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Section 1. Administrative law

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LEGAL INTERVENTION FOR THE AUTONOMY OF LOCAL GOVERNMENT COUNCILS IN NIGERIA

Abstract. This paper examines the problem of lack of autonomy of Local Government Councils in Nigeria and the challenges confronting them. Nigeria is a federation with three tiers of government – Federal, State and Local Governments. In true federalism, each tier is autonomous and is fully recognized by the Constitution. This paper shows that while the Federal and State Governments are well recognized, in terms of executive, legislative and judicial organs, etc, under the Constitution, Local Government Councils are not accorded the same recognition. The Constitution empowers State Governments to make laws for the establishment, administration and powers of Local Government Councils. In addition, State Government are empowered to conduct elections into the Councils and disburse the revenue allocated to these Councils. This has placed Local Government Councils under the autocratic governance of State Governments, and has resulted in poor development of Local Government.

This paper concludes that autonomy of Local Government Councils as the third tier of government is a necessity for the operation of true federalism and development at the grass root level in Nigeria, And until this is done, Local Government Councils will remain handicapped by the overwhelming and exacerbating control of State Governments and unable to develop their localities.

Keywords: local self-government, problems of autonomy, federalism, democratic values, amendments to the Constitution.

Introduction

Local Government is the third tier of government and closest to the people. It is vested with the power to promote democratic ideals and coordinate development in the locality [1]. The necessity for the creation of local government stems from the need to facilitate development at the grassroots. Its importance is a function of its ability to meet up with the expectations of the populace [2].

Before 1976, during the colonial era, Local Government System in Nigeria was faced with myriads of problems, ranging from inefficiency to mismanagement by State Governments. These led to agitations for a reform of the Local Government System in Nigeria [1, note 1, P. 204]. Thus, in 1976, the Federal

Government embarked on extensive reforms of the Local Government System. The 1976 reforms among other things developed a uniform system of local government for the entire country and conceptualized Local Government as the third tier of government [1, note 1, P. 204]. It further provided for election into certain offices of the Local Government Councils. Most of these recommendations were incorporated into the 1979 Constitution of Nigeria.

Under the present Constitution of Nigeria [3], Local Government Councils are placed under the control of State Governments. They lack the necessary autonomy and constitutional recognition to function effectively as the third tier of government. For example, section 7(1) of the Constitution guarantees democratically elected Local Government Councils and mandates State Governments to ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of the Councils. This provision places State Government in absolute charge of Local Government Councils since they are statutorily empowered to make laws for their existence and administration. Also, with respect to Local Government revenue, section 162(5) of the Constitution makes it clear that the amount standing to the credit of Local Government Councils in the Federation Account shall be allocated to the State for the benefit of their Local Government Councils. In addition, section 162(8) of the Constitution provides that the amount standing to the credit of Local Government Councils of a State shall be distributed among the Local Government Councils of that State on such terms and in such manner as may be prescribed by the House of Assembly of the State. These provisions clearly deny Local Government Councils fiscal autonomy and create opportunities for maneuvering and manipulation Local Government revenue by State Governments. Some State Governments have even gone to the extent of encroaching on constitutional functions of Local Government Councils which are sources of internally generated revenue for the Councils. These and other inferences of the State Government have made it difficult for Local Government Councils to efficiently perform their roles in developing their localities [4].

This paper therefore examines the problems emanating from State Governments' control over the affairs of Local Government Councils in Nigeria, which are due largely to lack of Local Government autonomy. It recommends full autonomy of Local Government Councils and their recognition as the third tier of government under the Constitution of Nigeria. These are amongst other recommendations made for the effective functioning of Local Government Councils in Nigeria.

Local Government System in Nigeria

Local Government is a unit of government below the central and State government established by law to exercise political authority through a representative council within a defined area [5]. It is the tier of government closest to the people, vested with powers to exercise control over the affairs of its domain [5].

Local Government system in Nigeria had undergone several reforms since the early 1950s. During that period, colonial local administration revolved around traditional rulers, with the unit of local administration referred to as the native authority [6]. The native authority was charged with the responsibility of collecting taxes, maintenance of law and order, construction and maintenance of local roads and sanitary inspection.

However, modern reform of Local Government system in Nigeria started in 1976. This reform aimed to restructure and harmonize local government administration in Nigeria [6, P. 32]. For the first time, the country had a uniform structure of local government rather than the various structures present in the various States of the federation. The recommendations of the reform include [7]:

1) Local Governments all over the country were to become single-tier and uniform in operation.

2) Local Governments became the third tier of the government. The first and second tier being Fed-

eral and State Governments respectively. The Local Government became recognized with certain powers and functions.

3) Past debts of the Local Governments were to be written off so as to give them a fresh start.

4) State Governments were mandated to set up Local Government Service Board that would be responsible for the training of the staff of the Local Government Councils. This was aimed at improving the standards and quality of their personnel.

5) Federal and State Governments were mandated to release monthly allocations to the Local Governments. This was to finance the important functions of the Councils.

6) Local Governments were to be elected chairmen and councilors. Traditional rulers were restricted from partisan politics. Under the reform, the traditional rulers are to perform purely advisory roles [7].

The provisions of the 1976 Reform were entrenched in the 1979 Constitution which had since been replaced with the present operative Constitution enacted in 1999.

Under the present Constitution of Nigeria [8], Local Governments are not accorded the same recognition given to Federal and State Governments. Although, Nigeria claims to operate a federal system with three tiers of government – Federal, State and Local Governments, emphasis is laid on the Federal and State Governments to the detriment of the Local Government. This is because the Constitution places Local Governments under the control of State Governments. This has greatly deprived Local Governments the autonomy needed to effectively perform their roles and give full realization to the ideals of true democratic federalism.

Challenges Confronting Local Government Councils Due To Lack of Autonomy

There are a number of challenges confronting Local Government Councils in Nigeria due to lack of autonomy. These are examined below.

1. Status of Local Government Councils Under the Constitution of Nigeria: Literally, Nigeria operates a federal system consisting of three tiers of government – Federal, State and Local Government. However, section 2(2) of the Constitution provides that the federation of Nigeria consists of States and a Federal Capital Territory. This provision obviously creates a lacuna because it does not include Local Government Councils as part of the federation. Although, section 3(6) of the Constitution provides that there shall be 768 Local Government Areas in Nigeria as shown in the second column of Part I of the First Schedule and six area councils as shown in Part II of that Schedule, this provision does not cure the defect in section 2(2) which gives no recognition to Local Government. This is in addition to the fact that the Constitution does not specifically state that Nigeria operates a three tier government namely – Federal, State and Local Governments.

Also, the Constitution lays emphasis on the status of Federal and State Governments. It recognizes the legislative, executive and judicial organs of the Federal and State Governments. Legislative powers of the Federal and State Governments are stated in section 4 of the Constitution. In addition, provisions on federal legislature (Senate and House of Representatives) are stated in Part I of Chapter V while provisions on State legislature (House of Assembly) are contained in Part II, Chapter V of the Constitution. Executive powers of the Federal and State Governments are stated in section 5 of the Constitution. Also, provisions on the Federal executive are stated in Part I, Chapter VI of the Constitution, while the State executive is recognized under Part II, Chapter VI of the Constitution. Also, judicial powers of the Federal and State Governments are stated in section 6 of the Constitution. Federal and State Courts are recognized under Chapter VII of the Constitution.

Furthermore, the Constitution makes elaborate provisions on elections into the Federal and State executive [9] and legislative offices [10] including the tenure of the President [10, section 135], Governor [10, section 180], members of Federal and State legislature and the criteria for their removal from office

[10, section 143]. These provisions have accorded Federal and State Governments the constitutional autonomy and legal framework required for their operations. However, this is not so in the case of Local Government Councils. The Constitution is silent with respect to executive, legislative and judicial powers and organs of Local Government Councils. Rather, the Constitution, places Local Governments under the control of State Government. Section 7(1) of the Constitution provides that the system of Local Government by democratically elected Local Government Councils under the Constitution is guaranteed; and accordingly, the Government of every State must ensure their existence under a Law, which provides for the establishment, structure, composition, finance and functions of such Councils. This provision portrays Local Government Council as an appendage of the State Government over which they enjoy absolute discretion. State Government being the second tier of government should not make laws for the establishment, structure, composition, finance and functions of Local Government Councils which are the third tier of government. Each tier should operate independently and make laws through their legislatures. Local Government Councils should make laws through its Legislative Council which consists of Councillors elected to make laws for the Local Government. Unfortunately, the Constitution is yet to be amended in this regard. And this drawback in section 7(1) of the Constitution has created an opportunity for manipulations by State Governments.

2. Revenue: In Nigeria, the three tiers of government (that is, Federal, State and Local Governments) are entitled to revenue from the federation account. Section 162(3) of the Constitution provides that any amount standing to the credit of the Federation Account shall be distributed among the Federal and State Governments and the Local Government Councils in each State on such terms and in such manner as may be prescribed by the National Assembly.

Under the Constitution, Local Government Councils are entitled to receive revenue from the federation account and the State Government. Section 7(6) of the Constitution provides that (a) the National Assembly shall make provisions for statutory allocation of public revenue to Local Government Councils in the Federation; and (b) the House of Assembly of a State shall make provisions for statutory allocation of public revenue to Local Government Councils within the State. To receive this revenue, the Constitution mandates each State to maintain a special account called "State Joint Local Government Account" into which allocations from the federation account belonging to both the State and Local Governments Councils are paid. The State Government then receives the revenue on behalf of the Local Government Councils and distributes it among them. Section 162(5) of the Constitution provides that the amount standing to the credit of Local Government Councils from the federation account is allocated to the State for the benefit of their Local Government Councils as prescribed by the National Assembly. Also, section 162(8) of the Constitution provides that the amount standing to the credit of Local Government Councils of a State shall be distributed among the Local Government Councils of that State on such terms and in such manner as may be prescribed by the House of Assembly of the State.

These provisions have given many State Governments the opportunity to misappropriate Local Government funds by diverting part of the allocation. This has deprived Local Government Councils the capacity to perform their functions and live up to the expectations of the people.

Furthermore, the statutory revenue allocation for Local Government Councils from State purse, are rarely paid. Section 4(1) of the Allocation of Revenue (Federation Account, Etc.) Act provides that in addition to the allocation made from the Federation Account to Local Government Councils, there shall be paid by each State in the Federation to the State Joint Local Government Account in each quarter of the financial year, a sum representing 10 per cent of the internally-generated revenue for that quarter of the State concerned. Also, section 4(2) of the Act

provides that the ten percent revenue must be distributed among the Local Governments in that State on such terms and manner prescribed by the State House of Assembly. Most State Governments do not release this revenue and those who do so, stylishly take it back through various manipulations.

3. Creation of Unconstitutional Local Government Development Areas: Presently in Nigeria, the Constitution recognizes 768 Local Government Areas in the 36 States of the Federation and 6 Area Councils of the Federal Capital Territory, Abuja [10, section 3(6)]. To create a new Local Government Area, section 8(3) of the Constitution gives the House of Assembly of a State the power to so create [10, section 8(3)]. However, this is subject to sections 8(5) and (6) of the Constitution which provide that the names and headquarters of newly created Local Government Areas must be submitted to the National Assembly and listed in Part I of the First Schedule to the Constitution [10, section 8(5) and (6)]. It is after this had been done that new Local Government Areas are legally created. Thus, creation of Local Government Area is in two phases. The first phase is the creation of the Local Government Areas by the House of Assembly of a State as provided in section 8(3) of the Constitution. The second phase is the submission of the names and headquarters of the new Local Government Areas to the National Assembly for listing in Part I of the First Schedule to the Constitution as required by sections 8(5) and (6) of the Constitution. A State Government cannot therefore, claim to have created a Local Government Area until the name and headquarter of the Local Government Area has been submitted to the National Assembly and listed in the Constitution. It cannot unilaterally create Local Government Areas without recourse to the National Assembly.

However, in exercise of the power to create new Local Governments, Houses of Assembly of some States complied with the requirement under section 8(3) of the Constitution but failed to complete the process by complying with the requirements under sections 8(5) and (6) of the Constitution by submitting the names and headquarters of the newly created Local Government Areas to the National Assembly for listing in the Constitution. Due to this defect and their unwillingness to comply with the demands of the Constitution, they changed the names of the newly created Local Government Areas to Local Council Development Areas, Development Areas or other similar names and administered them like constitutionally recognized Local Government Areas. For example, in Lagos State, in the year 2004, the House of Assembly created fifty-seven (57) Local Government Areas under the Local Government Areas Law No. 5, 2002 of Lagos State and conducted elections into them. The matter was challenged in court in the case of Attorney-General of Lagos State *vs* Attorney-General of the Federation [22]. As a result, the Government of Lagos State amended the Local Government Areas Law and changed the names of the Local Government Areas to Local Council Development Areas. Presently, in Lagos State, there are 20 Local Government Areas recognized under the Constitution and 57 Local Council Development Areas unrecognized by the Constitution.

Similarly, in Ebonyi State, the House of Assembly created twenty one (21) new Local Government Areas under the Local Government Area Law No. 7 of 2001 (as amended). The names of the Local Government Areas were later changed to Development Areas. More Development Areas were subsequently created bringing them to a total of sixty-four (64) with the amendment of the Local Government Area Law. Ebonyi State now has thirteen (13) Local Government Areas recognized under the Constitution and 64 Development Areas unrecognized by the Constitution.

