

DISCIPLINARY RESPONSIBILITY FOR CIVIL SERVANTS IN VIETNAM TODAY: LEGAL PRACTICE AND SOLUTIONS

RESPONSABILIDADE DISCIPLINAR DOS FUNCIONÁRIOS PÚBLICOS NO VIETNÃ HOJE: PRÁTICA E SOLUÇÕES JURÍDICAS*

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Abstract: Disciplinary responsibility for civil servants is an important legal term, which serves as the basis for the development of legal provisions related to civil servant discipline. Civil servants violate the obligations of civil servants; what civil servants are not allowed to do; internal rules and regulations of agencies, organizations, and units; Violation of morality, lifestyle, or other violations of law while on official duty shall be considered for disciplinary action. However, in recent years, handling law violations has not been timely, and the sanctions are not enough of a deterrent. The work of propaganda and crime prevention in some places is still formal. Some law enforcement officers have a poor sense of discipline, affecting the effectiveness and efficiency of crime prevention and combat and law violations. There are still a number of decisions not to prosecute the case that was canceled, the decision to prosecute the case lacked legal grounds, and the files were returned for additional investigation due to procedural violations. In some unjust cases, the trial panels accepted grounded appellate protests. On the basis of legal practice, analyzing the obtained results, and pointing out the limitations and weaknesses in the legal system of disciplining civil servants, this study proposes solutions to improve the law civil servant handling in the next stage.

Keywords: Disciplinary responsibility. Cadres. Civil servants. Legal practice. Implementation solutions. Vietnam today.

Resumo: A responsabilidade disciplinar dos funcionários públicos é um termo jurídico importante, que serve como base para o desenvolvimento de disposições legais relacionadas à disciplina dos funcionários públicos. Os funcionários públicos violam as obrigações dos funcionários públicos; o que os funcionários públicos não podem fazer; normas e regulamentos internos de agências, organizações e unidades; Violação da moral, estilo de vida ou outras violações da lei enquanto em serviço oficial devem ser considerados para ação disciplinar. Entretanto, nos últimos anos, o tratamento das violações da lei não tem sido oportuno, e as sanções não são suficientes para dissuadir. O trabalho de propaganda e prevenção do crime em alguns lugares ainda é formal. Alguns oficiais da lei têm um senso de disciplina deficiente, afetando a eficácia e eficiência da

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prevenção e combate ao crime e violações da lei. Ainda existem várias decisões de não processar o caso que foi cancelado, a decisão de processar o caso careceu de fundamentos legais e os arquivos foram devolvidos para investigação adicional devido a violações processuais. Em alguns casos injustos, os painéis de julgamento aceitaram protestos de apelação fundamentados. Com base na prática legal, analisando os resultados obtidos e apontando as limitações e fraquezas do sistema legal de disciplinar os funcionários públicos, este estudo propõe soluções para melhorar o tratamento dos funcionários públicos de direito na próxima etapa.

Palavras-chave: Responsabilidade disciplinar. Cadres. Funcionários públicos. Prática jurídica. Soluções de implementação. O Vietnã hoje.

1. INTRODUCTION

For the State to organize and operate and manage society by the Constitution and laws (Clause 1, Article 8, the 2013 Constitution), in addition to the requirement to have a complete legal system, the contingent of cadres, civil servants, and public employees need to be qualified, capable and reputable to serve the people for the sustainable development of the country; respect the law, have the right feelings and attitude towards the law, self-consciously and seriously abide by, comply with, protect the law, have a fighting spirit against acts of disregard and violation of the law, showing a positive legal mentality. On the contrary, if cadres, civil servants, and public employees do not have faith, do not agree with the law, or do not support solving problems according to the law, they will react negatively by not acting or protesting. respect the law, and authorized representatives to enforce the law (Doan & Nam, 2020; Trung & Van, 2020; Duchiep et al., 2022). Without legal knowledge, it is difficult for cadres, civil servants, and public employees to guide, organize the implementation and apply the law, inspect and supervise the implementation of the law, handle violations, and protect the rights and interests of the public. and the interests of the people (Van, 2020 & 2022).

