaranteed in accordance with the Constitution and law” (Article 14)*. To concretize this regulation and other relevant provisions of the Constitution, to ensure the compatibility with international treaties on human rights to which Vietnam is a member, Vietnam is conducting an overall review of the legal system in order to modify, supplement or promulgate.

The right to determination of the name, of ethnicity and nationality; right to marriage; right to recognition of father, mother, child; right to change the name,... are the basic rights and important about human identity, has been recognized in the Constitution and basic laws of the State of Vietnam.

To exercise their rights, individuals are responsible for civil registration². Civil status registration and management are important activities for both the people and the State. Through civil status registration, fundamental civil status events³ of a person from the time he/she is born to the time he/she dies, been

legally confirmed by competent state agencies. The civil status registration also creates the legal basis for people to enjoy human rights, civil rights, through which help the State to protect better the rights and legitimate interests of citizens. Effective, accurate, full and timely implementation of civil status registration and management will help the State manage population and residential effectively and correctly, thereby having the measures, planning and formulating the country’s economic, social, security, defence, population and family planning policies reasonably and efficiently. Therefore, states are always considered civil status registration and management as one of the key tasks. They are also interested in the the improvement the legal system on civil status registration an mangement.

In Vietnam, after the creation of an independent and self-government (August Revolution in 1945) until now, the State of Vietnam has been always interested in maintaining and developing the registration and management of civil status, gradually improved regulations on the registration and management of civil status⁴. Civil status registration and management have contributed significantly to the stability, and safety of the society; the civil status registration and management agencies system as well as their staff from the central to commune levels have been always strengthened and consolidated;

¹ Such as: ICPR, CEDAW, CCR etc.

² For example, when children are born, their name, ethnicity, nationality, father or mother ... are determined through birth registration (by parents or relatives); child (out of wedlock) implements the right to recognition of father, mothers through registration to recognition of father, mothers and children (direct implementation if have full civil act capacity, by legal representatives if be juvenile or limited civil act capacity); men and women exercise their right to marriage through marriage registration ...

³ Such as: birth, marriage, divorce, death. Also, depending on circumstances, individuals may also have events: child adoption, guardianship, change, correction, supplement, adjustment of civil status, re-determination of gender; re-determination of ethnicity...

⁴ To date, the Government has issued 08 Decree governs civil status registration (both domestic civil status and having foreign elements), including: Decree 83/1998/NĐ-CP dated 10/10/1998 on civil status registration; Decree 77/2001/NĐ-CP dated 22/10/2001 detailed regulations on marriage registration under Resolution No. 35/2000 / QH10 on the implementation of the Law on Marriage and Family; Decree 32/2002/NĐ-CP dated 27/3/2002 on applicable provisions of the Law on Marriage and Family for ethnic minorities; Decree 68/2002/NĐ-CP dated 10/7/2002 on detailed provisions for implementation of some articles of the Law on Marriage and Family regarding marriage and family involving foreign elements; Decree 69/2006/NĐ-CP dated 21/7/2006 amending and supplementing a number of articles of Decree 68/2002/NĐ-CP; Decree 158/2005/NĐ-CP dated 27/12/2005 on civil status registration and management; Decree 06/2012/NĐ-CP dated 02/02/2012 amending and supplementing a number of articles of the decrees on civil status, marriage and family and certification; Decree 24/2013/NĐ-CP dated 28/3/2013 detailed provisions for implementation of some articles of the Law on Marriage and Family regarding marriage and family involving foreign elements.

the system of civil status records are stored, long-term used; administrative procedures for registration and civil status management are step by step reformed and more convenient for residents; the application of information technology in civil status registration is deployed in a number of provinces; civil status registration involving foreign elements has a positive change...

However, in the context of the country entered a new stage of development, the process of industrialization, modernization and international integration occurs deeper, the population shifts in the country and international area becoming increasingly, human rights, civil rights are recognized and protected at a higher level ..., therefore, the civil status registration and management revealed many limitations and shortcomings. Regarding to institution, legal system of civil status are not comprehensive, the legal effect is not strong enough. Regarding to procedures, competence and civil status registration method are still complex and do not create more favorable for people (manual mode, people have to present/submit many documents and papers, complicated administrative procedures and competence are scattered at all three levels, large social costs etc ...).