Also, in Nassarawa State, the House of Assembly created sixteen (16) Development Areas under the Nassarawa State Local Government Law, No. 5 of 2009. This is in addition to the thirteen (13) constitutionally recognized Local Government Areas. Presently, in Nassarawa State, there are 13 Local

Government Areas stated in the Constitution and 16 Development Areas not stated in the Constitution.

This ugly trend has been embraced by a number of State Governments in Nigeria. These Local Council Development Areas, Development Areas and other similar bodies are unconstitutional and should be abolished.

4. Elections into Local Government Councils: In Nigeria, elections into Local Government Councils are conducted by State Governments through the State Independent Electoral Commission [12]. The State Independent Electoral Commission is established under section 197(1)(b) of the Constitution. The duties of the State Independent Electoral Commission are to – (a) organise, undertake and supervise all elections into Local Government Councils within the State [13]; (b) render necessary advice to the Independent National Electoral Commission on the compilation of the register of voters as applicable to Local Government elections in the State [14].

The fact that Local Government elections are conducted by the State Government gives room to great manipulations by the State. They determine who contests elections. Sometimes, they refuse to conduct elections and appoint caretaker committees to administer the Local Government Councils. These caretaker committees simply carry out the wishes and instructions of the State Government. This is unfortunate, because in a genuine federation, each tier of government should be autonomous, and Local Government elections should be conducted by Local Government Independent Electoral Commission established under the Constitution.

5. Dissolution of Local Government Councils: The Constitution of Nigeria does not contain any specific provision on dissolution of Local Government Councils. However, some State Governments have legislated on this issue. However, in most cases, Councils are dissolved indiscriminately. For example, in Oyo, State section 10 of the Local Government Law, 2001 (as amended) provides that the Local Government Council stands dissolved at the expiration of a period of 3 years commencing from the date of the first sitting of the Council. This implies that each Council dissolves automatically as soon as the 3 year tenure of its members' expire and fresh elections should be conducted. Ideally, such elections should be conducted some months before the expiration of the tenure of the Council, in order to avoid creating a vacuum and resist the temptation of appointing unelected committees to administer the Local Government. Unfortunately, this is not so in most States of Nigeria. Rather than conduct elections at the appropriate time, the State Governors appoint committees under various names such as – caretaker committee, transition committee or administrators and put them in charge of the Councils. This had been done by Governors of Katsina, Borno, Yobe, Kwara, Kogi, Bauchi, Taraba, Benue, Enugu, Anambra, Imo, Ogun [15] and Oyo States [15]. This violates section 7(1) of the Constitution which guarantees democratically elected Local Government Councils. This position had also being affirmed in the case of the Governor Ekiti State & Ors V. Olubunmo & Ors [16], where the Supreme Court of Nigeria held that State Governors do not have the power to dissolve elected Local Government Councils. In that case, the Governor relied on section 23b of the Ekiti State Local Government Administration (Amendment) Law, 2001 of Ekiti State to dissolve elected Local Government Councils in the State before the expiration of their tenure and went ahead to appoint caretaker committees in their stead. The Supreme Court invalidated this law and held that the Governor had no constitutional power to dissolve elected Local Government Councils and replace them with caretaker committees. The decision of the Supreme Court is premised on section 1(3) of the Constitution which provides that the Constitution prevails over every law and any law that is inconsistent with the provisions of the Constitution is null and void to the extent of its inconsistency. Therefore, any action taken under such a law is unconstitutional. Thus, appointing unelected committees to administer Local

Government Councils whether backed by a State law or not, is absolutely illegal.

Conclusion

Local Government Councils are fundamental to true federalism. They are the most potent instrument in mobilising people for local participation and the spread of democratic values. Through these Councils, people at the grassroot experience development and good governance. But due to the present situation in Nigeria, people living in Local Government Areas are deprived of amenities, infrastructure and other developmental necessities. It is therefore expedient for the Nigerian Government, in particular the legislature to immediately embark on constitutional amendment, granting Local Government Councils absolute autonomy. This will put Nigerian democracy in the right perspective and enhance development at the grassroot level and the nation as a whole.

Recommendations

To give constitutional reality to the concept of three-tier federalism in Nigeria, the Constitution should be amended to specifically and unambiguously include Local Government Councils in section 2(2) of the Constitution as a part of the federation.

Following the above, Local Government Legislature should be included in section 4 and Chapter V of the Constitution. Similarly, Local Government executive should be recognized under section 5 and Chapter VI of the Constitution. Also, judicial powers of the Councils should be included under section 6 and Chapter VII of the Constitution.

Section 7 of the Constitution should be amended to empower Local Government Councils make their laws independently and not by the State Government. This amendment will remove the provision which gives State Governments the leeway to make unconstitutional laws, usurp the statutory functions of Local Government Councils and plunder their resources. Also, by this new legal regime, Local Governments will be able to enhance their internally generated revenue.

The Constitution should be amended to abolish State Joint Local Government Account. Each Local Government Council should have independent revenue account into which revenue should be paid from the federation account and the State Government. The Constitution should clearly state that all revenue from the federation account and other monies meant for Local Government Councils should be paid directly into each Local Government Council's Account. This would help restore fiscal autonomy of Local Government Councils and improve their viability. The populace should however, hold the officers accountable for the funds allocated to the Local Government and corrupt officers should be prosecuted.

The Local Government Service Commission should be accorded constitutional recognition and properly funded and administered. This would support the human resource and staffing development of Local Governments in Nigeria.

Local Government Electoral Commission should be statutorily established to conduct Local Government elections. This would eradicate the ugly trend of election manipulations by the State Government.

Local Council Development Areas and other similar bodies should be abolished. State Governments should comply fully with the requirements for creation of Local Government under section 8 of the Constitution of the Federal Republic of Nigeria.

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Section 2. Constitutional law

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CONTRIBUTING TO LEARN MECHANISM OF COORDINATION BETWEEN LEGISLATIVE POWER, EXECUTIVE POWER AND JUDICIAL POWER IN STATE MANAGEMENT IN VIETNAM

Abstract. Completing the coordination institution to exercise state power is the top concern of each country in general as well as in Vietnam in particular. the constitution of the socialist republic of Vietnam has been changed 5 times, from the constitutions of 1946, 1959, 1980, 1992 amended and supplemented in 2001, 2013 clearly demonstrated that the relationship in horizontal decentralization has been increasingly improved and reached a consensus from a centralized mechanism to a decentralized mechanism, to coordination and then to decentralization, assignment, coordination and exercise control of power. the article studies some theoretical issues about legislative, executive and judicial power in state management in Vietnam as well as the coordination mechanism between these rights in the current state management.

Keyword: legislative power executive power, judicial power, mechanism of coordination, state management.

1. Introduction

Building a rational, effective and efficient state apparatus is the core content of creating a modern political and state institution. This is a matter of theory and practice about polity, forms of state organization in the constitutional history of countries in the world in general and of Vietnam in particular. With the preeminent nature of democracy and the socialist rule of law, state power is defined as the power authorized and delegated by the People. State power is concretized through provisions of the Constitution to delineate the duties and powers of legislative, executive and judicial. Therefore, in the process of deploying and realizing state power, there will inevitably arise the natural and legitimate requirement for division, coordination and control between the legislative, executive and judicial bodies in accordance with each stage of development in the history of society.

In Article 2 of the Constitution of the Socialist Republic of Vietnam in 2013, the principle of assignment of state power has been specifically affirmed. It also stipulates and recognizes the subject of each branch of power as the core content of the basic law. With the main recognized function shown as state power, then the Constitution is the official document in the name of the People that expresses the functions of the State within a certain scope for the institutions and is expressed in many cases by specific regulations by empowering. Accordingly, with such regulations, according to the decentralized

model in a hard way or in a flexible and decentralized way, the Constitution forms a relationship for the purpose of interaction as well as a mechanism to control each other's powers, thereby clearly defining the relationship between the three main branches of legislative, executive and judicial powers. In order to assign power, it is necessary to determine the position, function, scope, limit of activities, how to coordinate and interact between agencies in the exercising of legislative, executive and judicial powers that characterize the basic function of the State.

2. Content of researching

2.1. Concepts of legislative, executive and judicial powers in state management in Vietnam

From the first Constitution (in 1946) to the Platform for national construction in the transitional period (added and developed in 2011) and the 2013 Constitution, it affirmed the principle of organizing state power. In Clause 2, Article 3 of the 2013 Constitution of the Socialist Republic of Vietnam, stipulates: "State power is unified, with assignment, coordination and control among state agencies in the exercise of legislative, executive and judicial powers" [5]. Accordingly, it is clear that the subjects exercising legislative, executive and judicial powers: The National Assembly exercises the legislative power (Article 69), The Government exercises the executive power (Article 94), the People's Court exercises the judicial power (Clause 1, Article 102), the People's Procuracy exercises the right to prosecute and supervise judicial activities (Clause 1, Article 107) [5]. In particular, the principle of "control" is added, "State power is unity, with assignment, coordination and control among state agencies in the exercise of legislative, executive and executive powers and judicial" [Article 2, Clause 3]. This new regulation concretizes a development step in theory and practice of building the rule of law in Vietnam. Accordingly, legislative, executive and judicial powers are defined with the following basic contents:

Firstly, legislative power is defined as the right to represent the People to express the general will of the nation. Those who are given this right by the People are those who are elected by popular vote to form a body called the National Assembly. The basic attribute, throughout all activities of this right, is to represent the People, to ensure that the People's common will be expressed in laws that it is the only body authorized by the People to vote on laws. The right to vote on legislation is a legislative power, not a right to set out models of behavior for society.

Secondly, executive power is the right to organize the implementation of the general will of the country, which is assumed by the Government. The connotation throughout all activities of this right is to propose, plan and organize the drafting of national policies and after the national policy is approved, the person who organizes and manages the state is actually the organization that implements the law to ensure security, safety and social development. Exercising this right requires the Government and its members to be agile, decisive in a timely manner and with a unified centralized authority.

Thirdly, the judicial power is the right to adjudication, which is assigned by the People to the courts to exercise independently and only in accordance with the law. This is the most throughout and highest principle in the organization of the exercise of judicial power. This right clearly states: "It is strictly forbidden for agencies, organizations and individuals to interfere in the adjudication of judges and jurors" (Article 103, Clause 2) [5]. In fact, this content is aimed at protecting the common will of the nation by adjudicating violations of the Constitution and laws by citizens and state agencies.

The determination of legislative, executive and judicial powers in state management in Vietnam is an indispensable and objective matter, blending into the general flow of historical and social progress of countries around the world. Currently, the trend of clearly demarcating between the three legislative, executive and judicial powers is increasingly clear to ensure the promotion of the effectiveness and efficiency of the state's management activities over social life.

2.2. Some basic contents on the mechanism of coordination between legislative, executive and judicial powers in state management in Vietnam nowadays

The coordination mechanism between legislative, executive and judicial powers in state management in Vietnam is determined on the following specific contents:

Firstly, the coordination in the exercise of legislative power in state management

In the legislative process at the National Assembly, the Government plays the role of presenting, receiving feedback and discussing to complete the law project. The National Assembly has the right to propose and decide on amendments to the law project submitted by the Government, but the Government has the right to discuss the proposals and opinions of the National Assembly to convince the law project submitted by the Government. Even the Government may refuse to continue to submit the bill due to objections from the National Assembly. Although the Law on Promulgation of Legal Documents does not provide for the Government's right to abandon the law project, but more clearly recognized the role of the Government in the process of receiving and revising the law project.

Secondly, about the coordination in the exercise of executive power in state management.

The assignment and coordination in the exercise of executive power is carried out in the course of performing the tasks and powers of the Government and for the purpose of fulfilling those tasks set forth by the Constitution for the Government, the subject of executive power. In particular:

For the organization of law enforcement: The Constitution stipulates the duties and powers of the Government "Organize the implementation of the Constitution, laws and resolutions of the National Assembly, laws and resolutions of the National Assembly Standing Committee, orders and decisions of the President" (Article 96, Clause 1) [5]. The Prime Minister has the following tasks: "Leading the implementation of policies and organizing law enforcement" [Article 98, Clause 1]; Ministers and heads of ministerial-level agencies have the following tasks: "Organize the implementation and monitor the implementation of laws related to branches and domains nationwide" [Article 99, Clause 1]; Local authorities have the following tasks: "To organize the implementation of the Constitution and laws in the locality" (Article 112, Clause 1); The People's Committee has the following tasks: "Organize the implementation of the Constitution and laws in the locality" (Article 114, Clause 2) [5].

According to Article 96, Clause 2 of the 2013 Constitution, the Government has the task of "proposing and formulating policies to submit to the National Assembly and the National Assembly Standing Committee for decision or decide according to its competence to perform the tasks and powers specified in this Article; submit law projects, state budget projects and other projects to the National Assembly; submit the ordinance project to the National Assembly Standing Committee". *For policy-maker*: Proposing a policy is a matter of high consensus when considering it as an authority associated with executive power.

For state management: The Constitution and Law on Government organization recognize the role of the Government in "unifying management" in all aspects of social life: economy, culture, society, education, health, science, technology, environment, information, communication, foreign affairs, national defense, national security, social order and safety. Simultaneously, the Law on Government Organization also recognizes the Government's authority to perform the unified state management of health, health care of the People and the population; on the implementation of social policies; on national defense; national, social order and safety; on foreign affairs and international integration; organization and operation of associations and non-governmental organizations. The content of "unified" management was discussed in forums. This concept leads to an understanding of one-point consistency, of

legal regulation, of ways and processes of implementation. Practice shows that there are fields that are being managed by some actors in the political system. Therefore, it is necessary to clearly define the scope of the Government's management and at the same time, establish a corresponding coordination mechanism.