Disciplinary responsibility for civil servants aims to raise legal awareness among public servants. The more social connections people have, the more many rules of conduct bind them. The more authority, the greater the responsibility. Behind every political decision, public affairs are binding, responsibilities and legal risks (Party Central Committee Secretariat, 2020). Legal security in management is only possible when the manager acts and decides legally. Dealing with the consequences will be much more complicated and time-consuming than legally implementing the law in the first place. Moreover, when violating, the cadre's reputation is reduced and the people's trust is lost. Therefore, to avoid legal risks, cadres, civil servants and public employees must have a sense of law, respect, earnestly implement, obey and comply with the law.

Over time, the law on handling crimes committed by civil servants has achieved some achievements but still reveals some limitations. That is, the handling of law violations is not timely, and the sanctions are not enough deterrent. The work of propaganda and crime prevention in some places is still formal. Some law enforcement officers have a poor sense of discipline, affecting the effectiveness and efficiency of crime prevention and control (Luongngoc & Vuhong, 2022; Duchiep et al., 2022). There are still several decisions not to prosecute the case that was canceled, the decision to prosecute the case lacked legal grounds, and the files were returned for additional investigation due to procedural violations. In some unjust cases, grounded appellate protests were accepted by the trial panels. The above shortcomings are partly due to limitations in the legal system of Vietnam; improper assessment of behavior, crime level, errors in law application, and intentional, self-seeking motives of some judicial officers. Therefore, continuing to build and perfect the legal system to meet the requirements of the rule of law is necessary to improve the capacity to concretize and institutionalize the Party's policies and resolutions promptly. regularly review, amend and supplement laws to meet the requirements of practice (Communist Party of Vietnam, vol 1, p. 175).

2. LITERATURE REVIEW

Responsibility concept

The term "responsibility", can be viewed from two angles as follows:

First, responsibility is the obligation to fulfill the requirements of the law. From this perspective, responsibility is understood as a form of positive responsibility, associated with duties and obligations, along with a positive attitude to perform mandatory legal rights and obligations. The State and society have taken many measures to propagate and encourage citizens, organizations, and agencies to have a proper sense of their duties and responsibilities and to strictly comply with the requirements of the law. That is, individuals and organizations have the obligation to avoid not performing the acts prohibited by law and to actively perform the acts that are encouraged by the law, or forced to perform. However, in this understanding, the concept of responsibility is almost identical to the concept of obligation.

Secondly, from a negative perspective, responsibility is the suffering of adverse consequences, when an individual or organization commits an act of violation of the law

and is subject to the coercive measures contemplated in the sanctions. law. Here, liability is the suffering of adverse consequences, that is, the subject will have to accept a disadvantage when there is a violation of the law. These are certain physical or mental disadvantages identified by law when individuals or organizations commit acts of violating the law, infringing on social relations, and are protected by law. From this perspective, the textbook "Theory of State and Law" of Hanoi Law University introduces the concept: Legal responsibility is punishment for the subject of law violation, showing a special relationship. The distinction between the state and law-breaking subjects is established and adjusted by law, in which law-breaking subjects must bear adverse consequences, and coercive measures are specified in the sanctions against legal regulations (Doan & Nam, 2020).

To date, there is no legal document that provides a specific definition of the term liability, even due to the existence of different views, some regulations still do not clearly define the term liability and obligation, or how to use the term responsibility correctly from each point of view. In this article, the author refers to the concept of disciplinary responsibility for civil servants from the second perspective, in order to specifically distinguish between responsibilities and obligations, that is, disciplinary responsibility for civil servants is a legal consequence. disadvantages suffered by public officials.

Discipline concept

Discipline is often mentioned in work, study, and even in daily life. No matter what you do, if you have discipline, everything will go into order, framework, and regulations. Discipline is an important factor in the development of the country.

As for the term "discipline". According to the Vietnamese Dictionary, discipline is punishment for those who break the law (Y, 1999). Discipline means handling and sanctioning according to the nature and content of civil servants' violations of prescribed regimes and laws. Handling of disciplinary violations for people working in state agencies refers to aspects of administrative discipline, and violations of rules and regulations of the agency's operation (Yen, 2017). There is another view that: "Discipline in the most general perspective is the totality of regulations to ensure order and order of internal operation of an agency or organization of the State and society in general as well as the society in general. strict observance of such regulations" (National Assembly of the Socialist Republic of Vietnam, 2019). With this definition, discipline is viewed from the perspective of

discipline and civil service culture. Therefore, from a legal perspective, discipline is the adverse consequences applied to the subject when committing an act of violation of discipline, violation of rules or obligations in public activities, or violations of the law subject to disciplinary action in accordance with the law.

