

SIMILARITIES AND DIFFERENCES BETWEEN CIVIL SERVANT DISCIPLINE AND OFFICIAL DISCIPLINE ACCORDING TO VIETNAM LAW

SEMELHANÇAS E DIFERENÇAS ENTRE A DISCIPLINA DO FUNCIONÁRIO CIVIL E A DISCIPLINA OFICIAL DE ACORDO COM A LEI DO VIETNÃ

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Abstract: Discipline for civil servants and officials is a specific type of legal responsibility, prescribed by law and arising on the basis of law. The law on discipline for civil servants and officials represents the inevitable trend of a democratic, fair, and civilized state - the rule of law. The state manages society by law, which means that the state has used the law to influence and regulate social relations in order to stabilize and maintain social order. It is necessary to realize that disciplining civil and officials is a form of handling official errors, thereby improving public service activities. Therefore, certain principles must be adhered to in punishing people working for state administrative organizations. On the basis of studying theoretical issues related to disciplining; legal documents of the State of Vietnam, the purpose of this study is to find out the similarities and differences between civil servant discipline and official discipline in accordance with Vietnam law; pointed out a number of legal inadequacies, thereby proposing some solutions to improve the law on disciplining civil servants and official in the future.

Keywords: Similarities and differences. Civil servant discipline. Official discipline. Regulations. Vietnam law.

Resumo: A disciplina de servidores e funcionários públicos é um tipo específico de responsabilidade legal, prevista em lei e decorrente de lei. A lei de disciplina para funcionários públicos e oficiais representa a tendência inevitável de um estado democrático, justo e civilizado - o estado de direito. O estado administra a sociedade pela lei, o que significa que o estado usou a lei para influenciar e regular as relações sociais a fim de estabilizar e manter a ordem social. É preciso perceber que disciplinar civis e funcionários é uma forma de lidar com erros oficiais, melhorando assim as atividades do serviço público. Portanto, certos princípios devem ser respeitados na punição de pessoas que trabalham para organizações administrativas estaduais. Com base no estudo de questões teóricas relacionadas ao disciplinamento; documentos legais do Estado do Vietnã, o objetivo deste estudo é descobrir as semelhanças e diferenças entre a disciplina do funcionário público e a disciplina oficial de acordo com a lei do Vietnã; apontou uma série de inadequações legais, propondo assim algumas soluções para melhorar a lei sobre disciplinar funcionários públicos e oficiais no futuro.

Palavras-chave: Semelhanças e diferenças. Disciplina do funcionário público. Disciplina oficial. Regulamentos. Lei do Vietnã.

1. Introduction

Discipline is a general rule that is set out to ensure that those affected by this discipline will not commit acts beyond the set regulations that negatively affect management effectiveness. Along with that, the person who violates the discipline will have to comply with the pre-determined handling measures, which may directly affect the violator's work, performance, and income. offenses that make the person subject to discipline will be more conscious in observing and properly performing their position, role, and responsibility at work, and study. Since then, the order in organizations, agencies, and units has been firmly established. Discipline contributes to the organization's and the collective's success and is a premise for society's general development. Disciplined agencies and organizations will be a civilized and standard working environment, contributing to creating a disciplined, stable, and developing State, and maintaining trust among the people.

On September 18, 2020, the Government issued Decree 112/2020/ND-CP on disciplinary actions against civil servants and servants public (official), effective September 20, 2020, and replacing Decree 34/2011/ Decree 27/2012/ND-CP on disciplining civil servants and regulations on disciplining official, Chapter 6 of Decree No. Decree 112/2011/ND-CP on civil servants in communes, wards, and townships; Disciplinary-related contents are specified in Decree 35/2005/ND-CP on disciplining civil servants. Compared with the Law on Public Officials (2008) and Decree No. 34/2011/ND-CP dated May 17, 2011, of the Government on disciplinary handling of civil servants (starting now referred to as Decree No. 34/2011/) ND-CP), the Law amending and supplementing a number of articles of the Law on Public Officials, the Law on Public Officials (2019) and the Government's Decree No. 112/2020/ND-CP dated September 18, 2020, on handling Disciplinary action, civil servants, official, effective from September 20, 2020 (starting now referred to as Decree No. 112/2020/ND-CP) has many new, amended and supplemented points. However, in the process of implementing the civil service and the administration of the country, many problems with the discipline of civil servants and officials have arisen.