Thirdly, about coordination in the exercise of judicial rights in state management.

Judicial activity is the exercise of power – the right to judge and pronounce judgments on behalf of the state. therefore, judicial activities always require close coordination with legislative and executive powers to avoid abuse of power. Control of judicial activities, which is actually control of judicial activities, is carried out in the form of self-control and control from outside the system.

The 2013 Constitution affirms: The People's Court is the body exercising judicial power, and at the same time affirms that "The People's Court is the adjudicating organ of the Socialist Republic of Vietnam…" (Article 102). Clause 1) [5]. This has created the basis for the establishment of a court-level court system, thereby enhancing the independence of the courts from local state agencies. Accordingly, legally, the Court has almost no dependence on the Government, so the Government's control over the Court is not high. However, to a certain extent, the Government can control the agency exercising judicial power by controlling the financial revenue and expenditure, the budget for judicial activities. Because the budget of the Court branch is only based on the state budget allocated by the National Assembly so There's no possibility that the Judiciary sector is underfunded due to unforeseen or poorly planned expenditures, therefore, the Court sector may have to request the Government to supplement the budget. The Government, therefore, has the right to request the judicial branch to give an overall explanation of its organization and operation, considering it as a basis for providing additional funding, facilities and operating conditions for the Court.

Considering the coordination mechanism between judicial power and legislative and executive power in the opposite direction shows that the control of power from the Court to the executive branch in general is mainly identified through the adjudication of administrative cases; for complaints about administrative decisions or administrative acts of state administrative agencies. Accordingly, the operational status of the Administrative Court creates an effective control mechanism, improves the legality in the operation of the state apparatus, and ensures the legitimate rights and interests of citizens. During the judicial process, the Administrative Court may consider the legality of legal documents of state agencies, if this document is the cause of the protested illegal administrative decisions, it shall propose, amend, supplement or annul.

3. Conclusion

From the theoretical and practical aspects, it can be seen that state power in Vietnam is unified, with assignment, coordination and control among state agencies in the exercise of legislative, executive and judicial powers. In this system, the executive power is a constituent element, having a relatively independent position, a relative unity relationship, has an interaction with the legislative power, the judicial power, is the representative of state power in the executive field. The concretization of the coordination between agencies in the exercise of legislative, executive and judicial powers is of great significance to the process of building a State of law in Vietnam, in line with international trends. This sets an objective requirement for each component part to master the scope of responsibilities and powers in order to contribute to improving the effectiveness and efficiency of the State's management over all fields of social life.

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Section 3. International law

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THE EU'S PERMANENT STRUCTURED COOPERATION: PROSPECTS FOR EUROPEAN DEFENCE

Abstract. The article examines the main achievements and challenges for the EU cooperation in defence and security issues. Special attention is paid to the perspectives of the Permanent Structured Cooperation (PESCO) mechanism, position of the EU institutions and EU member-states.

Keywords: The EU Common Security and Defence Policy (CSDP), Permanent Structured Cooperation (PESCO), strategic autonomy, defence, capability development.

The Common Security and Defence Policy, as an integral part of the broader EU Common Foreign and Security Policy (CFSP), was designed in 1999 to set up the frameworks for the EU activities in such spheres as defence policy and crisis management. And from its very beginning intergovernmental nature of cooperation and lack of consensus between the EU member-states were the main challenges for its successful implementation.

In the debates over the division of competence between the EU and its member-states the national security and defence have turned out to be too sensitive policies for states to delegate their sovereignty to the supranational level. But there was a need to 'facilitate decision-making in an ever larger Union, even without moving towards qualified majority vote in a policy area where the acquis was still minimal and consensus deemed essential' [1, P. 11].

On the other hand, there were difficulties in combining different levels of ambition of the EU member-states in the spheres of security and defence: discussion between the 'Europeists' and 'Atlanticists', position of neutral and non-aligned states. The case of Denmark with its 'opt-outs' according to Edinburg Agreement 1992, pro-Atlanticist attitude of the UK and Central and Eastern Europe required tailor-made arrangements. As a result the ideas of flexibility and differentiation, closer/enhanced cooperation were transformed into such practical measures as softening of the unanimity rules in CFSP by inserting 'constructive abstention' clause (Amsterdam Treaty 1997), introducing mechanisms of 'enhanced cooperation' in CFSP (Nice treaty 2001), entrusting CSDP operations to 'a group of member-states' (Lisbon treaty 2007).

Similar are the roots of the 'permanent structured cooperation' mechanism (PESCO) – closer cooperation in the security and defence policy, which go back to the debates at the Convention on the Future of the European Union at the beginning of 2000s. Despite the rejection of the Treaty establishing a Constitution for Europe at Dutch and French referendums

in 2005, PESCO provisions were incorporated into the text of the Lisbon Treaty 2007 nearly unchanged. Now the provisions on PESCO are defined by Articles 42 (6), 46 and Protocol 10 of the Treaty on European Union (TEU).

According to Article 42 (6) of the TEU, PESCO is to be established within the Union framework by the member states 'whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions' [2]. The objectives of PESCO were stipulated in Art.1 of the Protocol 10:

a) to develop the defence capacities of member-states through the development of their national contributions and participation, where appropriate, in multinational forces, in the main European equipment programmes, and in the activity of the European Defence Agency in the field of defence capabilities development, research, acquisition and armaments;

b) to have the capacity to supply targeted combat units for the missions planned, structured at a tactical level as a battle group, with support elements including transport and logistics, capable of carrying out the tasks referred to in Article 43 of the Treaty on European Union [2].

PESCO mechanism was supposed to give the rapid progress in defence cooperation by using specialisation and advantages of each state, decreasing the number of different weapons' systems in Europe, strengthening operational cooperation, interoperability and industrial competitiveness, in particular in the case of small states with limited capacity and niche industries (f.e. Estonia, specialized in cyber security issues). It was envisaged to provide the rational use of the military potential of the EU members on the basis of their respective industrial specialisation. The main idea of cooperation within the PESCO was to increase efficiency through the joint implementation of what each country is now doing independently. The idea received further pursue in 2010 in the Ghent initiative of Pooling & Sharing, when defence ministers agreed to draw up an inventory of projects where member-states could cooperate by pooling and sharing military capabilities in order to avoid duplication and cut costs [3].

However, it has taken nearly 10 years for the EU to launch the PESCO. First, when Lisbon Treaty entered into force in 2009, the EU institutions and member-states were engaged in solving the sovereign debt crisis in the eurozone. Second, the EU member-states defence cooperation was mostly focused at that time on bilateral agreements such as the Franco-British Lancaster House treaties of 2010 or French-German-Polish initiative 'Weimar Triangle'. Third, the main priority in implementing Lisbon provisions on CFSP/CSDP was to establish a special diplomatic tool for the EU High Representative for Foreign Affairs and Security Policy – the European External Action Service. The conclusions of the European Council meeting in December 2013 were rather indicative in this regard: a special meeting devoted to the defence cooperation didn't mention PESCO at all.

The approach has been changed dramatically in recent years and, finally, led to reactivation of initiative in 2017. The member-states presented a list of common commitments such as defence investment, capability development and operational readiness. On December 11, 2017 the EU Council adopted a decision to launch PESCO, though only 25 of 28 member states decided to join the PESCO mechanism in 2017 (Malta and Denmark refused, the UK was in process of leaving the EU).

The reasons for revitalizing the EU defence agenda were as follows:

- The deterioration of regional and international environment: the recent crisis of liberal international order and the return of Realpolitik, the rise of populism and Euroscepticism, traditional and new threats and challenges in the EU's neighbourhood in Eastern Europe and Eastern and Southern Mediterranean (the ongoing conflicts in Ukraine, Syria and

Libya, the migrant crisis of 2015–2016, terrorism);
- The consequences of the 'Brexit' referendum in the UK.

On the one side, the UK was traditionally regarded at the main obstacle to deeper EU defence cooperation and the EU's most Atlanticist member-state. Following its decision to leave the Union the UK no longer had political capital to block initiative it opposed. On the other side, the departure of one of the biggest European military powers from the EU had significant consequences for the EU military capacity. Together four member states (UK, France, Germany and Italy) accounted for 71,3% of the total defence expenditure in the EU in 2016. In absolute terms, the United Kingdom spent the most on defence (EUR47 billion in 2016), which represented around a quarter (23,7%) of the total EU expenditure on defence (i.e. around EUR200 billion in 2016). France was the second with around EUR40,7 billion or 20,4% of the EU total; Germany – EUR32,7 billion or 16,4%; Italy EUR21,5 billion or 10,8% [4, P. 2].

- The changes in the US European Strategy after the election of Donald Trump as the president of the USA in November 2016. His tough attitude towards European allies and even questioning America's defence commitments in NATO, deterioration of German-US relations convinced the EU leaders to take more responsibility for European security and make further steps in deepening integration in military and defence sphere.

In June 2016 the High Representative for Foreign Affairs and Security Policy Federica Mogherini presented an updated version of the EU vision of its role in international system and its foreign policy's ambitions – 'A Global Strategy for the European Union's Foreign and Security Policy: Shared Vision, Common Action – a Stronger Europe'. The document stresses the existential crisis within and beyond the EU which puts the European project into question and the increased linkage between internal and external security challenges – 'internal and external security are ever more intertwined: our security at home depends on peace beyond our borders' [5, P. 7].

One of the leading guidelines for the EU Foreign Policy proposed in the Global Strategy is the concept of 'strategic autonomy', however, not clearly defined. Some of the researchers consider that the main idea of strategic autonomy is to avoid external dependencies in a new geopolitical context [6]; the others define it as 'the ability to act autonomously, to rely on one's own resources in key strategic areas and to cooperate with partners whenever needed' [7, P. 2]. Nonetheless, the strategic autonomy is seen as a balance between geopolitical, socioeconomic and environmental dimensions.

The central element of the 'strategic autonomy' in defence and security spheres is the 'capability development' component of the CSDP. And PESCO is one but not the only element of a comprehensive defence package which also includes the European Defence Fund (EDF) established in 2017; the Coordinated Annual Review on Defence (CARD), run by the European Defence Agency to analyse the needs, coordinate defence spending and identify priority projects; the off-budget European Peace Facility for financial support of peace-keeping activities both of the EU itself and in cooperation with partners. All these instruments are complementary and mutually reinforcing tools contributing to the goal of enhancing EU member-states defence capabilities: PESCO develops capability projects, identified notably through the CARD process in priority areas; while eligible projects may benefit from financing under the EDF (the EU co-financing could amount to 30%).

The difference between the PESCO and other forms of cooperation within the CSDP is the binding nature of the commitments undertaken by participating member-states: 20 specific defence policy commitments, including meeting agreed defence spending targets, the harmonization of requirements and greater collaboration in capability development. Nevertheless, despite ambitiousness of PESCO initiative which

was regarded as 'a big step toward creating an eventual EU Army' [8, P. 99], it still remains a member state-driven process and mostly a technical initiative.

PESCO is a voluntary framework and does not change existing TEU provisions on security and defence cooperation. The participating states preserve the sovereignty on their armed forces and the decision-making process is traditional unanimity (except decisions regarding admission of new members or suspension of membership, which are taken by the Council by qualified majority).

PESCO has a two-layer structure:

- Council level: responsible for the overall policy direction and decision-making, including the assessment mechanism to determine if member-states are fulfilling their commitments;
- Projects level: the individual projects are run by different groups of participating member states, in line with general rules for project management.

A Secretariat function for PESCO is provided by the European Defence Agency and the European External Action Service (including the EU Military Staff). At the same time, PESCO initiative can by characterised as a 'game-changer' in EU defence integration. The attempts to involve the European Commission into security and defence initiatives are quite promising, despite the fact that security and defence issues remain within the competence of the EU Council and the Member States. This is largely attributed to the involvement of the European Commission's new Directorate General for Defence Industry and Space, in offering funding for both research in innovative defence products and technologies, and the development and procurement of key capabilities [9, P. 23].

By now PESCO participants have agreed a list of 47 collaborative projects in capability development and operational dimension, dividing into the following 'clusters': a) training and facilities; b) land and formation systems; c) maritime; d) air systems; e) cyber capabilities; f) enabling and joint capabilities, g) space systems, ranging from the establishment of a European Medical Command, an EU Training Mission Competence Centre, Cyber Rapid Response Teams and Mutual Assistance in Cyber Security to Military Mobility, Military Disaster Relief and an upgrade of Maritime Surveillance.

The first package of 17 PESCO-branded projects approved in 2017 mainly consisted of the existing EDA and NATO projects such as cooperation on a European secure software defined radio or upgrading maritime surveillance. The most popular project which includes all PESCO states except Ireland is Military Mobility, the so-called 'Schengen of defence'. Developed within NATO and incorporated into PESCO mechanism the project is aimed at facilitating the cross-border movement of troops, services and goods for military exercises by harmonising custom rules and creating trans-European transport networks.

So far, member states from the so-called 'old Europe' participate in PESCO projects more actively comparing with the Central and Eastern Europe. Countries of the EU's eastern flank traditionally are more pro-US and pro-NATO oriented. The leading contributors as well as beneficiaries from PESCO projects are Germany, France and Italy following by Spain and Portugal. However, the German and French visions of PESCO differ [10, P. 132]. French vision is focused on project ambitions and includes high entry criteria and strong operational commitments. Germany, to the contrary, insists on the project inclusivity and participation of a wider group of EU members.