The above restrictions do not only reduce the chance people enjoying their rights, in a certain extent, they also inhibit the effects of social - economic development, affect the management of the state.

To overcome the shortcomings and limitations, according to the laws and ordinances making Program of the National Assembly XIII, the Ministry of Justice has building the Civil Status Law Project. The basic objectives of the project are administrative procedures reform by modernizing, simplifying paperworks, reducing costs to facilitate the favorite for people in civil status registration. Thereby, contribute to ensure, to facilitate the exercise of personal rights.

With the characteristics of a procedural law, the Civil Status Law does not specify the basic rights of the individual – the rights have been defined more fully and clearly in the substantive laws (such as the Civil Code, the Law on Marriage and Family, the Law on Nationality, the Law on Adoption etc ...). The Civil Status Law primarily provides the competence, order and procedures for the registration of civil status.

In other words, the Law on Civil Status defines the measures, tools and the way to ensure the implementation of the personal rights of individuals. Which are: the right to determination of the name, ethnicity and nationality; right to marriage; right to recognition of father, mother, and child; the right to change, correction, supplement, adjustment of civil status... These rights are the basic rights associated with each personal status, have been recognized by the Constitution and laws of Vietnam, as well as in the international treaties on human rights

With the characteristic of procedural law, the Civil Status Law plays an important role in promoting, strengthening and ensuring the viability of human rights. The effectiveness of the protection of human rights depends greatly on the procedural laws, including the Civil Status Law. If the provisions on competence and procedures are simple, it will be convenient for people, if the administrative reform is efficient, paperwork and costs are reduced..., people will have more the opportunities to enjoy their rights. Conversely, if competence is complicated, procedures are rigid, difficult and troublesome, people will have less chances to enjoy their rights and the protection of rights will be less effective. Starting from this basis, an overall assesment draft law on civil status from perspective of protection of human rights is essential.

Civil Status Law Project has twice consulted the Standing Committee of the National Assembly (August 2012 and August 2013). Under the leadership of the National Assembly Standing Committee, the Bill continues to be revised, finalized, consulted the National Assembly at its 7th session (May 2014), be revised and submitted the National Assembly at the 8th session (October 2014).

With supports of Project “Strengthening Access to Justice and Protection of Rights in Viet Nam” (funded by UNDP), following the results of activities in 2013⁵, in order to assess an overview of the provisions of the daft Law on civil status from perspective of protection of human rights, particularly with the nature of methods and tools to ensure the implementation of fundamental personal rights of the individuals, The Bureau of Civil Status, Nationality,

⁵ In 2013, the Bureau of Civil Status, Nationality, authentication, MOJ successfully implemented subproject "Simplifying administrative procedures, citizenship papers in the Civil Status Law Project"

Authentication, Ministry of Justice has conducted the research "**Overall assessment of the draft law on civil status from perspective of protection of human rights**".

To carry out activities, the Bureau of Civil Status, Nationality, Authentication has collaborated with international experts and local experts to conduct research, compare, evaluate overall general provisions of the Civil Status Law project in the relationship with the human rights provisions in the Constitution and laws of Vietnam as well as international treaties on human rights to which Vietnam is a member. Vietnam laws for the references are the Civil Code, the Law on Marriage and Family, the Law on Nationality, the Law on Adoption, the Law on the Protection and care for children, the Law on Gender Equality and other relevant laws.

Based on the results of the comparison, evaluation, comments about appropriate levels, compatible/incompatible, lack of compatibility to propose revising, supplementing, the Civil Status Law project to ensure consistency, compatibility and high feasibility of the law. Requirements throughout the process of research, comparison, evaluation are always put the interests of the people on the top, taking advantages for people doing basic criteria for building, identifying ideas for improvement the competence and procedures of civil registration.

Overall objective of the research:

Conduct comparative evaluation to derive the appropriate/compatible points, inappropriate/incompatible points of the Civil Status Law Project in relation with the provisions of the 2013 Constitution, the other laws and international treaties (Vietnam is a member) on human rights, citizen's rights, from which propose/recommend revise, supplement and

completed in order to ensure and promote human rights, citizen's rights.

The specific objectives:

Firstly, assess the extent of specification, administrative reform point of view to ensure the personal rights of individuals in the Civil Status Law Project.