On the basis of studying legal documents (law systems, decrees, circulars), studying theoretical issues related to civil servants and officials, this study focuses on clarifying some of the following issues:

First, clarify the concepts of civil servants and officials; point out the similarities and differences between the contingent of civil servants and officials according to the provisions of Vietnam law.

Second, clarify issues of discipline and discipline of civil servants and officials in accordance with Vietnam law.

Third, compare to find out the similarities and differences between civil servant discipline and public employee discipline in accordance with Vietnam law.

Fourth, point out some legal inadequacies, thereby recommending some solutions to improve the law on disciplining civil servants and officials in the future.

2. Literature Review

Concept of Civil Servant

According to Clause 2, Article 1 of the Law amending and supplementing a number of articles of the Law on Civil Servants and the Law on Officials (2019), civil servants are defined as follows: “An official is a Vietnam citizen, recruited and appointed to ranks, positions, and titles corresponding to employment positions in agencies of the Communist Party of Vietnam, the State, socio-political organizations at central, provincial and district levels; in agencies and units members of the People’s Army but are not officers, professional soldiers or defense workers; in agencies and units of the People’s Public Security but are not officers or non-commissioned officers serving under the professional regime, public security workers, on the payroll and receiving salaries from the state budget”.

According to the English dictionary, a civil servant is an individual who is recruited or appointed to a category and holds a position or title in a competent agency of the Communist Party of Vietnam, or a socio-political organization at the district, provincial or central level or an agency of the People’s Army (other than an officer, a defense worker, a professional soldier), a public non - business unit, which is staffed and receives a salary from the state budget.

Thus, civil servants are individuals who are recruited or appointed to rank and hold positions or titles in competent agencies of the Communist Party of Vietnam, and socio-political organizations at district and provincial levels provinces, central government, or agencies of the People’s Army (not officers, defense workers, professional soldiers), and public non-business units, which are staffed and receive salaries from the state budget.

In simple terms, we can understand that officials or civil servants are only individuals who work at State or public agencies and organizations and are on payroll and receive salaries from the budget.

Concept of Official

The concept of the office is also specified in Article 2 of the Law on Civil Servants (2010) and the Law amends and supplements a number of articles in the Law on Civil Servants and the Law on Officials (2019) as follows: “Officials are Vietnam citizens may be recruited by job position, work at a public non-business unit under the working contract regime, and receive a salary from the salary fund of the public non-business unit in accordance with the law. In there:

A public non-business unit is an organization established by a competent state agency, political organization, or socio-political organization in accordance with the law, has legal status and provides services. public administration, serving the state management.

Public non-business units include (i) Public non-business units which are assigned full autonomy in performing tasks, finance, organizational apparatus, and personnel (hereinafter referred to as public administrative units). established and assigned autonomy); (ii) Public non-business units have not been given full autonomy in performing tasks, finance, organizational apparatus, and personnel (hereinafter referred to as public non-business units that have not yet been assigned autonomy).

A working contract is a written agreement between a public employee or a person recruited as a public employee and the head of a public non-business unit on employment position, salary, remuneration regime, and working conditions. rights and obligations of each party.

Similarities and differences between civil servants and officials

From the above two concepts, we can see the similarity in some characteristics of civil servants and officials as follows:

First, about the conditions to become a civil servant and that officials must be Vietnam nationals

Second, candidates must be at least 18 years old and meet the conditions to become civil servants or officials.