France, to the contrary, is implementing the idea of European strategic autonomy with no limitations to the EU structures and initiatives. The European Intervention Initiative proposed by the French President Emmanuel Macron in 2017 goes beyond both NATO and EU and is not restricted to the provisions of the founding treaties. Currently 13 European countries have joined the initiative, two of them, Norway and the United Kingdom, not being the EU members. Such flexible framework of interstate cooperation

beyond the institutional framework of the EU and NATO seems to be significant advantage of involving the UK into the military-political projects of continental Europe after the Brexit. The project also provides an opportunity for Denmark with its opt-outs in security and defence and enforced non-participation in the PESCO and EDA initiatives.

Potential engagement of third states into initiative has been debated for several years. The US used to express concern over EU industrial protectionism and restriction of US participation in PESCO projects, while the UK officials announced possible involvement in specific PESCO projects, but on a case-by-case basis. Finally, the Council of Ministers agreed in November 2020 the general conditions for third states' participation in PESCO projects stressing that 'third state that can add value to a PESCO project may be invited to participate if they meet a number of political, substantive and legal conditions' [11]. They must not contravene the security and defence interests of the EU and its member states; must provide substantial added value to a project, for example technical expertise or additional capabilities, including operational or financial support; participation must not lead to a dependency on a third state or allow third state to impose restrictions on the use of developed capabilities; a third state must have sign an agreement to exchange classified information with the EU and an Administrative Agreement with the European Defence Agency.

The third states may participate in the decision-making process within a specific PESCO project, but have no decision-making power in the overall governance of PESCO. In May 2021 the Council adopted positive decision on participation of the US, Norway and Canada in the PESCO project Military Mobility. These countries are the first third states to be invited to participate in PESCO projects. The experience could be useful for EU candidate countries and Eastern Partnership partners, such as Serbia and Ukraine that have already signed agreements with the European Defence Agency.

The EU cooperation in security and defence areas is a complex multifaceted network of initiatives and institutions with flexible commitments of the participating states. The Lisbon Treaty established the legal and political framework for deepening cooperation in the field of foreign policy, security and defence, including PESCO mechanism. Though, there are still many legal grey zones to be clarified so the future of CSDP and PESCO, in particular, will depend greatly on its empirical development, further agreements and consensus between EU members. The success of PESCO is related to the ability to find the right balance between 'ambition' and 'inclusiveness' of the initiative and on participants' readiness to fulfil the commitments.

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VIETNAM'S EXPERIENCE IN THE ORGANIZATION AND OPERATION OF CIVIL DEFENSE FORCE, GRASSROOTS FIRE PREVENTION AND FIGHTING FORCE, SPECIALIZED IN FIRE PREVENTION AND FIGHTING

Abstract. In Vietnam, in the task of ensuring safety in fire prevention and fighting, the on-site force includes the civil defense force, the grassroots fire prevention and fighting force, the specialized position and role game is very important. The law on fire prevention and fighting in Vietnam has specific provisions, creating a legal basis for the organization and operation of this force. The practice of this force in fire prevention and fighting has drawn many good experiences. The article focuses on clarifying the theoretical and legal basis in the organization and activities of civil defense forces, grassroots and specialized fire prevention and fighting forces, evaluating the achieved results, drawing articles learn from experience as well as recommend measures and solutions to improve the performance of civil defense forces, grassroots fire prevention and fighting forces, specialized in fire prevention and fighting in the coming time, practical requirements are set out.

Keywords: civil defense, grassroots and specialized fire prevention and fighting forces.

1. Place the problem

Fire prevention and fighting activities are always large social, that comes from the characteristic that fire can happen anywhere, whenever there appear elements, fire conditions. Therefore, to ensure fire prevention and fighting safety as well as proactively extinguish the fire since its inception is a pervasive principle in fire prevention and fighting at establishments and residential areas, in which, civil defense forces, grassroots and specialized fire prevention and fighting forces, collectively called on-site forces with a very important role and position, are the core and shock force in the all-people movement. fire prevention and fighting. According to the provisions of the law on fire prevention and fighting in Vietnam, the civil defense team is an organization consisting of people participating in fire prevention and fighting activities, maintaining security and order at residence; grassroots fire prevention and fighting team is an organization consisting of the people assigned the task of fire prevention and fighting at the establishment, operating under the full-time or part-time regime; Specialized fire prevention and fighting team means the grassroots fire prevention and fighting team organized to meet the specific operation requirements of the establishment decided and managed by the head of the agency or organization.

Reality in Vietnam shows that these are the main forces that have a core position, in place in the task of ensuring safety in fire prevention and fighting. Because they are people who live and work at the facility or residential area, they should fully grasp the characteristics and situation of the facility, residential area, so they can be active in all aspects of office work. Fire and fire on the spot, helping heads of agencies, organizations, facilities as well as grassroots authorities in fire prevention and fighting.

2. Vietnamese law provisions on the organization, management, establishment and operation of civil defense forces, grassroots and specialized fire prevention and fighting forces

Recognizing the position and importance of the civil defense force, the grassroots fire prevention and

fighting force, specialized in ensuring fire prevention and fighting safety at the facility, residential area, after With the Law on Fire Prevention and Fighting in 2001 up to now, the legal system on fire prevention and fighting in general and the provisions of the law on local forces in particular have been gradually improved, creating a legal basis. for the organization and activities of this force in fire prevention and fighting.

The Law on Fire Prevention and Fighting in 2001 and the Law amending and supplementing a number of articles of the Law on Fire Prevention and Fighting 2013 (referred to as the Law on Fire Prevention and Fighting) have general provisions on this force. The concept of civil defense force, grassroots fire prevention and fighting force is specified in Article 3; the concept of a specialized fire prevention and fighting force is mentioned in Clause 3, Article 44; regulations on the fire prevention and fighting force are in Article 43, accordingly, in Vietnam, the fire prevention and fighting force includes: the civil defense force, the grassroots fire prevention and fighting force, the fire prevention force specialized fire and fire fighting force, the fire prevention and fighting police force; the establishment and management of civil defense teams, grassroots fire prevention and fighting teams, specialized fire prevention and fighting teams are specified in Article 44, under which the President of the commune-level People's Committee shall decide the establishment, civil defense team management; The heads of agencies or organizations shall decide on the establishment and management of grassroots and specialized fire prevention and fighting teams. Along with that, in Article 45 stipulates the tasks of the civil defense force, the grassroots fire prevention and fighting force; Training, retraining, directing, testing, professional guidance, mobilization and regimes and policies for this force are specified in Article 46. In addition, Article 46a of the Law on Fire Prevention and Fighting has voluntary fire prevention and fighting regulations, whereby the commune-level People's Committee, the head of the facility, and the fire prevention and fighting police force are responsible for facilitating and encouraging organizations and individuals. volunteering to participate in fire prevention and fighting; People volunteering to participate in fire prevention and fighting are added to the civil defense team or the grassroots fire prevention and fighting team.

Concretizing the provisions of the Law on Fire Prevention and Fighting, the guiding documents have more specific provisions on the organization and operation of the civil defense force, the fire prevention force and fire fighting at grassroots and specialized branches, as shown in the Government's Decree No.136/2020/ND-CP; Circulars of the Ministry of Public Security such as Circular No.149/2020/TT-BCA, Circular No.150/2020/TT-BCA … These regulations have formed a solid legal basis for the force civil defense, grassroots and specialized fire prevention and fighting forces as well as heads of agencies, organizations, establishments, local authorities, and the Fire department, have well performed the roles and responsibilities of be involved in fire prevention and fighting, do well in the prevention of fire and explosion, prevent and limit damage caused by fire and explosion, ensure fire prevention and fighting safety, contribute to economic development. social design, international integration.

3. Practical organization and operation of civil defense forces, grassroots and specialized fire prevention and fighting forces in Vietnam

On the basis of the law provisions on fire prevention and fighting, to be aware of the importance in the organization and operation of the civil defense force, the grassroots and specialized fire prevention and fighting force, in recent years. The Party, State, Government of Vietnam, ministries, departments, branches and local authorities all over the country pay much attention to this force in fire prevention and fighting. For the civil defense force, in order to promote the core role in fire prevention and fighting in residential areas according to the motto "four in place" (on-site forces, vehicles on-site, logistics on-spot, on-the-spot command), policies

on civil-defense development have been specified in legal documents guiding the implementation of the law, focusing on issues such as organizational model, payroll, policy regimes, equipment such as Decree No.136/2020/ND-CP; Joint Circular No.52/2015/TTLT/BCA-BLDTBXH-BTC; Circular No.150/2020/TT-BCA … Currently, Vietnam has 42,462 civil defense teams, with 461,833 members [1]. Under the direction of the local authorities, especially the commune-level People's Committee, the organization and activities of this force have been paid attention, the quality of activities has been improved step by step, basically meeting the requirements. of work in place.

For the grassroots and specialized fire prevention and fighting forces, currently in Vietnam there are 172,885 grassroots fire prevention and fighting teams, with 1,536,970 members; 200 specialized fire prevention and fighting teams, with 4,857 members [1]. The establishment of a grassroots fire prevention and fighting force has more advantages, as most of them are workers at the grassroots level. Many agencies, organizations and facilities have paid attention and invested in policies, organized periodic training and training, equipped with means, so the grassroots fire prevention and fighting force has promoted plays a key role in the prevention, detection, and suppression of up to 60% of fires and incidents right from the start, not letting the fire spread, big fires. As for the specialized fire prevention and fighting force, according to the provisions of the law on fire prevention and fighting in Vietnam, the specialized fire prevention and fighting team is established in the facilities of particular nature. large scale, with high risk of fire and explosion and complexity. The specialized fire prevention and fighting teams are trained and periodically trained in fire prevention and fighting skills by the Fire Department, which are suitable for each specific audience. Compared with the civil defense force and the grassroots fire prevention and fighting force, the organization and operation of the specialized fire prevention and fighting force are stricter. Fire is relatively complete, some places are equipped with modern.

From the above issues and the survey practice shows that, in the process of organizing, the activities of the civil defense force, the grassroots fire prevention and fighting force have been paid great attention by all levels, departments and branches. This force has basically promoted its role and responsibility in the work of ensuring safety in fire prevention and fighting, has done a good job of advising, proposing to promulgate regulations and rules on safety. fire and fire fighting at places where we live, work, produce or do business; has known to organize the propagation and dissemination of law and knowledge about fire prevention and fighting, building a movement of mass participation in fire prevention and fighting in accordance with the characteristics of the residential area and their establishments; to well inspect and urge the observance of regulations and rules on fire prevention and fighting; implementing basically the organization of professional training and fostering on fire prevention and fighting; know the basic knowledge about building plans, preparing forces and means and performing fire-fighting tasks when a fire occurs; participate in fire prevention and fighting sports to multiply advanced examples… However, the practical organization and operation of the civil defense force, the grassroots fire prevention and fighting force, specialized in Vietnam still has shortcomings and limitations such as: the establishment of a civil defense force only reaches 23% (42,462/184,368), the grassroots fire prevention and fighting force reaches 66% (172,885/262,126).), the specialized fire prevention and fighting force only reached 63% (200/317) [1]. Along with that, the model of the civil defense team in some places is not yet suitable for the socio-economic conditions, especially in wards with a population protection board, at the commune level, there is a commune police station. Many localities do not have a civil defense team. In the current residential areas, people who are healthy, young and capable participate in production and business activities, the rest of the population is elderly, children, so they are not healthy

enough, the ability to join the civil defense team. Most of the localities of Vietnam, especially the commune level, still have many difficulties in budget, so there is no allocation of funds to maintain the operation of the militia force, so the rate of establishment of civil defense teams is still low. In addition, fire prevention and fighting activities have not been paid attention to, so experience and capacity are limited. Although the grassroots fire prevention and fighting force organizes and operates with more conditions than the civil defense force, there is still a formal status, not paying attention to training and coaching. or inadequate participation, so the handling of the fires right from the moment they arise is confused and ineffective. Members of the grassroots fire prevention and fighting teams, mostly officers and employees, work part-time, only work during office hours, so in the evenings, on holidays, the standing force is not guaranteed., encounter many difficulties when a fire or explosion occurs. For the specialized fire prevention and fighting force, the establishment and maintenance of operations also face many difficulties, due to the arrangement of specialized fire prevention and fighting personnel, 24/24 permanent firefighting, The qualifications required by law are high, so staff members have not been arranged and joined to join the specialized fire prevention and fighting team. In addition, in Vietnam, there is a regulation on volunteer force in the Law on Fire Prevention and Fighting, however, after many years, this provision has not come to life.

The above shortcomings are due to many objective and subjective reasons. Regarding subjective reasons, awareness of responsibility towards the organization and activities of the civil defense force, grassroots and specialized fire prevention and fighting forces of some committees, local authorities, and heads limited agencies, organizations and establishments; some regulations of the law on fire prevention and fighting have been delayed or have not yet been specified; A number of civil defense teams, grassroots and specialized fire prevention and fighting teams have not brought into play its core and shock role in advising and implementing fire prevention and fighting in localities and establishments. Regarding objective reasons, economic conditions and budget are not guaranteed; infrastructure conditions are inadequate and asynchronous; State budget does not regulate recurrent expenditures for fire prevention and fighting in general and the organization and operation of this force in particular, so it is difficult for units and localities to implement.