As a matter of fact, discipline is a general rule of conduct set by an agency or organization, and the individuals belonging to that agency or organization must adhere to and follow it in order to create consistency so that work and learning results can be achieved. files, etc. high quality and efficiency. With such a concept, discipline is specifically understood as follows:

Discipline can also be self-imposed by the individual. Discipline contributes to training people to focus on the goal, that has been set. And the chances of success are often more open to those who are disciplined;

Discipline always accompanies each person no matter where they live, in their family, in society, in school, at work, etc.

Discipline may or may not be legal.

For private organizations: Discipline is the regulation for members in the organization, company/enterprise; its members must perform. If you violate those regulations, you will be disciplined in the form specified in the regulations. Discipline here is not legal.

For State agencies: Discipline is a pattern that cadres and public employees must follow. If they violate the rules, they will be disciplined. At this point, disciplinary action is legal.

Civil servant concept

Civil servants are Vietnamese citizens, recruited and appointed to ranks, positions, and titles in agencies of the Communist Party of Vietnam, the State, and socio-political organizations at the central, provincial, and national levels. District; in agencies or units of the People's Army who are not officers, professional soldiers, or defense workers; in agencies and units of the People's Public Security who are not professional officers and non-commissioned officers and in the leadership and management apparatus of public non-business units of the Communist Party of Vietnam, the State, and organizations socio-political organizations (hereinafter referred to as public non-business units), on the payroll and receiving salaries from the state budget; for civil servants in the leadership and

management apparatus of a public non-business unit, the salary is guaranteed from the salary fund of the public non-business unit in accordance with the law.

Currently, there are 8 groups of subjects called civil servants, specifically as follows:

According to Clause 2, Article 4 of the Law on Cadres and Civil Servants (2008), civil servants are Vietnamese citizens, recruited and appointed to ranks, positions, titles, on the payroll, and receive salaries from the State budget. countries and belonging to the agencies and units specified in Decree 06 of 2010 including:

- In the agency of the Communist Party of Vietnam;
- In the Office of the President, Office of the National Assembly, State Audit;
- Within ministries, ministerial-level agencies, and other organizations established by the Government or the Prime Minister;
- In administrative agencies at the provincial and district levels;
- In the People's Court system, the People's Procuracy system;
- In agencies of socio-political organizations at the central, provincial, and district levels;
- In agencies and units of the People's Army and People's Public Security.

In particular, civil servants are currently recruited by the form of a recruitment exam, unless they have committed to volunteering for 5 years or more in mountainous, border areas, islands, etc. At the same time, civil servants must meet a number of criteria and conditions as follows:

- Being 18 years old or older, having one nationality is Vietnamese nationality;
- Have an application form, clear resume, relevant diplomas, and certificates;
- Have good political and moral qualities.

In addition, civil servants must undergo a probationary process to familiarize themselves with the working environment and practice doing the jobs of the recruited positions. In particular, Article 20 of Decree 24 in 2010 clearly states that the probationary period of civil servants includes:

- 12 months if recruited as a C-class civil servant;
- 06 months in the case of recruitment into D-class civil servants.

On November 26, 2019, the National Assembly officially approved the Law amending and supplementing the Law on Cadres and Civil Servants with many contents that greatly affect public employees. One of them is the modification of the scope of civil servants.

Accordingly, Clause 2, Article 4 of the current Law is amended by Clause 1, Article 1 of the New Law 2019 in the direction that leaders and managers in public non-business units will no longer be civil servants.

This is completely consistent with the policy of not implementing the civil servant regime in public non-business units in the spirit of Resolution 19-NQ/TW and will build a new salary table according to the job position to replace the salary table. currently stated in Resolution 27-NQ/TW.

However, Clause 19, Article 1 of the 2019 Amended Law also clearly states that civil servants holding leadership and management positions in public non-business units according to the Law and current guiding documents will continue to be implementing regimes, policies, etc. until the end of the term of appointment to hold the current position.

The discipline of civil servants

As analyzed above, civil servants who are Vietnamese citizens are recruited and appointed to ranks, positions, and titles corresponding to employment positions in Party and state agencies, in single agencies. a member of the people's army but not an officer, a professional soldier, in an agency or unit of the people's police, but not an officer, and receives a salary from the state budget.