Third, civil servants and officials both perform a number of specific tasks, regularly within the prescribed scope.

Fourth, be guaranteed to enjoy the salary, wages, and labor regime in accordance with the law

From the two concepts mentioned above, we can see that the difference between civil servants and official is clearly and specifically defined by Vietnam law in such criteria as specific about the mechanism of becoming a civil servant, officials; probation; rank; source of salary payment; working position; the form of discipline; nature of work; employment contract and social insurance. Shown in detail in Table 1.

Table 1. Comparison of differences between civil servants and official

| Order | Comparative Criteria | Civil Servant | Officials |
|-------|---------------------------------------|--|--|
| 1 | Mechanism of Becoming a civil servant | Civil servants must be in Vietnam, and become civil servants in the form of recruitment, appointment, and holding titles according to a term of office. | Officials must be Vietnam citizens and become an official through recruitment for a job position |
| 2 | About the training time | For civil servants, the probationary period is specified separately for each rank and rank according to the Government's regulations. | The officials will have a probationary period specified in the working contract from about 3 to 12 months. |
| 3 | About rank | Civil servants are divided into different ranks | The officials are classified by professional titles |
| 4 | Workplace | Civil servants working in agencies of the Communist Party of Vietnam, the State, and socio-political organizations at central, provincial, district, district, and town levels. Civil servants working in agencies and units of the People's Army, People's Public Security and not in the case of officers, professional soldiers, defense workers, officers, and non-commissioned officers serving under | The officials working in public non-business units under the working contract regime. |

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|---|--------------------------|---|---|
| | | the professional regime, public security workers, on the payroll and receiving salaries from the state budget, | |
| 5 | Source of salary payment | For civil servants, salaries are paid by the state budget | For officials, salaries are paid from the salary fund of public non-business units |
| 6 | Disciplinary forms | Civil servants may be disciplined in the following forms: reprimand, warning, salary downgrade, demotion, dismissal, or forced resignation. | The officials may be disciplined in the following forms: reprimand, warning, dismissal, forced resignation, and may also have their professional activities restricted. |
| 7 | Nature of work | Civil servants: working without a contract. Working on a permanent basis for life | The officials: perform work according to the contract regime |
| 8 | Contract work | Civil servants: working without a contract. Working on a permanent basis for life | The officials: perform work according to the contract regime |
| 9 | Social insurance | Civil servants: no need to pay unemployment insurance | The officials: must pay unemployment insurance |

Source: Author's compilation

Legal Basis

Legal documents related to the officials:

Law on Official 2010 (Law No. 58/2010/QH12).

Circular 07/2019/TT-BNV stipulates the regime of statistical reporting and management of employee records (effective from July 15, 2019).

Decree 161/2018/ND-CP amending regulations on recruitment of civil servants, official, promotion of civil servant ranks, promotion of official, and implementation of contract regimes for certain types of work in state administrative agencies, and business units-public.

Decree 88/2017/ND-CP amending Decree 56/2015/ND-CP on assessment and classification, of civil servants, and officials.

Decree 56/2015/ND-CP on assessment and classification, of civil servants and officials.

Guideline 1326/HD-UBDT 2015 on assessment and classification of officials issued by the Committee for Ethnic Minority Affairs.

Circular 15/2012/TT-BNV guiding the recruitment, signing of working contracts, and compensation for training and retraining expenses for officials.

Circular 03/2019/TT-BNV amending regulations on recruitment of civil servants and officials, raising the rank of civil servants, promoting professional titles of officials, and implementing the contract regime for a number of jobs in the organization. State administrative agencies, public non-business units.

Circular 01/2018/TT-BNV guiding Decree 101/2017/ND-CP on training and retraining, civil servants and official.

Decree 101/2017/ND-CP on training and retraining, civil servants and officials.

Circular 36/2018/TT-BTC guides the estimation, management, use, and settlement of funds for training and retraining, civil servants and official.