4. Lessons learned and recommendations and recommendations to improve the organizational and operational efficiency of the civil defense force, the grassroots and specialized fire prevention and fighting force in Vietnam in the coming time

Based on the results achieved in the organization and activities of the civil defense force, the grassroots and specialized fire prevention and fighting force in Vietnam over the past time, some lessons can be drawn as follows:

The role of the Party committees and authorities at all levels, especially at the commune level in leadership and direction of implementation is the decisive factor in the effective implementation of the provisions of the law on fire prevention and fighting. with civil defense forces, grassroots and specialized fire prevention and fighting forces. Reality shows that, where and when, this force is concerned by committees and authorities at all levels, leading, directing, guiding, inspecting, and urging in time, there and then, the force This operation is effective, quality, fully guaranteed with logistics conditions, policies and means for operation;

The full implementation of the responsibilities of local leaders, agencies, organizations and establishments is decisive to the quality and efficiency of the organization and operation of the civil defense force, the fire prevention and fighting force. fire facility, specialized. Reality shows that, in any locality or facility, the leader is well aware of his responsibility for the organization and activities of this force, in that locality, this force performs the effective fire prevention and fighting tasks, the depth and situation of fire and explosion are

limited, eliminated or detected and handled in time, without causing serious human damage. and property;

The fire prevention and fighting police force plays an important role in the organization and operation of the civil defense force, the grassroots and specialized fire prevention and fighting force. This is the armed force, performing its functions and duties in accordance with the law on fire prevention and fighting. In particular, the implementation of responsibilities in advising and proposing; in the propaganda organization; to train and foster the fire prevention and fighting skills for this force, so that this force can have the capability, knowledge, capacity and qualifications to perform the fire prevention and fighting task;

This force itself must be aware of its responsibility in on-site fire prevention and fighting as the leading factor leading to the quality of the work, ensuring fire prevention and fighting safety for facilities and zones. residential. From the right perception to the right and correct action, the fire and explosion situation is curbed, the loss of life and property is significantly reduced.

From the practical organization of activities, from the lessons learned as above, in the coming time, to the civil defense force, the grassroots fire prevention and fighting force, to organize and operate with quality, Effective, attention should be paid to some of the following measures:

Continue to review, supplement and complete legal provisions on the organization and operation of civil defense forces, grassroots and specialized fire prevention and fighting forces. In particular, to review and supplement the functions and tasks of the civil defense force, the grassroots fire prevention and fighting force. Adding to Article 45 of the Law on Fire Prevention and Fighting, the rescue and rescue tasks for this force. It is necessary to agree on the concept of a specialized fire prevention and fighting force according to Article 44 of the Law on Fire Prevention and Fighting and accordingly, the phrase "specialized" must be added to the end of the name of Article 45. In addition, it is necessary to detail the organizational model of this force in establishments and residential areas, avoiding general and unclear regulations.

Improve the operational capacity of civil defense forces, grassroots and specialized fire prevention and fighting forces. This solution should be considered and implemented, stemming from the shortcomings of this force's operation. Accordingly, this force needs to be fostered, trained, fully equipped with knowledge and skills on fire prevention and fighting, not only mastering its responsibilities and duties but also being able to implement a effective way.

Heads of agencies, organizations and establishments need to fully and deeply realize their responsibilities for the operations of civil defense forces, grassroots and specialized fire prevention and fighting forces. Not only taking care of the guaranteed conditions such as regimes, policies, logistics, and vehicles, but also orienting and directing the implementation of fire prevention and fighting programs and plans as well as guide the good implementation of all aspects of work at establishments and residential areas.

The fire prevention and fighting police force is the core in the state management of fire prevention and fighting, it is necessary to perform well its responsibilities for the activities of the civil defense force, the fire prevention and fighting force. fire facility, specialized. Not only advising and proposing heads of agencies, organizations and facilities to pay attention to the force's activities, but the fire department must also do well and regularly train. techniques and tactics in fire fighting, rescue and salvage; fostering knowledge and law on fire prevention and fighting; check, supervise, urge and promptly remind.

Organize preliminary review, review, regular and periodic assessment of the performance quality of the civil defense force, the grassroots and specialized fire prevention and fighting forces. Studying the shortcomings and limitations should have remedial measures in the process of organizing and operating. Replicating good models, practices for other units, agencies and residential areas to study and study, con-

tributing to creating a posture of the movement of the entire population for fire prevention and fighting

5. Conclusion

Vietnam is a developing country, in the process of international integration, many issues have been and will be posed for the work of ensuring fire prevention and fighting safety, meeting the requirements of economic development. society, the era of technological revolution 4.0. Vietnam's experience in the organization and activities of civil defense forces, grassroots and specialized fire prevention and fighting forces is not much, but also encouraging, it is necessary to continue to study, share and replicate the achieved results, overcoming the limitations, well implementing the solutions and measures proposed above, contributing to improving the capacity and fighting strength of the civil defense force, the grassroots fire prevention and fighting force. to ensure stable security, order and safety in fire prevention and fighting, promote sustainable development.

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FINISHING ADMINISTRATIVE PENALTIES IN FIRE PREVENTION AND FIRE FIGHTING IN VIETNAM – THEORETICAL AND PRACTICAL ISSUES OF APPLICATION

Abstract. Sanctions for administrative violations in general and administrative sanctions in the field of fire prevention and fighting are always concerned. The study of the above problem has a very important meaning in perfecting the theory as well as the legal basis for the application of sanctions. The article focuses on clarifying the theoretical and legal issues on sanctioning of administrative violations in the field of fire prevention and fighting; practical application of sanctions on administrative violations in the field of fire prevention and fighting, thereby drawing problems and shortcomings from the provisions of the law as well as from practical application, thereby proposing perfecting the provisions of the law on sanctioning of administrative violations in the field of fire prevention and fighting according to the competence of the fire prevention and fighting police force.

Keywords: Sanctions sanctioning administrative violations; fire prevention and fighting.

1. Place the problem

In the current situation, when the country is effectively implementing the Party's renovation policy and the industrialization and modernization of the Party, our economy has grown strongly, and foreign investment has been continuously invested every year. increase. Along with that is the strong development of industrial parks, export processing zones, high-tech zones, commercial centers, high-rise apartment buildings, gas stations, oil, … Besides, daily residents Increasingly, especially in big cities and industrial provinces, there are many factors leading to the risk of fire and explosion as well as the warning of violations of fire prevention and fighting regulations. big. According to the Fire and Rescue Police Department – Ministry of Public Security, in 2020, there will be 2,764 fires, killing 75 people, injuring 144 people, destroying property worth 932,023 billion dong. and 1,411.7 ha of forest; There were 33 explosions, killing 14 people and injuring 40 people. Compared to 2019, the number of fires decreased by 1,026 cases, down by 27.07%; the number of explosions increased by 053, up 17.81% [1].

To well implement the work of ensuring fire prevention and fighting safety, one of the important solutions is to strengthen the inspection and sanctioning of administrative violations. However, the sanctioning of administrative violations in the field of fire prevention and fighting is facing many difficulties, partly due to the legal documents on sanctioning administrative violations in the field of fire prevention and fighting. still incomplete such as: There are unclear and specific regulations leading to inconsistent application; regulations on competence, measures to sanction administrative violations, the level of fines for some administrative violations are still unreasonable …

2. Research results

2.1. Theoretical and legal basis for the sanctioning of administrative violations in the field of fire prevention and fighting

Administrative violation is a type of law violation that is quite common in social life. Although its level of danger to society is lower than that of crime, an administrative violation is an act that causes damage or

threatens to cause damage to the interests of the State, the collective or the interests of individuals. The cause of crime arises in all areas of social life if it is not prevented and handled in time. The field of fire prevention and fighting is a field in social life related to the assurance of safety, life, health and property of citizens, agencies and organizations; related to security, order, environment. Accordingly, the administrative violation in the field of fire prevention and fighting is the faulty act committed by individuals or organizations, violating the provisions of the law on state management of fire prevention and fighting without having to is a crime and in accordance with the law must be sanctioned for administrative violations.

The sanctioning of administrative violations in the field of fire prevention and fighting is the coercive activity of state power in order to apply administrative sanctions, performed by the entities authorized by the State and performed against individuals. and organizations committing administrative violations in the field of fire prevention and fighting according to the order and procedures prescribed by law. The sanctioning of administrative violations in the field of fire prevention and fighting has the following characteristics: applicable to individuals and organizations committing administrative violations in the field of fire prevention and fighting; conducted by authorized entities in accordance with the law; be conducted according to the principles and procedures prescribed by law; The results of sanctioning administrative violations in the field of fire prevention and fighting are shown in decisions on administrative sanctions.

The sanctioning of administrative violations in the field of fire prevention and fighting is done on the basis of general provisions on sanctioning of administrative violations and legal provisions on sanctioning of administrative violations in the field of fire prevention. and fire fighting. Including: Law on handling of administrative violations in 2012; Decree No.81/2013/ND-CP dated July 19, 2013 of the Government detailing a number of articles and measures to implement the Law on Handling of Administrative Violations; Decree No.97/2017/ND-CP dated August 18, 2017 of the Government amending and supplementing a number of articles of the Government's Decree No. 81/2013 / ND-CP dated July 19, 2013 on details a number of articles and measures to implement the Law on Handling of Administrative Violations; Law on Fire Prevention and Fighting in 2001; Law amending and supplementing a number of articles of the Law on Fire Prevention and Fighting in 2013; Decree No.167/2013/ND-CP dated 12/11/2013 of the Government stipulating the sanction of administrative violations in the field of social security, order and safety; Prevention of social evils; fire prevention and fighting; domestic violence prevention, combat; Standards and standards in the field of fire prevention and fighting such as: QCVN06: 2020/BXD National technical regulation on fire safety for houses and buildings; TCVN5738: 2001 Automatic fire alarm system – Technical requirements; …

Acts of administrative violation in the field of fire prevention and fighting are specified in Decree No. 167/2013/ND-CP, divided into 22 groups as groups of violations in the promulgation of regulations. change and organize the implementation of regulations and rules on fire prevention and fighting; group of violations of regulations on inspection of fire prevention and fighting safety; group of violations on the records of management of the safety of fire prevention and fighting; …

Also according to Decree No.167/2013/ND-CP on sanctioning of administrative violations in the field of fire, the forms of administrative sanctions include: Main sanctions and additional sanctions. For each administrative violation, the violating individual or organization shall be subject to a main sanctioning form; The main form of penalty may be associated with one or several additional forms of sanctions. The main form of punishment includes 2 forms: warning and fine. Additional sanctioning forms are: Confiscation of material evidences of administrative violations and means used in committing administrative violations; expulsion.

In many cases, in addition to the application of administrative sanctions, organizations and individuals committing administrative violations in the field of fire prevention and fighting may also be subject to remedial measures due to administrative violations caused such as: Forcible preservation, arrangement, arrangement, reduction of quantity, volume, types of substances, goods at risk of fire and explosion according to regulations; forcible movement of dangerous inflammables and explosives caused by administrative violations to warehouses or locations according to regulations; forced restore to the original state; forced overcoming conditions to ensure safety for fire prevention and fighting; …

2.2. Practical application of sanctions against administrative violations in the field of fire prevention and fighting

According to the Government's report, from 2014 to 2018, the authorities issued a decision to sanction 98,384 violations of fire prevention and fighting, with the total amount paid to the state budget of 206 billion VND; suspended 1,956 cases, temporarily suspended 2,720 cases and fined more than 2,035 cases [2]. As such, the frequently applied sanctioning decision is a fine decision. The reason is that the procedure for applying the fine form is quick and easy to implement, the form of the fine has a direct impact on the economic interests of the violator, so it is highly educational and deterrent. Most administrative violations of fire prevention and fighting are carried out by organizations such as markets, trade centers, supermarkets; high-rise buildings; schools; industrial zones, industrial clusters, cottage industry clusters; business establishments with premises for rent; service establishments (bars, karaoke, discos, clubs, …). The group of violations that happened a lot was the group of violations regarding the equipment, preservation and use of fire prevention and fighting means; group of acts of violating regulations on fire prevention and fighting in design, installation, management and use of electricity and group of acts of violation of regulations on formulation and practice of fire-fighting plans.

In addition to the above results, the practical application of sanctions for administrative violations in the field of fire prevention and fighting still has shortcomings and limitations. Some legal regulations on sanctioning administrative violations in the field of fire prevention and fighting are incomplete, unclear and specific, making it difficult for the selection and application process in sanctioning administrative violations with the cases, detail:

– Regarding the regulations on authorization, delegation of powers and absence in the 2012 Law on Handling of Administrative Violations, it is unclear and difficult to apply. Specifically, the 2012 Law on Handling of Administrative Violations stipulates the delegation of sanctioning rights to deputies, but there is no regulation or guidance for deputies to be authorized to apply preventive measures and ensure the sanctioning of administrative violations; as well as there is no specific guidance on what is the case of the "absentee" case of the head (Article 87), making it difficult to apply in practice;

– Clause 2 and Clause 3 Article 61 of the Law on handling of administrative violations in 2012 have the same provisions on the explanation for administrative violations, but there are two ways to specify the time limit according to "days" and "working days". The above provisions lead to many difficulties in calculating dates, especially in the case of making minutes of violation and making decisions coinciding with holidays, New Year holidays;

– According to Clause 1, Article 61 of the Law on handling of administrative violations in 2012, if individuals, organizations are subject to confiscation of material evidences, means of administrative violations or means used in administrative violations will not having the right to explain is unreasonable, affecting the rights and interests of the subjects subject to the measure of confiscation of material evidences and means of administrative violations. Because in many cases, even many exhibits and means are worth many times higher than the fined amount of 15 million dong or 30 million dong;

– Clause 3, Article 61 of the Law on handling of administrative violations in 2012 stipulates: "In case of direct explanation, violating individuals and organizations must send written requests to be explained directly to competent persons. sanction administrative violations within 02 working days from the date of making the record of administrative violation ". Meanwhile, Clause 2, Article 61 stipulates: "In case of written explanation, violating individuals or organizations must send written explanations to the persons with competence to sanction administrative violations during the period. within 05 days from the date of making the record of administrative violation ". Thus, in the minutes of administrative violations, the time limit for submitting the request for explanation of individuals or organizations is 2 working days or 5 days. If inserting 05 days but the individual or organization requests direct explanation, then the inscription of the time limit as above will be contrary to Clause 3 Article 61. If inserting 02 working days, when the time limit expires, the individual or organization If you want to be explained in writing but have not yet sent your written explanation, how will it be handled?