Agencies employing public servants are agencies, organizations, and units that are assigned the authority to manage, assign, arrange and inspect the work and performance of tasks and powers of civil servants.

Civil servant management agencies are agencies, organizations, and units that are assigned the authority to recruit, appoint, raise ranks, raise wages, terminate jobs, retire, carry out the settlement of regimes and policies, and reward discipline for civil servants.

Civil servants commit acts of violating regulations on obligations of cadres, civil servants, and public employees; things that cadres, civil servants, and public employees are not allowed to do; internal rules and regulations of agencies, organizations, and units; violation of morality, lifestyle or other violations of law while on official duty shall be considered for disciplinary action.

3. RESULTS AND DISCUSSION

Disciplinary responsibility for civil servants from current Vietnamese legal practice

Pursuant to Article 6 of Decree 112/2020/ND-CP on disciplining cadres, civil servants, and public employees, stipulations on the disciplinary actions of the public will are as follows:

Civil servants commit acts of violating regulations on obligations of cadres, civil servants, and public employees; things that cadres, civil servants, and public employees are not allowed to do; internal rules and regulations of agencies, organizations, and units; violation of morality, lifestyle or other violations of law while on official duty shall be considered for disciplinary action. The severity of the violation is determined as follows:

Violations that cause less serious consequences are violations of small nature and degree of harm, affecting internally, and affecting the reputation of agencies, organizations, or working units.

Violations causing serious consequences are violations of the nature, extent, great harm, impact outside the internal scope, causing bad public opinion among cadres, civil servants, public employees, and the people, reducing prestige credits of agencies, organizations, and working units.

Violations that cause very serious consequences are violations of great nature, extent, and harm, affecting the whole society, and causing very urgent public opinion among cadres, civil servants, public employees, and employees. people, discrediting agencies, organizations, and working units.

Violations that cause particularly serious consequences are violations of particularly great nature, extent, and harm, wide-ranging impacts on the whole society, causing particularly urgent public opinion among cadres and civil servants. , officials and people, discrediting agencies, organizations, and working units.

Regarding disciplinary forms for civil servants: Pursuant to Article 7 of Decree 112/2020/ND-CP on disciplining cadres, civil servants, and public employees, the following forms of discipline are prescribed:

- Apply to civil servants who do not hold leadership or management positions: Reprimand, Warning, Lower salary grade, Forced resignation.

- Apply to civil servants holding leadership and management positions: Reprimand, Warning, Demotion, Demotion, Forced resignation.

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Forms of civil servant discipline from legal practice

Regarding the form of discipline and reprimand for civil servants:

Pursuant to Article 8 of Decree 112/2020/ND-CP on disciplining cadres, civil servants, and public employees, the form of disciplinary reprimand shall be applied to cadres and civil servants who commit violations for the first time, causing less serious consequences, except for the violations specified in Clause 3, Article 9 of this Decree, in one of the following cases:

- Violations against regulations on ethics and communication culture of officials and civil servants; regulations of law on performance of duties and responsibilities of officials and public employees; labor discipline; internal rules and regulations of agencies, organizations, and units;

- Taking advantage of the working position for self-seeking purposes; having a bossy, authoritarian attitude or causing difficulties or troubles to agencies, organizations, units, and individuals in the performance of their official duties; certifying or issuing legal documents to ineligible persons;

- Failure to comply with the decision on mobilization and assignment of work of the competent authority; failure to perform assigned duties without a valid reason; causing disunity in agencies, organizations, and units;

- Violating the law on crime prevention and combat; Prevention of social evils; safety and order of society; Anti-corruption; practice thrift, fight waste;

- Violation of the law on the protection of state secrets; Violating the provisions of the law on complaints and denunciations;

- Violating regulations on regulations on democratic centralism, regulations on propaganda and speech, regulations on the protection of internal politics;

- Violating the provisions of the law on investment, construction; land, natural resources, and environment; finance, accounting, banking; management and use of public property in the course of official duty performance;

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- Violation of the law on domestic violence prevention and control; population, marriage, and family; gender equality; social security; other provisions of law related to cadres and civil servants.