Secondly, research, analysis, find out the shortcomings and limitations, internal problems in the current legal system of civil status and related fields, thereby drawing the inadequacies of the people during the process of exercise their rights (the limitation in the mechanisms of implementation to ensure the rights of citizens; the difficulties that people are facing, the expensive cost, the less / fewer feasibility of the civil registration procedures under existing laws...); finding the causes of the limitations and shortcomings that (objective reasons, subjective reasons...).

Thirdly, study, assess the levels of implementation of human rights through ideas/perspectives on reforms in the Civil Status Law Project (the competence, administrative procedures, innovative methods of registration, the ability/ opportunity to ensure the promotion of implementation of citizen's rights through civil status ...), compare with the provisions of the Constitution, existing laws and treaties (Vietnam is a member) in relation to human rights; reference, acquire international experiences in the modernization of the registration and management of civil status (through reports of international experts)

Fourthly, make suggestions/recommendations to revise and complete the draft; methods and conditions to ensure its implementation after adopted to ensure the highest human rights and civil rights in the civil status./.

Focal point: The Bureau of Civil Status, Nationality, Authentication, MOJ

On – going research: Survey to give recommendations toward improvement of regulatory protection mechanism of civil and property rights of individual and legal entity in amending the Civil Code

The Civil Code 2005 was adopted by the National Assembly at its 7th session (June 14, 2005). After 8 years of implementation,

especially in the context of Vietnam is actively implementing the 2013 Constitution, the Civil Code reveals a number of limitations and shortcomings. Therefore, pursuant to the

Resolution No. 23/2012 / QH13 June 12, 2012 of the National Assembly, the Ministry of Justice is assigned to coordinate with other related agencies and organizations building the draft Civil Code the (amendment).

Concerning to mechanisms to the implementation and protection of human rights and personal property of individuals, Article 9 of the Civil Code stipulates the principle: All the civil rights of individuals, legal persons or other subjects shall be respected and protected by law. When the personal rights of a subject are infringed upon, he/she/it shall have the right to protect such rights by him/her/itself in accordance with the provisions of this Code or request competent agencies or organizations to: (i) Recognize his/her/its civil rights; (ii) Order the termination of the act of violation; (iii) Order a public apology and/or rectification; (iv) Order the performance of civil obligations; (v) Order compensation for damage.

This principle has been reflected in a number of provisions on personal rights, property rights, ownership, rights to possession, civil liability, compensation for damages outside contract... However, the contents of the rules remain at the most general level, and are impossible to avoid shortcomings in the use and application in the real life, such as:

- Provisions of the Code on personal rights of the individual are listed simply (26 rights), leading to not cover the full range of rights and interests of individual and has not guaranteed the stability specified in the provisions of the Civil Code, especially, in a number of regulations which are sensitive or has not specific instructed yet, such as: the right to redetermination of gender, right to donation body organs after death; right to redetermination of ethnicity...

- Regarding to ownership rights: (i) a number of provisions in Chapter XV – Protection of ownership rights is not specific, cause different interpretations, for example, the provisions in Article 258 on the right to reclaim movable property subject to ownership right registration or immovable property from bona fide possessors; (ii) The Civil Code does not have a separate regulatory on the right of a person who is not the owner of the property, this content is only faintly defined as a content of ownership right; (iii) The Civil Code has not defined the relationship between the rights and legal consequences in dealing with the rights. Such regulations are not

exact about the legal nature in the distinction between the rights of the owners and the rights of non-owners; could not cover all the cases should be adjusted to the right of the people involved, who is not the owner (such as tenure, privileges, liens ...); could not guarantee the rights and legitimate interests of persons other than the owner; could create instability and legal safety transactions.

- Regarding to compensation for damages outside contract, the Civil Code provides that who intentionally or unintentionally infringe upon the life, health, honour, dignity, prestige, property, rights, or other legitimate interests of individuals or infringe upon the honour, prestige and property of legal persons or other subjects and thereby cause damage shall have to compensate (Article 604). However, the Civil Code does not specify the person who made damages or who is required to pay damages has the burden of proving the fault of the damage, while the principles of civil procedural law is the burden of proof belongs to the requester. Therefore, in practice of application, the person who requested damages are often obliged to prove the fault, creating a hard legal liability and in many cases, is difficult to implement for victims, such as damage caused by defective goods or because of extreme danger ...