– In Clause 1, Article 66 of the Law on handling of administrative violations in 2012 states: "In the case of a particularly serious case, with many complicated details and subject to explanation as prescribed in paragraph 2, Clause 2 and Clause 2. 3 Article 61 of this Law, if it takes more time to verify and collect evidence, the competent person who is handling the case must report in writing to his/her direct head to apply for an extension; The extension must be in writing, the extension must not exceed 30 days ". But the Law does not specify and unify what is "a particularly serious case with many complicated details" or "an authorized person handling the case" according to Clause 1, Article 66 above;

– Article 3 of Decree No.81/2013/ND-CP stipulates "The time limit for deprivation of the right to use licenses, practice certificates for administrative violations must be specified in a specific time frame, the distance between the minimum and maximum stripping time is not too great ". However, at present, there are no legal documents guiding how to determine the time limit for deprivation of the right to use a specific license or practice certificate for a violation, so in practice, is there any less difficulty;

– Clause 4, Article 30 of Decree No.167/2013/ND-CP stipulates: "A fine of between VND15,000,000 and 25,000,000 for acts of illegally storing substances or goods at risk of fire and explosion". However, at present, there is no specific regulation on storing how many kg, illegally storing substances, goods at risk of fire and explosion; especially in the gasoline and oil sector;

– Clause 1, Article 47 of Decree No.167/2013/ND-CP on violations of regulations on fire and explosion prevention and fighting in households that stipulate: "A fine of between VND300,000 and 500,000 for acts of unintentionally violating the regulations on safety of fire prevention and fighting so that a fire or explosion occurs without causing damage or causing less than 25,000,000 VND ". In fact, there are still many shortcomings and obstacles in dealing with the acts to cause fire and explosion without causing damage or causing damage below 25,000,000 VND. As households, small business households, because this object is mostly households, when a fire occurs, it often leads to problems related to people's lives and emotions. Therefore, it is very difficult to deal with these objects' behavior to cause fire, almost impossible. In addition, there are fires and explosions that cannot be sanctioned for administrative violations, especially fires and explosions that occur in mountainous areas, economically difficult areas or households that When a fire happened, the fire destroyed all the property.

Besides, through the survey, the shortcomings and limitations also stem from the practice of sanctioning administrative violations in the field of fire prevention and fighting. In fact, the implementation of the provisions of the law on handling of administrative violations in the field of fire prevention and fighting has had certain effects, contributing to

deterrent, prevent and limit administrative violations of fire prevention and fighting. However, the current sanction of administrative violations in the field of fire prevention and fighting still faces difficulties and problems that need to be removed such as:

– Article 70 of the 2012 Law on handling of administrative violations stipulates the time limit for sending decisions to sanction administrative violations within 2 days, this provision is difficult to implement due to the huge volume of decisions to sanction administrative violations. Many violators do not have stable residence or have little presence in the locality or the address stated in papers is different from the actual residence address;

– The postponement of the execution of the decision on sanctioning the administrative violation in fire prevention and fighting has not been stipulated for the organization. Article 76 of the Law on handling of administrative violations in 2012 stipulates that only individuals are allowed to postpone execution of the fine decision, but in reality, many enterprises that are sanctioned for administrative violations also have financial difficulties, losing business. so the fine cannot be paid on time;

– Some organizations and individuals do not cooperate with the fire prevention and fighting safety inspection force; intentionally evading the inspection team, making it difficult for the Fire department when determining the administrative violation in fire prevention and fighting. Multi-family houses (mini-apartments) at the time of construction with the intended use are residential houses (separate houses), but during the operation, the owners voluntarily sell or lease out apartment; In a number of mini-apartments, the head of the household has sold out all the apartments, is not present at the facility and does not send a representative to work, so the inspection is facing many difficulties;

– The force directly engaged in the task of instructing and inspecting the safety of fire prevention and fighting is still thin, does not ensure the quantity as prescribed, while the establishment is under the management of many, large areas; Inspection officers in charge of many facilities have led to a situation in which the management of the area and facility is not closely involved, and has not promptly detected the violations of the facility as well as the current situation of fire prevention and fighting. local authorities to promptly advise leaders, at all levels, especially local authorities, to work out appropriate leadership and direction methods;

– The identification of the object that is sanctioned for an administrative violation in fire prevention and fighting has a number of unknown points, making it difficult for the analysis and assessment of the administrative violation in fire prevention and fighting. Specifically, in Clause 10, Article 2 of the Law on handling of administrative violations in 2012 stipulates "Organizations are state agencies, political organizations, socio-political organizations, socio-political professional organizations, organizations. social organizations, professional social organizations, economic organizations, people's armed forces units and other organizations established in accordance with the law ". However, in practice, for the case of an individual business household, it is difficult to identify as an organization or an individual when committing an administrative violation. According to Article 66 of the Government's Decree No.78/2015/ND-CP dated September 14, 2015 on enterprise registration, "A business household is made up of an individual or a group of individuals. Vietnamese citizens who are full 18 years old, have full civil capacity, or one household owner, are only allowed to register for business in one location, employ less than ten employees and bear full responsibility Your assets over your business. ". These signs indicate that business households can be divided into three categories: Household businesses owned by one individual; A household business is owned by a household and a household business is owned by a group of people. Therefore, individual business households can be understood as individuals or organizations. In Decree No.185/2013/ND-CP dated

November 15, 2013 of the Government stipulating the sanctioning of administrative violations in commercial activities, production and trading of counterfeit goods, banned goods and protection of the interests of people. Consumers identify households as individuals but only apply within this Decree, while in Decree No.167/2013/ND-CP, business households are not defined as individuals or organizations. This makes it difficult to identify the subject of administrative sanctions;

– The enforcement of enforcement of a decision on sanctioning of administrative violations still faces many difficulties because the sanctions specified in the Law and Decree are not strong enough, leading to the situation that many individuals and organizations shirk not to accept and execute the decision. or delayed execution of the decision. Some individuals with small businesses with unstable business locations, mainly renting space for business, often show signs of evasion when executing the sanctioning decision. In reality, there are establishments and households that, when fires and explosions occur, they must be sanctioned for administrative violations according to regulations, but due to lack of economic conditions and difficult circumstances, they cannot execute sanctioning decisions. . Some families with meritorious services to the revolution, war invalids, sick soldiers, policy families, … the promulgation or enforcement of sanctioning decisions of the authorities also faced many difficulties;

– The acts of administrative violation of fire prevention and fighting in investment and construction of high-rise apartment buildings, commercial centers, …, the fine level is still low, not enough to discourage. The Investor, due to the timely request of the project, has accelerated the hand-over of the project while still not ensuring the safety of fire prevention and fighting. Home buyers want to have a place to live early, so they still stay in even though the project is not safe in terms of fire prevention and fighting. The sanction level for administrative violations for this act according to Decree No.167/2013/ND-CP is from VND30,000,000 to VND50,000,000, and the cost for completing the fire prevention and fighting system. burning up to billions of dong. Therefore, many investors have chosen to accept the penalty;

– In some provinces, cities, many apartment buildings violate regulations on fire prevention and fighting but slow to remedy the violations. Among them, the resettlement apartments with slow recovery have a significant number. These are the apartment buildings that were put into use more than a decade ago, so the basic infrastructure cannot meet the requirements of fire prevention and fighting; fire prevention and fighting equipment has been severely degraded, containing a high risk of fire and explosion. Although there is a decision to require the facilities to overcome shortcomings of fire prevention and fighting, the progress of the treatment is slow because there are works related to the structure and use of the utility, and requires a large investment;

– The application of administrative sanctions for social welfare establishments such as hospitals, schools, markets, commercial centers or houses for living in combination with business is common. many difficulties are almost impossible to implement because it directly affects the rights and life of the people;

– Some regulations of the law on fire prevention and fighting are overlapping with other provisions of the law such as: Regulations on the application of standards and regulations on fire prevention and fighting, according to the provisions of the Law. Fire prevention and fighting, fire prevention and fighting standards are compulsory standards to be applied. However, according to the Law on Standards and Technical Regulations, standards are only encouraged to apply, which has caused many difficulties for the application of the law;

– Some administrative violations in the field of fire prevention and fighting specified in Decree No.167/2013/ND-CP have a low fine level, not enough to discourage, leading to the willingness of the establishment. committing a number of acts

to bring economic benefits compared to having to comply with the requirements of fire prevention and fighting standards and standards, most commonly the acts related to safety distance. solutions for fire prevention, escape and transportation of substances and goods at risk of fire and explosion; Some behaviors with low penalties lead to the establishment's willingness to pay the fine, but not remedy because the economic efficiency calculation between the fine payment and the remediation of the violation will be many times larger than the amount of the fine;

– Clause 1, Article 33 of Decree No.167/2013/ND-CP on the violation of regulations on fire prevention and fighting in the use of fire sources, heat sources, fire-generating equipment and tools, stipulates: "Fine warning or a fine of from 100,000 VND to 300,000 VND for acts of using matches, lighters, cell phones in places where regulations are prohibited ". Point a, Clause 3, Article 33 of Decree No.167/2013/ND-CP on the violation of regulations on fire prevention and fighting in the use of fire sources, heat sources, fire-generating equipment and tools, stipulates: " A fine ranging from VND2,000,000 to VND5,000,000 shall be imposed for using fire sources, electronic equipment or other devices and tools that generate fire or heat in places where prohibited by regulations ". The above provisions are still confusing, ambiguous and the feasibility is not high because the term "electronic device" here is too wide, almost any type of machine can now be listed in electronic equipment such as cameras. digital, television, … In fact, at the gas station, many people still use cell phones indifferently, while the functional forces are thin, unable to be on duty to punish, if they want to punish them. It's not easy either.

2.3. Supplement and complete the legal basis for the sanctioning of administrative violations in the field of fire prevention and fighting

Accordingly, it is necessary to study amending and supplementing the legal provisions on handling of administrative violations in the 2012 Law on Handling of Administrative Violations, Decree No.81/2013/ND-CP, Decree No.97/2017/ND-CP:

– On the assignment of powers: Article 54, Article 87, Article of administrative violation The Law on handling of administrative violations in 2012 stipulates the assignment of the right to sanction to the deputies. However, the Law should have specific regulations and instructions to avoid understanding and different application of deputies authorized to apply measures to prevent and ensure the sanction of administrative violations.

The Law on handling of administrative violations should be amended and supplemented in the direction that the heads are empowered by deputies in all decisions about handling administrative violations in general and decisions on sanctioning administrative violations. Particularly, not limited to 03 cases specified in Article 54, Clause 2 Article 87 and Clause 2 Article of administrative violation:

– The Law on handling of administrative violations in 2012 and the guiding documents need to have specific instructions on how to identify the case of a "absent" head (Article 87), to avoid causing embarrassment in the application. in practice;

– Regarding the transfer of dossiers of violations with criminal signs for criminal prosecution: The Law needs to clearly state that when transferred to investigation agencies, material evidences and means of administrative violations will be temporarily seized by the agencies. How to manage, who will pay for it, how to deal with custody procedures in this case;

– It is necessary to study and clarify how to calculate time, time limit, statute of limitations in the direction of unifying time by working day to remove difficulties in practical application;

– Clause 1, Article 61 of the Law on handling of administrative violations needs additional regulations on the right to explain in case violators are subject to the measure of confiscation of material evidences, means of administrative violation or means used in the administrative violation is to suit the practice and the rights and interests of the violator, because in many cases, many material evidences and

means of violation have a value many times higher than the number of violators. fine money;

– Regarding the postponement of execution of decisions on sanctioning of administrative violations The Law should supplement regulations applicable to organizations. According to Article 76 of the Law on handling of administrative violations in 2012, only individuals are allowed to postpone execution of the fine decision, but in reality, many enterprises that are sanctioned for administrative violations also have financial and business difficulties. losing money so the fine cannot be paid on time;

– There should be unified guidance on how to determine the time of deprivation of the right to use a specific license or practice certificate for an administrative violation.