Regarding the form of warning and discipline for cadres and civil servants:

Pursuant to Article 9 of Decree 112/2020/ND-CP on disciplinary handling of cadres, civil servants, and public employees Warning discipline shall be applied to cadres and civil servants who commit violations in one of the following categories: the following cases:

- Having been disciplined in the form of reprimand as prescribed in Article 8 of this Decree but recidivism;
 - Committing an act of violation for the first time, causing serious consequences in one of the cases specified in Article 8 of this Decree;
- Committing an act of violation for the first time, causing less serious consequences in one of the following cases:

- Cadres and civil servants holding leadership and management positions fail to properly and fully perform their management and administration responsibilities and tasks as assigned;
- The head of an agency, organization, or unit allows serious violations of the law within the scope of his/her charge without taking measures to stop it.

Regarding the form of discipline to lower salary levels for civil servants who do not hold leadership and management positions:

Pursuant to Article 10 of Decree 112/2020/ND-CP on disciplining cadres, civil servants, and public employees in the form of discipline to lower salary grades applied to civil servants who do not hold leadership or managerial positions. in one of the following cases:

- Civil servants who have been disciplined in the form of warnings according to the provisions of Article 9 of Decree 112/202/ND-CP but re-offend;

- The civil servant commits an act of violation for the first time, causing very serious consequences in one of the cases specified in Article 8 of this Decree.

Regarding the form of discipline and demotion for civil servants holding leadership and management positions:

Pursuant to Article 11 of Decree 112/2020/ND-CP on disciplinary handling of cadres, civil servants, and public employees, stipulating the form of discipline for demotion applied to civil servants holding leadership and managerial positions under one of the following cases:

- Civil servants who have been disciplined in the form of warnings according to the provisions of Article 9 of Decree 112/2020 but re-offend;
- Civil servants commit acts of violation for the first time, causing serious consequences in one of the cases specified in Clause 3, Article 9 of Decree 112/2020/ND-CP, Civil servants commit violations for the first time, causing very serious consequences in one of the cases specified in Article 8 of Decree 112/2020/ND-CP.

Regarding disciplinary forms of dismissal for officials and civil servants holding leadership and management positions:

Pursuant to Decree 112/2020/ND-CP on disciplinary handling of cadres, civil servants, and public employees, stipulating the form of disciplinary dismissal applied to cadres and civil servants holding leadership and management positions in one of the following cases:

- Civil servants holding leadership or management positions have been disciplined by demotion as prescribed in Article 11 of this Decree but recidivism or cadres have been disciplined in the form of warnings according to regulations prescribed in Article 9 of Decree 112/2020/ND-CP but recidivism;
- Civil servants commit acts of violation for the first time, causing very serious consequences in one of the cases specified in Clause 3, Article 9 of Decree 112/2020/ND-CP.

- A civil servant who commits an act of violation for the first time, causing particularly serious consequences in one of the cases specified in Article 8 of this Decree, but not to the extent of forcing him to quit his job, the violator has an attitude of receptiveness and correction. , proactively overcome the consequences and have many extenuating circumstances;

- Civil servants use illegal documents to be elected, approved, or appointed to a position.

Regarding the form of discipline for dismissal of civil servants:

Pursuant to Decree 112/2020/ND-CP on disciplinary handling of cadres, civil servants, and public employees on the disciplinary form of dismissal applied to civil servants who commit violations in one of the following cases:

- Civil servants who have been disciplined in the form of dismissal for civil servants holding leadership or management positions or reduction of salary levels for civil servants who do not hold leadership or management positions but re-offend;

- Civil servants commit violations for the first time, causing particularly serious consequences in one of the cases specified in Article 8 of Decree 112/2020/ND-CP.

- Civil servants using fake or illegal diplomas, certificates, certificates and certifications to be recruited into agencies, organizations, or units;

- Public servants addicted to drugs; for this case, there must be a conclusion from the medical facility or a notice of the competent authority.

Some inadequacies in handling civil servants according to the current law of Vietnam

Regulations on principles of disciplinary action:

Currently, the Law on Cadres and Public Officials and the Law on Public Employees do not provide for the principle of disciplinary action, while other legal documents do. Specifically: Article 2 of Decree 34/2011 and Article 3 of Decree 27/2012 stipulate principles of disciplinary handling such as objectivity, fairness, strictness, and lawfulness, each act shall be handled only by a form of discipline. If there are any

violations, they will be disciplined for each show and be disciplined one level heavier than the heaviest form of discipline.