The shortcomings and limitations caused difficulties and problems in the implementation of the law on execution and protection of human rights, personal and property rights; in many cases affect the rights and legitimate interests of citizens. Therefore, in the process of revision the Civil Code, the survey research and the proposed improvements of the regulations are necessary. Research activities should be conducted in a methodical and scientific way and evaluate comprehensive impacts of these regulations on the society and the related objects. The results of the activities are important evidence which help the drafting agency to find the issues need modified, to help the drafting of the Civil Code can meet the requirements and demands of the country.

In the framework of the 2014 work plan of Project “Strengthening Access to Justice and Protection of Rights in Viet Nam” funded by UNDP, the Department of Civil and Economic legislation will collaborate with local experts having ability and experience to research survey and propose to improve regulations on the mechanism of the implementation and protection of human rights

on personal rights and property rights, serving the formulation of Civil Code (revised) and complete legal system people of Vietnam.

Overall objective: Support the Ministry of Justice (Department of Civil and Economic Legislation) in survey, research the practice of implementation the provisions of the Civil Code 2005 on the implementation mechanism and protection of human rights on personal rights and property rights of individuals; based those basis, given the proposals to improve the provisions, directly support to the amendment of the Civil Code.

Specific objectives:

- Conduct a survey, analysis, research and evaluation practices and gaps in the implementation of the Civil Code provisions on legal mechanisms for implementation and protection of human rights on personal and property rights to ensure compliance with the international commitments of civil, political, economic, cultural and in the international Covenant on Human Rights, which Vietnam is a member, as well as compliance with the new regulations the 2013 Constitution.
- Learning experiences of a number of countries around the world in developing and improving the legislation governing the issues.
- Propose to improve legislation on the implementation mechanism and protection of human rights on personal and property rights of individuals support to draft the Civil Code (revised).

The study results of this survey will be used to reference the amendments, support to the supplement the provisions of the Civil Code on the implementation mechanism and protection of human rights and personal and property rights of individuals.

The report's contents:

- *Firstly*, Finding the limitations and shortcomings in the provisions of the Civil Code 2005 on the implementation mechanism and protection of human rights and personal rights an property rights of individuals; analysis, indicating the cause of the limitations and shortcomings that;
- *Second*, survey results on a number of outstanding issues in current practice of implementation the provisions of the Civil Code 2005 on the implementation mechanism and protection of human rights and personal and property rights of individuals; gathering some views, different opinions, and discuss the urgency of having legal adjustment the problems.
- *Third*, experiences of some countries in the world for making and improving civil law on mechanism and protection of human rights on personal and property rights.
- *Fourth*, specific proposals on directions to solve problems in contents and in practice of the implementation of the Civil Code 2005 and the implementation of mechanisms and protection of human rights on personal and property rights of individuals to meet the objective requirements of the civil practice exchanges./.

(Focal point: The Department of Civil and Economic Legislation, MOJ)

On – going research: Rearch study on organization and operations of Legal Partnership Group to enhance aid coordination in legal/judicial area

In recent years, Vietnam has made great achievements in most areas of the economy and society.

One of the most significant achievements was helping millions of Vietnamese people escape from poverty with the GDP increased from USD 150 in 1993 to USD 1,258 in 2011. To achieve this success, besides promoting internal resources, Vietnam has received tremendous and effective supports of the development cooperation partners.

In the next stage, to continue to mobilize the support of development cooperation partners for the renewal of the social - economic development of Vietnam, in Vietnam Partnership Document was approved by the Prime Minister (in document No. 831/ VPCP-QHQT dated 25/01/2013), Vietnamese Government and the development cooperation partners committed to strengthening the partnership groups according to sectors, areas as the means to coordinate dialogue at sectoral level, the investments and to improve the development results. In fact, Aid Effectiveness Forum (AEF) have been established and operate at the national level; also at the sector, according to a comprehensive assessment report on 20 years of development cooperation between Vietnam and donors (1993-2013) of the Ministry of Planning and Investment, 23 sector partnership groups have been established and operate; including Health partnership group, Group partnership in the field of public finance, Group partnership in the field of prevention and fight against corruption ...