In addition, it is necessary to study amending and supplementing the legal regulations on handling of administrative violations in Decree No. 167/2013 / ND-CP:

– It is necessary to have a document specifying how many kilograms of stock are stored, which means illegal storage of substances or goods at risk of fire and explosion; especially in the field of petrol and oil, the provisions in Clause 4, Article 30 of Decree No.167/2013/ND-CP are: "A fine of between VND15,000,000 and 25,000,000 for acts of stockpiling illegal substances and goods in danger of fire and explosion";

– It is necessary to study to amend to suit the form of sanctions for violations of regulations on fire and explosion prevention and fighting in households in Article 47 of Decree No.167/2013/ND-CP because when a fire occurs, Damaged property, household has no fine to pay; on the contrary, the larger the property damage, the higher the fine, making it difficult for the household;

– In Article 32 of Decree No.167/2013/ND-CP on violations of regulations on transporting substances or goods at risk of fire and explosion, stipulating the application of remedial measures specified at Point a, Clause 7, The Decree is not accurate because there is no Point a Clause 2, which is proposed to be revised as "Forcible rearrangement of substances or goods at risk of fire and explosion in accordance with the provisions of the act specified in Clause 2 of this Article";

– The Law on handling of administrative violations stipulates that the maximum fine level in the field of fire prevention and fighting remains low (maximum VND50,000,000 for individuals; VND100,000,000 for organizations), not yet guaranteed. deterrence, corresponding to the nature and level of the actual violation. Therefore, it is necessary to propose an increase in the level of sanctions to ensure deterrence, commensurate with the nature and level of the actual violation. Regarding this content, the Ministry of Public Security has submitted a petition to the Ministry of Justice; On the other hand, it is necessary to propose to the competent authorities when amending and supplementing Decree No.167/2013/ND-CP to supplement the violations and sanctions for violations in the field of rescue. rescue to create a uniform legal basis for application.

3. Conclusion

The application of sanctions for administrative violations in all fields of social life in general and in the field of fire prevention and fighting in particular has important implications. The rational and feasible provisions of sanctions in administrative sanctions on fire prevention and fighting not only have the effect of preventing acts of violating the regulations on fire prevention and fighting but also have a deterrent effect. threaten and punish individuals and organizations that fail to strictly comply with the law provisions on fire prevention and fighting. The above article has outlined the theoretical and legal issues about the sanction as well as the practice of applying the sanctions against administrative violations in the field of fire prevention and fighting over the past time. issuing, supplementing and perfecting laws to remove difficulties, problems and shortcomings in the implementation process, thereby contributing to improving the efficiency and effectiveness of state management on fire prevention and fighting in the next time.

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Section 4. Political Sociology

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SOME ISSUES ON PREVENTION OF THE PROSTITUTION CRIMES IN VIETNAM FROM THE PERSPECTIVE OF CRIMINOLOGY

Abstract. This study presents the situation of the prostitution crimes in Vietnam, causes of and measures to prevent the prostitution crimes in Vietnam by using methods such as quantitative approach, comprehensive approach, partial approach, simple random sampling, secondary data analysis, descriptive statistics, investigative research and hypothesis testing method. Thereby, the author provides theoretical and practical systems on prevention of the prostitution crimes in Vietnam and proposes some strong measures to prevent the prostitution crimes in Vietnam under current requirements on prevention of and combat against crimes in general and prostitution crimes in particular.

Keywords: Causes of crime, crime situation, preventive measures, prostitution, Vietnam.

1. Overview of the prostitution crimes in Vietnam

1.1. Actual state of the prostitution crimes in Vietnam during 2010–2019 period

"Actual state of crimes is the actual situation of crimes committed in a certain space and time unit, regarding severity and nature" [2, P. 112].

Actual state of the prostitution crimes regarding severity is shown by the number of prostitution crimes and criminals and actual state of the prostitution crimes regarding nature is shown by structure of the prostitution crimes.

Actual state of the prostitution crimes regarding severity represents total prostitution crimes committed and total prostitution criminals in Vietnam during 2010–2019 period. The author used official statistical figures of the Supreme People's Court. Besides, the author also studied figures of the Supreme People's Procuracy, Ministry of Public Security and figures extracted by the author from 423 criminal first-instance judgments of the prostitution crimes during 2010–2019 period (randomly selected by the author) to clarify actual state of severity of the prostitution crimes.

Firstly, regarding overall severity, according to statistics of criminal cases at first instance in Vietnam in 10 years from 2010 to 2019 from the Supreme People's Court, the People's Courts at all levels across the country judged 6724 prostitution cases with 8574 criminals. So, there were about 672 prostitution cases with about 857 criminals per year in average. The average monthly number of prostitution cases and criminals were 56 and 71.4, respectively. The average daily number of prostitution cases and criminals were 1.87 and 2.4, respectively.

In order to gain profound insights into the severity regarding the number of judged prostitution cases and criminals during 2010–2019 period, the author compared these figures with the comparative ones

during 2000–2009 period (10 years ago). According to statistics of the Supreme People's Court, in 10 years from 2010 to 2019, the People's Courts at all levels across the country judged 4711 prostitution cases with 6125 criminals. So, the People's Court at all levels judged about 471 prostitution cases with about 672 criminals in average on an annual basis. It can be said that the number of prostitution cases during 2010–2019 period significantly increased in comparison with that 10 years ago (2010–2009 period). In detail, the number of cases grew by 1414 (23%) and the number of criminals during 2010–2019 period climbed by 1849 (21.5%).

Secondly, in order to understand more about severity of the prostitution crimes in Vietnam during 2010–2019 period, the author compared these crimes with overall crimes. The prostitution cases accounted for a high percentage (11.8%) of total cases. The prostitution crimes provided for in 3 Articles accounted for 0.96% (3/313) of total crimes specified in 313 Articles, of the 2015 Penal Code (as amended and supplemented in the 2017 Penal Code) whereas the rate of these crimes accounted for 11.8% (12.3 times higher than the rate provided for in the Penal Code) of total actual crime rate. This show the alarming situation of prostitution crimes in the last 10 years.

Thirdly, comparing the number of prostitution crimes and criminals in one year with the number of inhabitants in such year at a nationwide scale, the author obtained prostitution crime and criminal rate. The average prostitution crime and criminal rate per 100,000 inhabitants in the country were 0.73 and 0.94, respectively. During 2000–2009 period, the average prostitution crime and criminal rate per 100,000 inhabitants were 0.57 and 0.82, respectively. The crime and criminal rate during 2010–2019 period was 0.16 and 0.12 more than those during 2000–2009 period (going up by 28% and 14.6%), respectively. This showed that the prostitution crimes in Vietnam during 2010–2019 period became more popular than those during 2000–2009 period.

Actual state of crime nature is studied based on crime structure. *"Structure and nature have a closed relationship, in which, crime structure shows crime nature. Based on crime structure determined in certain methods, we can give comments on crime nature"* [1, P. 224].

Comprehensive assessment of actual state of prostitution crime nature requires some methods for determination of structures of these crimes. Structures determined in various methods will show actual state of the nature of these crimes to the certain extent and act as bases for determination of causes of these crimes. By studying structures of the prostitution crimes in Vietnam during 2010–2019 period, the author obtained the nature of these crimes as follows:

Firstly, regarding structure of the prostitution crimes in Vietnam during 2010–2019 period, among the prostitution crimes during 2010–2019 period, the most common crime was harboring prostitutes, accounting for 54.5% and 54.4% of total prostitution cases and criminals.

Secondly, regarding structure by crime types, the main crime type of prostitution crimes was less serious, accounting for 52%.

Thirdly, regarding structure by types and amount of penalties incurred by criminals, most of prostitution criminals were imprisoned for less than 3 years, accounting for 66.5%.

Fourthly, regarding structure by locations of crimes (at provincial level): Hanoi was the place with the highest number of prostitution criminals, equivalent to 1601 criminals, and crime rate of 2.2.

Fifthly, regarding structure by rural and urban areas where these crimes took place, prostitution crimes mainly took place in rural areas, accounting for 51.3%.

Sixthly, regarding structure by forms of crimes, prostitution crimes were mainly committed in form of individual crimes, accounting for 66%.

Seventhly, regarding structure by motives, criminals who were involved in harboring prostitutes mainly committed this crime to earn profit, accounting for 56.7%. Criminals who were involved in procuring mainly committed this crime to make a living, account-

ing for 41.5%. Motive of sex buyers under 18 years old was to satisfy their sexual desire, accounting for 100%.

Eighthly, regarding structure by the number of times of crime committing, prostitution criminals mainly commit these crimes once, accounting for 55.1%.

Ninthly, regarding structure by objective behaviors. Most of criminals who were involved in harboring prostitutes leased places owned or managed by themselves to other persons for sex buying and selling, accounting for 73.5%. Most of criminals who were involved in procuring encouraged (contacted, instructed and facilitated) sex buying and selling by others, accounting for 51.9%. Sex buyers under 18 years old tended to use money to persuade other people under 18 years old to have sex with them with consent of such other people under 18 years old, accounting for 100%.

Tenthly, regarding structure by instruments of crimes, most of criminals used common phones to procure, accounting for 68%.

Eleventhly, regarding structure by illegal income: Most of criminals who were involved in harboring prostitutes or procuring earn illegal income of more than VND1 million, accounting for 53.3%.

Twelfthly, regarding structure by personal background of criminals, most of prostitution criminals were over 30 years old, accounting for 61.5%; were low-qualified and held secondary school diploma or lower, accounting for 37.7%; were manual workers or involved in related services, accounting for no more than 51.3%; were female, accounting for 62.6%; committed these crimes for the first time, accounting for 96.6%.

Thirteenthly, regarding structure by places of crimes: Prostitution crimes mainly took place in service facilities and business facilities subject to public security and order conditions (such as motels, hotels, karaoke facilities, massage and sauna facilities, etc).

Fourteenthly, regarding to personal background of victims of crime:

– Regarding age of the victims of sex buying crime: Most of the victims are between 16 years old and 18 years old, accounting for 53%.

– Regarding jobs of the victims, most of the victims are workers in restaurants/food catering facilities, accounting for 58%.

– Regarding the way to become the victims of the crime of buying sex from people under 18 years old: All victims voluntarily deal with people who harbor prostitutes to sell sex to sex buyers, accounting for 100%.

1.2. Fluctuations of the prostitution crimes in Vietnam during 2010–2019 period

"*Fluctuations of crime are changes of actual state of crime, regarding severity and nature, in a defined time and space*" [2, P. 120].

Analysis of fluctuations of prostitution crimes allows determination of the movement rules of these crimes over time in studied time and space unit. Thereby, the movement rules of prostitution crimes in the future can be forecasted.

In order to assess the fluctuations in severity of prostitution crimes in Vietnam during 2010–2019 period, the author considered the number of prostitution cases and criminals in Vietnam in 2010 as baselines (100%) and compared the relative figures of the next years with the baselines.

Table 1.— Increase and decrease in prostitution crimes in Vietnam during 2010–2019 period

Year	The number of cases	Increase and decrease in comparison with figures in 2010	The number of criminals	Increase and decrease in comparison with figures in 2010
1	*2*	*3*	*4*	*5*
2010	65	100%	86	100%

1	2	3	4	5
2011	463	712.3%	631	733.7%
2012	886	1,363%	1091	1,268.6%
2013	824	1,267.6%	1066	1,239.5%
2014	930	1,430.7%	1235	1,436%
2015	829	1275.3%	1038	1,596.9%
2016	770	1,184.6%	980	1,139.5%
2017	716	1,101.5%	893	1,038.3%
2018	564	867.6%	714	830.2%
2019	677	1,041.5%	840	976.7%

Source: The General Affairs Department of Supreme People's Court

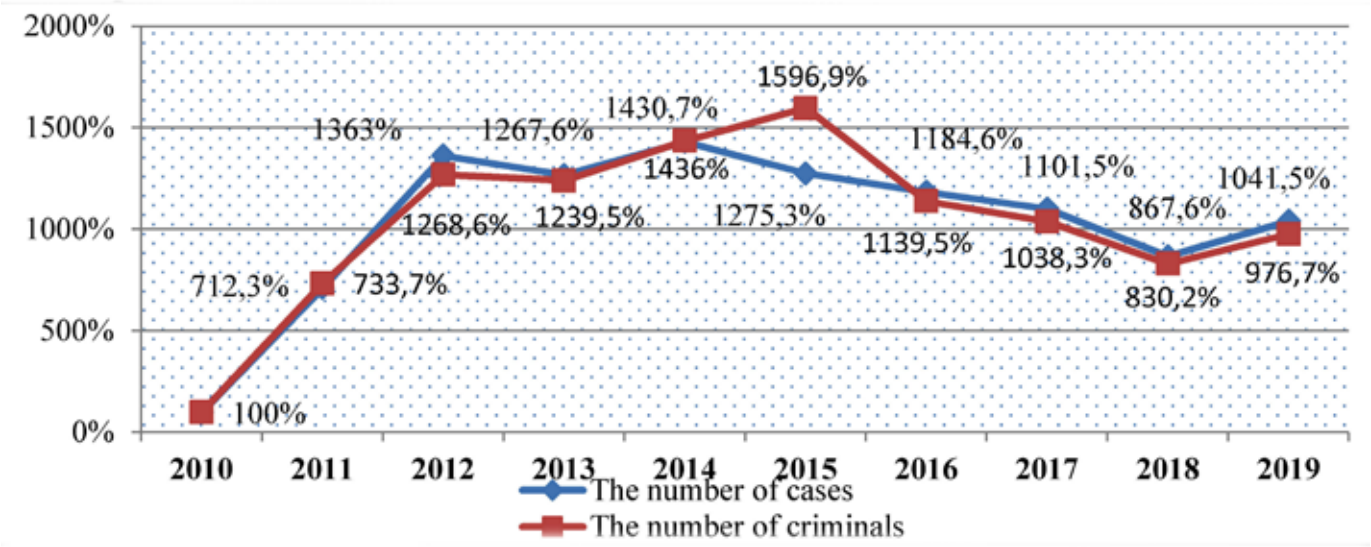

Chart: Fluctuations in severity of the prostitution crimes in Vietnam during 2010–2019 period

Source: The General Affairs Department of Supreme People's Court

Fluctuations in severity of the prostitution crimes are shown by the following chart:

The above chart shows that the number of prostitution cases and criminals in recent years unstably but significantly increase and decrease in comparison with those in 2010. In general, the number of crimes and criminals go up in the same year and vice versa, the number of crimes and criminals drop in the same year. So, severity of the prostitution crimes witnesses unstable increase and decrease over years but generally, it tends to increase.