Decision 323/QD-BTC in 2019 correcting Circular 36/2018/TT-BTC guiding the estimation, management, and use of funds for training, and retraining, civil servants, and official.

Circular 10/2017/TT-BNV on regulations on assessment of training quality, civil servants, and officials.

Circular 04/2015/TT-BNV amending Circular 15/2012/TT-BNV guiding recruitment, signing working contracts, and compensation for training and retraining expenses for officials.

Decree 24/2010/ND-CP on recruitment, employment, and management of civil servants.

Legal documents related to civil servants:

Law on civil servants (Law No. 22/2008/QH12).

Resolution No. 1130/2016/UBTVQH13 dated January 14, 2016, on criteria and conditions for establishing the Ethnic Minority Committee of the People's Council of the province, district, town, and city under the province.

Decree 06/2010/ND-CP dated January 25, 2010 stipulating who are civil servants.

Decree 18/2010/ND-CP dated March 5, 2010, of the Government on training and fostering civil servants (Replaced by Decree No. 101/2017/ND-CP).

Decree No. 21/2010/ND-CP dated March 8, 2010, stipulates the management of civil servant payrolls.

Decree 24/2010/ND-CP dated March 15, 2010, stipulates civil servants' recruitment, employment, and management.

Decree 46/2010/ND-CP dated April 27, 2010, on severance and retirement procedures for civil servants.

Decree 67/2010/ND-CP dated June 15, 2010, stipulates regimes and policies for people who are not old enough for re-election or re-appointment to hold positions and titles according to terms in Communist Party agencies. property of Vietnam, the State, and socio-political organizations (Replaced by Decree 26/2015/ND-CP).

Decree 93/2010/ND-CP dated August 31, 2010, of the Government amending a number of articles of Decree No. 24/2010/ND-CP.

Decree 34/2011/ND-CP dated May 17, 2011, on disciplinary handling of civil servants.

Decree 66/2011/ND-CP dated August 1, 2011, stipulates the application of the Law on civil servants to the titles of leaders and managers of one-member limited liability companies owned by the State and owned by the State. the person appointed to represent the owner of the State's capital in the State-contributed enterprise.

Decree 112/2011/ND-CP dated December 5, 2011, on civil servants in communes, wards, and townships.

Circular 01/2018/TT-BNV dated January 8, 2018, guiding a number of articles of Decree No. 101/2017/ND-CP dated September 1, 2017, of the Government on training and retraining of civil servants, officials.

Circular 04/2018/TT-BNV dated March 27, 2018, guides the authority and procedures for appointment, re-appointment, dismissal, replacement, and allowances for work responsibilities of the chief accountant, in charge of accounting units in the field of state accounting.

3. Results and Discussion

What Is Discipline? Characteristics of Discipline, Forms of Manifestation of Discipline

What is discipline?

Referring to discipline, we often understand that it is a mandatory rule for members of an organization, to ensure the integrity of the organization or simply the rules set by individuals for themselves to train themselves in their study, work as well as life. In practice, we must have heard about Party member discipline, military discipline, military discipline, civil servant discipline, labor discipline, student discipline, student discipline or self-discipline, etc.

According to the Vietnam 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 compliance with those regulations" (National Assembly, 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 violation of the law. subject to disciplinary action in accordance with the law.

But in the most general sense, "discipline" is the rules built on the basis of legal regulations, and social ethics, set by agencies and organizations to create a common behavioral framework in a collective to maintain stability and order in order to achieve the best efficiency in management, work, labor, and training. Discipline can also be set by individuals for themselves in order to create their own training, living, and learning principles toward the set goals.

Discipline features

It is not automatic that discipline needs to be imposed if it does not bring certain benefits and values to the initiator and the person subject to the adjustment. A disciplined individual will be an important factor in creating discipline in the agency or organization where he or she works or studies. But in real life, not every individual can train himself to be disciplined. Therefore,

when living and working together to create a disciplined community, organization, or agency, common discipline is required. From that perspective, discipline has the following characteristics:

Discipline is built on the basis of legal regulations and social ethics.