In the field of law and justice, in the early 80s of the twenty century, Vietnam began to establish cooperation with foreign countries in legal area. On general, international co-operation in legal area last time has helped Vietnam access to international and foreign experiences in building, improving a legal system of market economy, established position and prestige in the international arena in the process of integration and globalization. However, the mobilization, coordination and attract the funding in international cooperation in legal area remain inadequately, not really meet the practical requirements, especially in the context of Vietnam is being active, positive in international integration, improving the efficiency of external activities, continuing to put international relationships in depth as in Vietnam Partnership Document was approved.

To implement Vietnam Partnership Document, meet the practical requirements, in order to create a mechanism to attract, mobilize, coordinate, improve aid effectiveness, aid from the foreign partners for building and implementation legislation, judicial reform, legal reform in Vietnam, the Ministry of Justice is expected to establish a legal partnership group. This can be

seen as a forum for governmental agencies of Vietnam and its partners can exchange, dialogue, periodically share information about legal reform, judicial reform, new advances in legal area, and providing update information on technical assistance, aid effectiveness and coordination of donors, evaluating the needs of Vietnamese agencies and organizations as well as the interests of foreign partners.

To study and establish a legal partnership group, in the framework of the 2014 work plan of Project “Strengthening Access to Justice and Protection of Rights in Viet Nam” funded by UNDP, the Ministry of Justice (the Department of International Cooperation) expects to conduct the two following activities:

- Coordinating with local experts to study the organizational structure and operations of legal partnership group;
- Organizing seminars to comment on the draft study report on organizational models and activities of the legal partnership group.

The research report of the independent experts will be important references to the Ministry of Justice in building a project on establishing of legal partnership group.

There are following activities:

- Gathering information, data and documents on the attraction and use of foreign aid in the field of law and justice,
- Researching, evaluating organizational model and activities of the sector partnership groups have been established and operating,
- Studying and proposing models and activities of the partnership group in accordance with the characteristics of the cooperation activities in the field of law and justice.

The report's contents:

Part 1. Overview on the situation of international cooperation in legal area, coordination of legal international cooperation

Part 2. Experiences on the establishment and operation of the Sector Partnership Groups.

Part 3. Proposal organization Model and activities of the legal partnership group./.

On-going Research: An assessment on current situation of ensuring gender equality and women's rights in access to judicial services

Law on Gender Equality and the National Strategy on gender equality in the period of 2011 to 2020 are the important premises, creating legal basis for ensuring equality between women and men. The objective of strategy aims to ensure substantive equality between men and women about opportunities, participation and enjoyment in the fields of politics, economy, culture and society, contributing to the rapid and sustainable development of the country. The opportunity to access resources, ownership of production means and the ability of access to social services are often more limited for women. The lack of understanding of law, gender prejudices, availability and cost of the services are barriers limiting woman's access to judicial services and more broadly access to justice. These obstacles impede women in claiming and protecting their rights and interests in practice.

Ministry of Justice (MOJ) has mandate to provide and monitor the delivery of a number of basic judicial services, such as civil status registration, notary, legal aid, legal consultation, mediation, civil judgment execution⁶. These basic judicial services can be classified into two types of public services, the judicial administrative services and the judicial supportive services. The former often includes civil status registration, notary and civil judgment execution; whilst the latter can include grass-root conciliation, legal assistance and legal aid. To perform its mandate and more broadly to ensure gender equality in access to judicial services, MOJ has issued an Action Plan on gender equality in the Justice Sector in the period of 2011-2015, which sets forth targets and measures to ensure gender equality in line with the Law on Gender Equality, National Strategy on Gender Equality, and more broadly with Vietnam commitments as member state of CEDAW and

other international conventions on human rights which Vietnam has entered.

Recognizing the importance to meet the demand side of public service delivery as well as to increase public confidence, it is important to evaluate the current situation of women's access to justice—inclusively in terms of gender equality and women's right protection, in particular on access to and the delivery of judicial services which fall within the MOJ's mandate. These areas of judicial activities and practices are very important to ensure fundamental rights of citizen -in areas of civil, economic, political and social rights—realized and protected⁷. The results of assessment will be very used to inform policy makers of the current situation and recommend possible changes in and the legal and regulatory framework and in enhancing the performance of PDOJs and MOJ overall. Lastly, MOJ can use results of the assessment to develop a post 2015 action plan on gender equality in the Justice Sector—for the period of 2016-2020.