It can be said that in crime prevention, study of crime situation is one of the most important studies because explanation of causes of crime and proposal of appropriate measures to prevent crime require clarification of crime situation. In 10 years from 2010 to 2019, the People's Courts at all levels in Vietnam judged 6724 prostitution cases with 8574 criminals. So, there were about 672 prostitution cases with about 857 criminals per year in average. These were alarming figures of the prostitution situation nationwide. However, the above figures were only extracted from Courts. In fact, prostitution crimes were mainly unreported and many prostitution cases have not been identified, handled and included in penal statistics. Besides, the author assessed some criteria of struc-

tures of prostitution crimes, including structure by locations of crimes (at provincial level); structure by crimes and crime types, types and amount of penalties incurred by criminals, rural and urban areas, objective behaviors, instruments of crimes, forms of crimes, illegal income, personal background of criminals and structure by personal background of victims. The above study results help to give a part "the big picture" of the prostitution crimes in Vietnam during 2010–2019 period. The prostitution crimes tend to keep increasing in the next years, thus, in the following part, the author will focus on studying causes of prostitution crimes and proposing solutions with an aim to improve efficiency of prostitution crime prevention in Vietnam in the near future.

2. Causes of and measures to prevent the prostitution crimes in Vietnam in the near future

Causes of crimes are combinations of factors whose interrelations result in crimes committed by criminals. Study of prostitution crime situation in Vietnam during 2010–2019 period enables the author to determine the following causes of the prostitution crimes:

The first ones are causes related to socio-economy. The increase of the prostitution crimes results from the surge of social evils. Many people like enjoying their own lives improperly by sex buying to satisfy their physiological needs. When the number of people who desire to buy sex jumps, the number of prostitution criminals will also rise to meet sex buying demands of sex buyers. This is the unavoidable consequence of the relationship between demand and supply. Besides, people who are unemployed or have unstable jobs earn no income or unstable income and are likely to commit prostitution crimes that bring them a lot of income with ease. In addition, negative impacts of the market economy make money talk and thus, many people are willing to make money by any means, including committing prostitution crimes. Most of prostitution criminals commit these crimes for money.

The second ones are causes related to the limitations in current propagation, popularization and education of laws, resulting in the occurrence of prostitution crimes in Vietnam. Propagation and popularization of laws have not been regularly, continuously performed and have failed to pay attention to quality and key areas, leading to low propagation efficiency. The education environment from families, schools and society lacks a close cooperation and is not fully concerned. These are likely to result in the involvement of people in crimes in general and prostitution crimes in particular.

The third ones are causes related to the limitations in management of social order and safety by the State. There are still a number of shortcomings in household and residence management. Local authorities and police policers in many areas fail to well perform these activities. Management of sex workers and websites containing sex images, pornographic materials or patrol and control of service facilities are very limited. Consequently, prostitution crimes are unlikely to be identified and handled for a long time.

The fourth ones are causes related to policies and laws on prostitution. Currently, sex workers and sex buyers (unless sex buyers are under 18 years old) only receive administrative penalties. These penalties are not deterrent enough whereas such sex workers and sex buyers need to receive heavy penalties to limit the increase of prostitution in general and prostitution crimes in particular.

The fifth ones are causes from proceeding bodies. The limitations in professional qualification of a few proceeding officers result in a percentage of unreported prostitution crimes. This also has negative impacts on criminals and inhabitants. In detail, criminals are more likely to repeat the same offense and inhabitants are more reluctant to report crimes because of the lack of trust in proceeding bodies.

The sixth ones are causes from criminals. Prostitution criminals disrespect the laws. Besides, they are avaricious and lazy but want to make money fast and easily, thus, they are willing to commit the crimes when they have chances.

Based on the above crime situation assessment and determination of causes of prostitution crimes, the author proposes the following preventive measures:

Firstly, it is necessary to develop the economy in association with demands for amusement and entertainment of inhabitants. Besides, it is required to create jobs for workers with an aim to reduce the number of people who are unemployed or have unstable jobs. In order to do this, the State needs to issue policies on gradually transformation of regional economic structure and give priority to development of traditional crafts and processing industry because these industries require a lot of manual workers. Besides, the State is required to develop labor market information by establishing an information system and cooperate with local authorities and enterprises in creating jobs for workers.

Secondly, it is necessary to pay attention to propagation, popularization and education of laws. Communications bodies, local authorities and political and social organizations such as Vietnam Fatherland Front, Women's Union and Youth Union, need to regularly cooperate with each other in propagation of harms of prostitution and prostitution legislation, etc. Besides, the education environment in each family in cooperation with schools and society also plays the key role. Parents are required to care about, educate their children, promptly correct bad behaviors of their children and help their children overcome unsound seduction in life. Schools need to pay more attention to education of personality, laws and sex for their students. Agencies and unions need to make plans for propagating and orienting inhabitants towards sound amusement and entertainment activities, contributing the reduction of social evils, including prostitution crimes.

Thirdly, the State needs to strengthen management of social order and safety. In detail, local authorities and public security authorities need to take measures to manage service facilities such as restaurants, karaoke facilities, motels, hotels, massage and sauna facilities, etc where social evils occur. Public security authorities and market management authorities, etc need to regularly inspect business facilities, use software to efficiently prevent websites containing sex images, promptly identify and charge heavy penalties for any violation of the laws. Besides, it is essential to pay much attention to household and residence management by regularly instructing, inspecting registration of household, temporary residence by inhabitants and adding forces in charge of household management. Moreover, it is necessary to strengthen measures to manage sex workers such as periodic review and preparation of documents on sex worker management. Additionally, it is required to implement projects to assist sex workers in community reintegration.

Fourthly, in order to contribute to the reduction of prostitution in general and prostitution crimes in particular, the author suggests criminal prosecution against sex workers and sex buyers, with an aim to create a strict legal environment and enhance efficiency of prostitution crime prevention.

Fifthly, it is necessary to provide training courses with an aim to improve professional qualification and enhance quality and professional ethics of proceeding officers.

3. Conclusion

In the last ten years, the number of prostitution cases and criminals in Vietnam has always accounted for a high percentage and tended to continuously rocket. Causes of prostitution crimes include causes related to socio-economy; limitations in propagation, popularization and education of laws; limitations in management of social order and safety by the State; ineffective sanctions and limitations in professional qualification of proceeding bodies. Consequently, Vietnam needs to pay attention to application of measures to prevent prostitution crimes in the near future, including socio-economic development; caring about propagation, popularization and education of laws; strengthening management of social order and safety by the State; charging heavy penalties for acts of sex buying and selling by criminalizing acts of sex buying and selling and caring about improvement of professional qualification, quality and ethics of proceeding officers.

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Section 5. Theory and philosophy of politics, history and methodology of political science

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IMPLEMENTATION OF INTEGRATION MODEL OF EDUCATION QUALITY MANAGEMENT IN THE COMPREHENSIVE COMPLEX

Abstract. The article researches the concept and necessity of integration and integrative approach in the educational process. It grounds the peculiarities of implementation of integration model in the comprehensive complex under present-day conditions.

Keywords: Integration, integrative approach, integration model, educational process, comprehensive complex.

Problem setting. The continuous informatization, widespread application of technical means for getting and using information in all spheres give an impetus to emergence of more and more new forms of communication at all levels of public life. In its turn, this is the substructure for transformations in the educational sphere, as there arises an objective need to improve the search, collection, organization, comparison, analysis and synthesis of diverse multisided information. These actions lead to construction of educational models that can improve the quality of studies by coordinating and using information in such a way as to transfer the educational process onto the innovative basis.

The integration models guide and help pupils to integrate the knowledge obtained from different fields, along with achieving the most useful effect. In addition, these models enable the audience to unite for achieving the goals that are set during the educational process, and to practically use the experience gained during the educational process. Therefore, the implementation of integration model of education quality management in the comprehensive complex under present-day conditions is an extremely important method of improving the educational process.

Analysis of recent research and publications. The range of problems of improving integration-based education has been widely studied by leading scholars. In particular, I. Pestalozzi and J. Locke pointed to the importance of integration, systematization, organization and generalization of knowledge mastered by pupils at school. These issues were also discussed by famous pedagogue Jan Comenius who emphasized the need of educational process participants to master the systematic knowledge instead of fragmentary one.

The integrative study has become the research subject for such researchers as Bennet N., Boychenko M. I., Bridges D., Vernadsky V. I., Gail R., Demyanenko N. M., Donets Z. F., Lyubarska O. M., Oleksyuk O. M., Rapatska L., Hutchings P., Huber M. and others.

However, the modern challenges require constant and continuous research of the processes that take place in the comprehensive complex; this determined the choice of this article theme.

The purpose of the article is researching the concept and necessity in using an integration model of education quality management in the comprehensive process under present-day conditions.

Presentation of the core material. When speaking of integration models in the field of education, first of all we should define the concept of "integration". Integration is one of the most promising innovations that can solve many problems of educational system. Its thorough theoretical underpinning and practical implementation in academic process are beyond doubt a future-oriented prospect. In scientists' opinion, it is a process of creating something unique, integral and inextricably linked, causing the new integrative properties to appear, which are a set of properties of the components combined in this process [1].

The educational sphere is special, as the main task of educational process is educating a holistic personality, taking into account his/her uniqueness, as well as meeting the requirements of society where this personality lives. The integrative study determines the strategies, structure and trend of combining subjects of general and special direction, which contributes to individual's harmonious development, improving his/her professional skills and receiving the education pursued by the individual [2].

In recent years, due to the development of theory and practice of using the integrative approach, scientists and pedagogues-practitioners have been implementing a system of integrative content-based training. Its principles are: education shall be targeted at today's requirements of social development, formation of a holistic system of knowledge, unified picture of the world, scientific worldview, combination of integrative and differentiated approaches to studies, continuity of education and its entry into the level of professional education.

The integrative study is characterized by such features as general scientific and systemic approaches, generalization and interdisciplinarity [3].

The scientific approaches and their analysis make it possible to identify the following features of integrative study:

– This is a process that involves improving the quality of educational process;

– During implementation of integrative study, pupils have the opportunity to generalize, trace the connections and draw conclusions on combination of fields, contexts and different concepts in total;

– The integrative study is characterized by universality, generalization and systemacity, thus enabling to expand the learning horizons of pupils [4].

The indicated features and peculiarities of integrative study contribute to the fact that pupils master the following skills as a result of its implementation:

– they learn to build up logical interrelations between the elements of complex systems;

– they learn to ask research-related questions in the course of learning;

– they learn to search the information needed for training;

– they learn to form integrative schemes to better understand the situations or phenomena studied;

– they learn to compare the concepts studied and draw the conclusions required;

– they learn to make cross-sectoral comparisons and transfer their knowledge from one sphere into another;

– they learn to make well-grounded decisions in uncertain situations.

Thus, the integrative approach in the educational process gives grounds to speak about the implementation of a holistic integration model, which will help

to improve the quality of educational process and raise it to a qualitatively new level. We consider it necessary to outline the following main components of integration model which are closely related:

1) target;
2) semantic;
3) methodological;
4) personal;
5) technological;
6) effective.

Any system is build on its purpose and tasks that shall be solved by it, therefore the target component is fundamental for forming and implementing an integration model. This purpose consists in forming the personal and competence traits of pupils, mastering the complex knowledge required for life in society. It should also include a set of ethical, cultural and moral standards, such as politeness, tact, tolerance, mercy, humanity, attentiveness, care, decency, intelligence, benevolence, principles, humanism and so on.

The target component is closely related to other elements of integration model, which determine its features. Thus, the semantic block determines the subject content of the educational process, characterizes the approaches and principles that are inherent in a particular educational area.

The methodological principles of integration model determine the set of methods, means and techniques, on the basis of which the integration of educational process is carried out. In particular, it goes about the systemic approach that allows to research and study the phenomena/processes in close interaction and interrelation between the components to achieve the maximum effect.

The personal block makes it possible to develop a versatile personality by defining his/her professional, moral, psychological, ethical, cultural and other traits that identify him/her as an individual in the society. Exactly the educational process serves as an impulse pushing the individual to reveal his/her uniqueness and individuality. Apart from that, the integrative study stimulates students' communication skills, which provides full development of personality.

The technological component of integration model is its specific element, as it determines certain choice of profession or occupation of pupils. Therefore, this should include the latest educational technologies and innovations used in the educational process in the context of obtaining and mastering professional knowledge/skills.

The resulted element of the model studied is characterized on the basis of such criteria as activity, communicative, personal and motivational ones. In other words, it is a generalization of the above components and the result of whole learning process, during which students get the necessary knowledge and skills.

Thus, the integration model of education quality management in the comprehensive process lets get a holistic view over a set of measures, methods and approaches that contribute to reach the level of knowledge required for complete harmonious development of an individual. The notion of integration model presupposes attracting knowledge from related fields, combining them with major subjects, and results in getting a product that can prepare high-level specialists via the integrative approach to studying.

Conclusions. Integration is an integral procedure in the modern world, on the basis of which the educational process and innovations are implemented. The integrative approach in the comprehensive process enables to combine, harmonize studies and ensure mastering the necessary knowledge and skills. Accordingly, the formation and implementation of an integrative model in the educational process is required on an objective basis, given the challenges of the modern world.

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