Discipline set forth in an agency or organization is mandatory for the subject to regulation;

Discipline in agencies and organizations operating in different fields will be different;

Discipline is only acquired through individual consciousness and training.

Manifestations of discipline

Discipline must always be expressed in the form of a code of conduct, at agencies and units and will have to be expressed in writing and presented in detail. For example, labor discipline is promulgated in the internal labor regulations of the enterprise, which clearly defines issues related to working time, technology, management and administration processes, and violations of discipline. and corresponding penalties.

For individuals, discipline may not need to be expressed in writing, but it is in consciousness, thinking, living, and working principles. For example: always work with a plan, stick to the plan; always be on time by being earlier; manage their own time well; keep a positive, upbeat attitude.

Discipline Civil Servants and Officials in Accordance with Vietnam Law

Similarities in the discipline of civil servants and officials according to the provisions of Vietnam law:

Decree No. 112/2020/ND-CP stipulates the principles of disciplinary action; the application of disciplinary measures corresponding to the violations; competence, order, and procedures for disciplinary handling of civil servants and officials. This Decree applies to state administrative agencies, full-time People's Council deputies, civil servants, officials, retired civil servants, and officials.

Disciplinary handling is based on the principle that "Each violation act is handled only once with a form of discipline. At the same time, considering disciplinary action, if the civil servant or public employee has at least 02 violating acts or more, they will be disciplined for each violation and apply a discipline heavier than one level applied to the most serious violation, unless Disciplinary action shall be taken in the form of dismissal or forced termination of

employment; failing to separate each violation content of a civil servant or public employee for repeated disciplinary action with different forms of discipline.

In case civil servants and officials who are in the process of executing disciplinary decisions continue to commit violations, the following disciplinary measures will be applied: If there are violations, they will be disciplined in light of them or equal to the current disciplinary action, a disciplinary action that is one level heavier than the current disciplinary action will be applied. If there is a violation that is disciplined in a more severe form than the currently being disciplined form, a more severe disciplinary form than the one applied to the violation will be applied. new. In addition, the form of administrative sanction or the form of party discipline in place of administrative discipline shall not be applied; administrative discipline is not a substitute for criminal prosecution if the violation is serious enough to be criminally handled. Civil servants and officials who commit violations for the first time and have been disciplined but within 24 months from the effective date of the disciplinary sanctioning decision have the same violations, they shall be considered recidivism; after 24 months, such violation is considered a first violation but is counted as an aggravating circumstance when considering disciplinary action, etc.

The case has not been considered for disciplinary action. Both civil servants and official are subject to the following regulations:

Civil servants and official in the following cases are temporarily not considered for disciplinary action, including:

Civil servants and official who are on annual leave, leave according to regimes, take separate leave permitted by competent authorities.

Officials and official who are undergoing treatment for a serious illness or are losing their cognitive ability; seriously ill and are being treated as inpatients at a hospital certified by a competent health authority.

Civil servants and official are women who are pregnant, are on maternity leave, are raising children under 12 months old, or are male (in case of wife's death or for objective reasons, any other resistance) are raising children under 12 months old.

Civil servants and official who are being prosecuted, held in custody, or temporarily detained pending conclusions of competent agencies in investigating, prosecuting, and adjudicating violations of law, except for cases under decisions of competent authorities. permission.