Objectives and expected outputs:

- To conduct an assessment on current situation of gender equality and women's rights in access to judicial services provided within the MOJ's mandate, including but not limited to: judicial administrative services such as civil status registration (e.g. adoption, child support, separation and divorce), civil judgment execution (e.g. women's property rights and support obligations), and legal assistance services (e.g. legal aid, grass-root conciliation) to protect women's rights.
- Based on the results of the assessment, to make policy recommendations to improve gender equality and protect woman's right in access to

⁶ Decree 22/2013/ND-CP on functions, tasks, authorities and organizational structure of the Ministry of Justice, issued March 13, 2013.

⁷ See 'Justice Index: Assessment of Distributive Justice and Equality from a Citizen-based Survey in 2012'. One of the key findings of the report is that unequal access to legal services can prevent equal and full protection of citizens' rights in practice; and it is recommended that judicial services should be further improved toward more friendly and accessible to people, the poor and other disadvantage groups in particular.

judicial services, and to improve the delivery of and quality of judicial services to women.

- To improve the services' availability, accessibility and delivery, policy recommendations will be made on necessary changes and measures to be introduced by MOJ and Provincial Department of Justice (PDJ) as well as other justice institutions in order to ensure timely and quality judicial services to all citizens, including special measures to improve access to justice for women.

Scope of the assessment:

- Civil status registration (including those activities listed in the draft law on civil status, reviewed by the National Assembly in June 2014)

- Civil judgment execution (including but not limited to property rights upon divorce, inheritance, or marital and family related issues)
- Legal assistance to help women claim and protect their rights (including but not limited to legal aid, access to lawyer, and other means and alternative mechanisms of dispute resolution--grass-root conciliation for example)/.

Focal point: The Committee for the Advancement of Women in Justice Sector ('CFAW'), Tel: 62739366, email: huongtt@moj.gov.vn

Workshop on the innovation of the organisation and functioning of the People's Courts in accordance with the judicial reform



On 27 May, 2014, with supports of Project “Strengthening Access to Justice and Protection of Rights in Viet Nam” funded by UNDP, the Central Internal Affairs Committee held “Workshop on the innovation of the organisation and functioning of the People’s Courts in accordance with the Judicial reform”, co-chaired by Mr. Nguyen Doan Khanh, the member of the Party’s Central Committee, the Deputy Chief of the Central Internal Affairs Committee, Mr. Tran Van Do, Vice Chief Justice of the People’s Supreme Court and Mr. Scott Ciment, Policy Advisor, rule of law and access to justice, UNDP

Vietnam. Attended the meeting were more than 100 delegates including managers, professionals, scientists have legal practical experiences related to the judicial sector from, the central agencies and Hanoi, such as the Central Steering Committee on Judicial Reform, the Supreme People's Court, Ministry of Public Security, Ministry of Justice, Vietnam Bar Federation, Vietnam Lawyers Association, the Legal Committee of the National Assembly, the Office of the National Assembly, Hanoi National University, Hanoi Law University, Judicial Academy; representatives of the provincial Party Committee of Internal Affairs, the Courts,

Procuracy of provinces: Hanoi, Vinh Phuc, Bac Ninh, Phu Tho, Hung Yen, Hai Duong, Thai Nguyen, Ha Nam, Ninh Binh, Bac Giang, Quang Ninh, Lao Cai, Ha Giang and representatives of departments of the Central Internal Affairs Committee.

There were 06 presentations at the workshop and 12 opinions expressed their agreements with the subject, content that the Central Internal Affairs Committee selected for workshop, expressed strong consensus on the content of the discussion, and clarify additional issues in theory and practice, introduces some experiences and propose solutions to promote further innovation of organization and activities of the people's Court in coming time to meet the requirements of the judicial reform. The comments were focused on analysing, assessing the limitations and shortcomings disclosed in the practice application of organizational models and operation of the court system, proposed practical recommendations to amend the Law on Organization of people's Courts as the requirements of the judicial reform.

The majority participants are of opinion that the renewal of the organization and operation of the court should be conducted synchronously associated with innovation, strengthen the organization and operation of the procuracy, investigation agencies and the improvement of the laws on criminal procedures, civil procedures etc.; ensuring the independence, rule of law; strengthening the leadership of the Communist Party; emphasizing the role of the supervisory authorities and the elected members to the organization and operation of the Court. At the same time, participants required overcoming the limitations and shortcomings of inadequate model of Court; referencing, selectively absorbing the experiences of other countries, in accordance with traditional cultural, political conditions, economy, society of the country.