The special thing is that these principles do not differentiate the subjects being handled, so they have similar content that only applies to civil servants and public employees. In fact, the application is still inadequate for groups of subjects such as cadres, civil servants - party members, officials - party members, cadres and civil servants, etc.

In addition, the principle of synthesizing forms of disciplining civil servants and public employees is still inadequate. Specifically, civil servants and public employees who do not hold managerial positions will receive heavier responsibilities than those holding managerial positions.

Example: Mr. Nguyen Van A works at hospital B in province C. He has two violations: reprimand and warning. Applying Clause 2, Article 3 of Decree 27/2012 to summarize the form of disciplinary action. If Mr. A does not hold the managerial position, he will be forced to resign, and if Mr. A holds the managerial position, he will be dismissed. This shows that the form of disciplinary action is still inadequate and limited in the regulations on the subjects of civil servants being disciplined.

Article 79 of the Law on Cadres and Civil Servants 2008 and Article 8 of Decree 34/2011/ND-CP provide six forms of discipline for civil servants: reprimand, warning, salary downgrade, demotion, dismissal, and forced quit. However, in reality, there are disciplinary decisions related to "removal of status". In fact, these decisions also satisfy the needs of society, and public opinion is satisfied. However, the legal basis to apply is lacking.

The Law on Cadres and Civil Servants (2019), amended and supplemented, stipulates that there are three forms of discipline for cadres and civil servants who have quit and retired, namely reprimand, warning, and removal of their positions. However, these disciplinary forms for retired people are not necessary, the benefits attached to them are pensions, so if they remove their position status, it will not affect their benefits.

Regulations on classification and evaluation of civil servants, the basis for disciplining public employees:

It can be seen that the process of implementing regulations on the classification and evaluation of cadres and civil servants also has many shortcomings due to the lack of specific criteria, which do not reflect the actual status of the job completion level of cadres and civil servants. ministries and civil servants.

The current documents have not created a legal framework for the serious assessment of work results, thereby leading to a leveling in staff evaluation, not creating motivation in training and striving. Of cadres and civil servants, there is no basis to remove those who fail to fulfill their duties from the public service apparatus.

The evaluation of cadres, civil servants, and public employees has not really been based on standards, responsibilities, tasks, powers, responsibilities, and actual work efficiency of each person.

In addition, the regulations on classification and assessment also differ between documents of the Party, between officials and cadres and civil servants, while cadre work is the work of the Party, and needs to ensure concentration and unity.

In the past time, the disciplinary handling of a number of cases where cadres and civil servants have committed violations during their working time but have not been detected at that time and the violations have not reached the level of handling. The criminal justice system faces many difficulties due to the lack of a legal basis, the lack of synchronization between the enforcement of administrative discipline on retired cadres and civil servants, and the Party discipline as a party member.

Regulations on statute of limitations for disciplining civil servants:

The regulations related to the discipline of cadres and civil servants in the political system in general and in the state apparatus, in particular, are currently inconsistent. The Law on Cadres and Civil Servants stipulates that the statute of limitations for disciplinary action is 24 months from the time of the violation and when the statute of limitations expires, no violation shall be handled.

However, in reality, through the inspection, examination, and denunciation of the masses, there are many cases that have been disciplined for the Party or have been criminally handled but not subject to imprisonment, when considering discipline according to the provisions of the Law, the statute of limitations has expired, so it cannot be handled.

Meanwhile, Regulation No. 102-QD/TW (2020) on disciplining party members who violate the regulations stipulates that the statute of limitations for disciplining party members in violation is 5 years, 10 years, or no time limit for disciplining party members. effective for violations to the point of disciplinary action in the form of expulsion; violations of internal politics, security, defense, and foreign affairs that infringe upon national interests, and the illegal use of diplomas, certificates, and certifications.

Some solutions to improve disciplinary responsibility for civil servants in Vietnam today

There are many objective and subjective reasons leading to the above limitations and problems, including the cause in the process of researching and developing documents and projects to implement the Law on Cadres and Civil servants. , due to many new and complicated problems related to the renovation of the management mechanism of cadres and civil servants; there are problems that have been implemented for the first time in our country (such as description, job placement, organization of rank promotion exams on the basis of competition) or problems related to the provisions of other specialized laws are in the process of being developed and perfected (such as the Enterprise Law, the Law on Anti-corruption) leading to the slow implementation of some provisions of the Law on Cadres and Civil Servants in practice.