Shorten the time for the public announcement of conclusions of competent authorities on injustice and wrongdoing of civil servants:

Decree No. 112/2020/ND-CP has also shortened the time for the public announcement of conclusions of competent authorities when disciplining civil servants with injustice or wrongdoing from 30 days according to the old Decree to 10 working days. Specifically, Clause 4, Article 39 of Decree No. 112/2020/ND-CP stipulates as follows:

A decision on disciplinary action against a civil servant, public employee, or public employee who has been concluded by a competent agency, organization, unit, or court as being unjustly or wrongly committed is within 10 working days from the date of issuance of the written conclusion of the competent agency, organization, or unit or from the effective date of the court's decision, the head of the agency, organization, or unit where the employee works is responsible for announcing it. publicize it at the agency, organization, or unit where the civil servant is working. In case a disciplinary decision has been issued according to the conclusion of the appellate judgment and there is no conclusion of the competent authority, the victim is unjustly accused, wrong but then there is a change in the punishment in the new judgment according to the provisions of the procedural law, the handling of the issued disciplinary decision shall be considered and decided by the competent authority to handle discipline.

Dead civil servants and official are exempt from discipline:

Decree 112/2020/ND-CP applies to both civil servants, so the exemption from disciplinary responsibility for these subjects also has many new contents. Specifically, Article 4 of Decree 112/2020/ND-CP lists 04 cases exempt from disciplinary responsibility, including:

- Having been certified by a competent authority on the state of loss of civil act capacity when committing violations (inheriting the provisions in Clause 1, Article 5 of Decree No. 34/2011/ND-CP dated May 17, 2011);

Civil servants must comply with the decisions of their superiors specified in Clause 5, Article 9 of the Law on Cadres and Civil Service 2008 (inheriting the provisions in Clause 2, Article 5 of Decree No. 34/2011/ND-CP dated May 17, 2011);

Being certified by a competent authority in an urgent situation, due to a force majeure event or an objective obstacle in accordance with the provisions of the Civil Code when performing official duties (previously, Clause 3, Article 5 of Decree No. 34/2011/ND-CP only stipulates that civil servants who are certified by competent authorities to have violated the law in a force majeure situation when performing official duties shall be exempt from disciplinary responsibility);

Civil servants and official have committed violations to the point of being disciplined but have died (this is a completely new regulation added to the provisions of Decree No. 34/2011/ND-CP).

Differences in the discipline of civil servants and officials according to the provisions of Vietnam law

On the basis of studying legal documents that are still valid, researching, analyzing, and evaluating, this study points out the different points in the discipline of civil servants and officials according to the provisions of Vietnam law. The results are clearly shown in Table 2.

Table 2. Differences in the discipline of civil servants and officials according to the provisions of Vietnam law

| Order | Comparative Criteria | Civil Servant | Officials |
|-------|---|---|--|
| 1 | Forms of disciplinary action | For civil servants who do not hold leadership and management positions, there are 4 forms of disciplinary action, including reprimand, warning, salary reduction, and forced resignation. | For officials who do not hold managerial positions, there are three forms of disciplinary action, including reprimand, warning, and dismissal. |
| 2 | In case of applying the disciplinary form of forced termination of work | For civil servants holding leadership and management positions, there are 5 forms of disciplinary action, including reprimand, warning, demotion, dismissal, and forced dismissal. | For managerial officials, there are 3 forms of disciplinary action, including reprimand, warning, dismissal, and forced dismissal. |
| 3 | Handling retirement procedures for cases being considered for | Article 38 of Decree No. 112/2020/ND-CP clearly states that: an officer who commits a law violation is in the process of being considered for disciplinary | While according to the old regulations in Clause 1, Article 22 of Decree 34/2011/ND-CP, it is stated: "In case a public employee is on leave from work waiting for |

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|--|---------------------|--|--|
| | disciplinary action | action or is in the disciplinary period or is being investigated. investigating, prosecuting, and adjudicating, but reaching retirement age, they still carry out procedures for enjoying retirement benefits. | retirement procedures but is found to have committed illegal acts in the During the period of official duty, the agency, organization or unit shall stop the settlement of retirement procedures until the date of a disciplinary decision or a conclusion that the civil servant has not violated the law of the person competent to handle the retirement discipline”. |
|--|---------------------|--|--|

Source: Author's compilation

Some Inadequacies in the Law on Disciplining Civil Servants and Officials

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 cadres' work completion.