Some comments are considered that the 2013 Constitution provides: "The People's Courts are the judicial bodies of the Socialist Republic of Vietnam and exercise judicial power", pointing out specifically "judicial power" of people's Court in

the Law on Organization of people's Courts is necessary. However, "judicial power" is a very important and new issue both in theory and practice in the country, therefore, it requires thoroughly and carefully research to select the contents and specifications of the draft in accordance with the process of reasoning, perception and reality in Vietnam.

Regarding to the selection of organization model of the Primary People's Court (First – instance Court), many people were considered that is very serious issue, but without real precedent in the court system of Vietnam and there was no condition to pilot to comprehensively assess before implementation. Therefore, to be consistent with the draft Law on the design of two options (*Option 1*, the People's Court of First Instance and the area and *Option 2*, the People's Court of First Instance at the administrative district unit) submit to the National Assembly to democratically discuss before going to the agreement, decisions and adoption at the 8th session of the National Assembly XIII (October 2014).

Concerning to the renewal of the organization and operation of the court, a number of opinions suggested more research to clarify the rationale, practice of some specific issues such as the establishment of the Court of Summary Jurisdiction at region; development issues of precedent and case law; organization of assistant apparatus of the Supreme People's Court; judge classification scale; Judge tenure and retirement age of judges.

In the closing remarks, Mr. Nguyen Doan Khanh, the member of the Party's Central Committee, the Deputy Chief of the Central Internal Affairs Committee highly appreciated the results of the workshop and said that the opinions at the seminar were very useful, providing practical information to help the Central Internal Affairs Committee in the references consulted with relevant agencies and advised the Politburo for comments on the Bill on organization of the people' Court (amendment) before the National Assembly's review and approval./.

Focal point: The Central Internal Affairs Committee

The workshop on commenting on the Manual of sanctioning of administrative violations in the fields of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, enterprise and cooperative bankruptcy



With supports of Project “Strengthening Access to Justice and Protection of Rights in Viet Nam” (funded by UNDP), the MOJ’s Inspectorate collaborated with the Project to organize “The workshop on commenting and making suggestions on the Manual 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. Attended the meeting were Dr. Pham Quy Ty, the former Deputy Minister of Justice, the leader of the National Expert Group, experts, legal researchers, representatives from the Supreme People’s Court, the Departments of the Ministry of Justice, some Provincial Departments of Justice and Civil judgment execution Departments in Northern provinces.

In the opening speech at the workshop, Mr. Nguyen Thang Loi, the Deputy Chief of the MOJ’s inspectorate affirmed that Decree No. 110/2013/ND-CP providing for the sanctioning of administrative violations in the fields of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, enterprise and cooperative bankruptcy was issued by the Government on 24 September 2013 (comes into effect from 11 November 2013) is a complex and major decree managing many different areas of the society, contains a large number of new provisions compared to the earlier Decree replaced by Decree No. 110/2013/ND-CP. Therefore, the purposes of the handbook are to specially guide administrative violation sanctions,

to help officials authorized to sanction administrative violations clearly understand regulations of the new Decree. Additionally, the manual will help officials to clearly understand skills and procedure for administrative violation sanctions and solve difficulties occurring from the practice of administrative violation sanctions in those fields.

The workshop was organized from the practical requirements of the administration sanctioned in the judicial activities in recent years. Its purposes were to discuss the main content of the manual and take advantages of experience of state management agencies and officials obtaining practical experiences of the areas, share difficulties, clarify shortcomings, which proposed solutions to overcome difficulties and obstacles in order to create positive change in the actual implementation of the provisions of the Decree.

At the workshop, Dr. Pham Quy Ty, the former Deputy Minister of Justice, the leader of the National Expert Group delivered a summary report about the manual, suggested the key issues to discuss. He said: This manual could be considered as a handbook to serve for the sanctioning of administrative violations in the fields of management by the Ministry of Justice. He also wanted the participants with their own experiences would discuss, comment and deepen the important contents of the manual, especially, feedback directly and specifically on the questions and answers parts, which could help the MOJ’s Inspectorate to complete the draft manual.