For example, the determination of job positions, organization of civil service promotion exams according to competitive principles, examination or consideration for promotion of civil servants' professional titles, etc. The coordination in the development of documents between the functional agencies is not smooth and effective. The consultation of ministries, branches, and localities has not brought into full play the sense of responsibility and is still slow.

Thoroughly grasping the views of the Party in the Resolution of the 6th Party Central Committee (Term XII, 2016) on a number of issues, continuing to renew and reorganize the organizational apparatus of the political system to be lean, effective, and efficient. in the renovation and reorganization of the apparatus to ensure lean, effective, and efficient operation and the Resolution of the 7th Central Committee (Term XII, 2016) on focusing on building a contingent of cadres at all levels, especially at the strategic level. strategy, enough quality, capacity, and prestige, on par with tasks, to realize the goal by 2020 "Institutionalize and concretize the Resolution into regulations of the Party and policies and laws of the State on cadre work, building and managing cadres" (Communist Party of Vietnam, 2016), it is necessary to study and perfect the institution for managing cadres and civil servants, first of all, to amend and supplement the Law on cadres and civil servants. Cadres and civil servants (2019). As follows:

First, amending and supplementing regulations on the separation of cadres, civil servants, and public employees and subjects by applying the law on cadres and civil servants in the following direction:

Thoroughly grasping the point of view of Resolution No. 19-NQ/TW of the 6th Central Committee (Term XII) setting out the policy "Do not implement the civil servant regime in public non-business units (except for units serving political tasks). and serving state management)", the revised Law on Cadres and Civil Servants does not stipulate the civil servant regime in public non-business units and socio-professional, socio-professional associations, society; the provisions of the Law on Cadres and Public Officials shall not apply to holders of titles and positions in enterprises being one-member limited liability companies in which 100% of charter capital is held by the State.

Second, supplement regulations on the discipline of cadres and civil servants; amending the statute of limitations for disciplinary action and other regulations related to disciplined cadres and civil servants. Specifically:

Carrying out the task of "Developing regulations on the authority and responsibility of the head in personnel work and management of personnel; strictly handle those who commit violations, even when they have changed jobs or retired", supplementing the provisions: Regulations on cadres and civil servants after changing jobs, quitting or retiring to detect violations must still be considered, concluded and disciplined.

Amending regulations on statute of limitations and time limit for disciplining cadres and civil servants, specifically as follows:

- The statute of limitations for discipline is 5 years for violations to the extent that disciplinary action must be taken in the form of reprimand; 10 years for violations to the point of disciplinary action in the form of warning or dismissal.
- The maximum time limit for disciplinary handling is 12 months from the date of detection of law violations by a competent agency, organization, or unit. In case the case has complicated circumstances that require inspection and examination time for further verification and clarification, the time limit for disciplinary handling may be extended but must not exceed 18 months.

4. CONCLUSION

On the basis of the revised and supplemented Law on Cadres and Civil Servants, the Government, ministries, and branches shall research and promulgate a system of legal

documents guiding regulations on recruitment, use, and management of cadres, synchronous, consistent, systematic civil servants; avoid the delay in promulgating or frequently adding or changing changes, causing confusion in the implementation, affecting the effectiveness and efficiency of management of the contingent of cadres and civil servants.

Legal ideology is the premise, influence, and direct impact on the process of building and perfecting the legal system. The legislation includes many steps with the participation of many agencies, organizations, and individuals. The legal consciousness of cadres, civil servants, and public employees participating in the law-making process directly affects their perception of the content of the policy, the methods and techniques of law-making, the law-making process. the governing content of the law, and the use of legal sources. The legal system in our country is now increasingly being perfected, due to the increasing awareness of the rule of law and the efforts of the National Assembly, the Government, agencies, organizations, and a contingent of cadres and civil servants. Officials actively participate in law-making. However, there are still certain limitations in the law-making work, such as some contents of the Party's policy on cadre work that has not been institutionalized in a timely manner; some provisions in the legal system are inconsistent with each other and have not met the requirements of reality in a timely manner.

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