The current documents have not created a legal framework for the serious assessment of job performance, 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 officials has not really been based on the 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 needed to ensure concentration and unity.

According to the Ministry of Home Affairs, 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 yet been detected. to the extent that criminal handling is difficult 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.

A part of cadres and civil servants also has the idea of “safe landing” leading to superficiality and irresponsibility in the process of performing official duties.

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 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 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 statute of limitations for Party members. 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 Recommendations

Regarding disciplinary matters for officials: Similar to the content of discipline for officials, regulations related to disciplinary action for employees who have retired or moved out of the public service area In public industry, the form of disciplinary action and the statute of limitations for disciplining official also need to be revised to ensure synchronization between the Party’s discipline and the State’s discipline. Therefore, it is necessary to amend and supplement. stipulates the discipline of officials according to the conclusions of the Central Committee, which is clearly shown in Articles 53 and 56 of the Law on Officials.

Regarding disciplinary actions: Decree No. 112/2020/ND-CP clearly states that the principle of disciplinary action is objective and fair; transparency; strictly, according to the law. Each violation is handled only once by a form of discipline. At the same time considering disciplinary action, if a civil servant or public employee commits 02 or more violations, he/she will be disciplined for each violation and apply a more severe form of discipline. compared with the form of discipline applied to the heaviest violation, except for the case of being disciplined in

the form of dismissal or forced dismissal; failing to separate each violation content of cadres, civil servants, and officials in order to be disciplined many times with different forms of discipline.

In case a civil servant or public employee who is in the process of executing a disciplinary decision continues to commit violations, he (she) shall be disciplined in a form lighter or equal to the currently being disciplined form, the penalty shall be applied. disciplinary action is one level heavier than the current discipline; If there is a violation that is disciplined in a more severe form than the currently being disciplined form, a more severe disciplinary form than the one applied to the violation will be applied.

When considering disciplinary action, it must be based on the content, nature, extent, harm, cause of the violation, aggravating or mitigating circumstances, the attitude of acceptance and correction, and remedial action, violation, and consequences that have been caused. Civil servants and officials who commit violations for the first time and have been disciplined but within 24 months from the effective date of the disciplinary sanctioning decision have the same violations, they shall be considered recidivism; beyond the time limit of 24 months, such violation is considered a first-time violation but is counted as an aggravating circumstance when considering disciplinary action.

Do not apply administrative sanctions or party discipline in place of administrative discipline; Administrative discipline is not a substitute for criminal prosecution if the violation is serious enough to be criminally handled. In case civil servants and official have been disciplined by the Party, the form of administrative discipline must be ensured at a level commensurate with the Party's discipline. Within 30 days from the date of publication of the decision to discipline the Party, agencies, organizations, and units must consider and decide on administrative disciplinary handling.

4. Conclusion

The above analysis shows that discipline for civil servants and officials is a form of legal responsibility applied to civil servants with regulations on the obligations of civil servants and officials; internal rules and regulations of agencies, organizations, and units; violate ethics, lifestyle, or violate other laws while on duty. Disciplinary responsibility for civil servants and officials is a regulation of administrative law. Violations are considered and disciplined by civil servants, depending to a certain extent, have disrupted the order of public service activities,

damaging the reputation of the contingent of cadres and civil servants be handled in accordance with the law, thereby improving the quality of the contingent of civil servants and official in order to improve the effectiveness and efficiency of state management activities.

Finding the points, similarities, and differences between civil servant discipline and public employee discipline in accordance with Vietnam law allows legislators to have more grounds to analyze and supplement provisions accordingly with the reality of Vietnam's civil service and administration, avoiding overlapping laws, causing waste of resources in the process of operating the country's civil service and administration.

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