At the workshop, there were 05 presentations, a large number of opinions from leaders and the Chief Inspectors of the Department of Justice, the experts in the fields from the local authorities and ministries presented, exchanged enthusiastically, passionately, deeply and closely to the practical requirements.

The majority of the comments highly appreciated that the draft manual outlined the new points of Decree No. 110/2013/ND-CP, especially the questions and answers parts with more than a hundred situations proposed occurring, during the sanction process and many other

suggestions for the improvement of the manual, particularly proposed UNDP and the project continue to support the publication of the manual when completed.

By the MOJ's Inspectorate

Training on handling administrative violation in the areas of legal aid, judicial administration, family and marriage, civil execution, bankruptcy of enterprises and cooperatives



With supports of Project “Strengthening Access to Justice and Protection of Rights in Viet Nam” (funded by UNDP), on 24 and 25 September 2014, the Ministry of Justice held a training workshop for training Decree 110/2013/ND-CP on handling administrative violation in the areas of legal aid, judicial administration, family and marriage, civil execution, bankruptcy of enterprises and cooperatives in Can Tho City.

Attended the training workshop were representative leaders of the Provincial Justice Departments, the Provincial Department of Justice Inspectorate in southern region (from Quang Nam province), representative leaders of Provincial Department of Justice Inspectorate, representatives of Civil Judgment Enforcement Department of Can Tho city and 06 civil Judgment Enforcement Branches of Can Tho city and Inspectors of the Ministry of Justice.

At the training workshop, Mr. Nguyen Thang Loi, Deputy Chief Inspectorate, the Ministry of Justice introduced the basic contents, new provisions and responsibilities of agencies and organizations involved in the implementation of Decree 110/2013/ND-CP. Accordingly, Decree 110/2013/ND-CP is a decree having wide scope, consisting of 08 chapters, 75 articles, taking effect on 11 November 2013 and replaced Decree 60/2009/ND-CP dated 23 July 2009 on sanctioning of administrative violations in the field of justice; Decree 87/2001/ND-CP dated 21 November 2001 on sanctioning of administrative violations in the field of marriage and family; Decree 10/2009/ND-CP dated 06 February 2009 on sanctioning of administrative violations in the course of bankruptcy proceedings. Decree 110/2013/ND-CP is one of the indispensable tools of state management in general, in the field of judicial affairs support, the administration of

justice, marriage and family, civil judgment enforcement, bankruptcy and cooperatives in particular.

The dissemination and training of the Decree support to the officials of Provincial Justice agencies who have competence of sanction administrative violations in the fields of justice, state managed by the Ministry Justice to understand, to gain the basic contents of the Decree, especially the contents of violations, fines, competence making record and competence to sanction administrative violations and remedial measures.



At the training workshop, Dr. Pham Quy Ty, the former Deputy Minister of Justice, legal expert, introduced the contents of the Manual of sanctioning of administrative violations in the fields of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, enterprise and cooperative bankruptcy with 160 questions and answers for specific situations and cases which drawn from the practice. The participants actively shared experiences, outlined the difficulties in the implementation of

administrative sanctions in their localities. Including: the lack of staff of Department of Justice Inspectorate with only 01 Chief Inspector and 01 Deputy Chief Inspector (no staff) in some provinces, therefore, it is very difficult to control and make decisions. Inspection of the Department of Justice has not been funding separately and depend on administrative expenditures of the Department of Justice and in many provinces, they has not opened a separate accounts for activities as well as other difficulties relating professional issues in inspection in justice sector. Over 60 questions, problems raised by participants were specifically answered by the Inspectorate of the Ministry of Justice and experts, all challenges and problems are recorded.

Through the training workshop, participants proposed the Ministry of Justice to issue a Circular guiding on the organization staff, operational budget for the Inspectorate of Department of Justice and detail instructions for the implementation of remedial measures to sanction administrative violations, prescribed forms and papers on handling administrative violations to apply uniformly.

The organization and implementation of effective trainings on the Decree will actually contribute to maintaining order and administrative discipline, protection of the legitimate rights and interests of citizens, in according with economic, social conditions, meet the requirements of administrative reforms and fight efficiently against administrative violations in related areas./.

By MOJ's Inspectorate