MINISTRY OF EDUCATION AND TRAINING

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HANOI LAW UNIVERSITY

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SOCIALISATION OF CIVIL JUDGMENT ENFORCEMENT IN VIET NAM

Summary of the thesis of Doctor of juristic science

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2. Assoc.Prof.Dr. Nguyen Thi Thu Ha

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Scientific instructors: 1**.** ***Dr. Nguyen Cong Binh***

2. Assoc.Prof.Dr. Nguyen Thi Thu Ha

Refferee 1:……..

Refferee 2:……

Refferee 3:……

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INTRODUCTION

1. The urgency of the topic

Civil judgment enforcement plays an important role in the process of resolving cases, particularly in the judiciary's activities as a whole. The court's verdicts and decisions are only paper decisions if they are not enforced in practice. Socialization of civil judgment enforcement (SJCE) is the mobilization of individuals and private organizations that meet certain conditions as prescribed by law to participate in the process of organizing civil judgment enforcement. SJCE is the transfer of the task of civil judgment enforcement from the state to subjects in society to carry out, thereby overcoming the overload of the state machinery and freeing the state from specific tasks to focus on management activities. This will help reduce the workload and costs from the state budget[1].

From the above analysis, the researcher recognizes that SJCE is an urgent issue, so they have chosen the topic "*Socialization of civil judgment enforcement in Vietnam*" as their research topic.

2. The purpose of this research

The purpose of this research is to clarify theoretical issues related to the socialization of civil judgment enforcement in Vietnam, evaluate the legal framework and practical implementation of SJCE in Vietnam, identify the model of civil judgment enforcement in Vietnam in the near future, and propose solutions to improve the implementation of SJCE based on theoretical issues and practical implementation.

3. The research tasks of the topic are

- Conduct a general overview of related research issues to identify the thesis's inheritable issues and determine the issues that need further research.

- Analyze the concept, characteristics, nature, significance, scientific basis, and content adjustment of the law and identify the factors affecting socialization of the asset management and disposal system in Vietnam.

[1] Currently, every year the state maintains a civil judgment enforcement system with one central agency, the General Department, and 63 civil judgment enforcement departments in 63 provinces and centrally-run cities, as well as over 700 civil judgment enforcement divisions at the district level, with approximately 9,800 officers and employees receiving salaries from the state budget.

- Analyze and compare with theory to evaluate the current regulations of Vietnamese law on asset management and disposal system.

-The topic seeks solutions and proposes specific recommendations to improve the law on asset management and disposal system to better ensure the legitimate rights and interests of subjects and enhance the effectiveness of the asset management and disposal system in Vietnam.

4. Object and scope of the topic's research

4.1. Object of research

The object of research is theoretical issues related to the asset management and disposal system such as the concept, characteristics, nature, significance, scientific basis of the asset management and disposal system, the legal reality, and practice of implementing the asset management and disposal system in Vietnam, and the direction and solution for implementing and improving the asset management and disposal system.

4.2. Scope of research

The asset management and disposal system are a topic with many different contents, approached quite widely. However, within the scope of the research topic, the researcher focuses on analyzing the organization and activities related directly to the asset management and disposal system, including the organizational and operational structures of the asset management and disposal system (such as asset auction, asset valuation, etc.) and the legal system governing these activities.

- SJCE includes the combination of socialisation organization and ECJ operation. However, the thesis focuses on analyzing the organization of socialisation and its direct involvement in ECJ activities, while the socialization of organizations and support activities for ECJ (such as asset auctions, asset valuation, asset preservation, and custody during the enforcement of judgments...) will be further studied when conditions permit.

- Regarding the activities of the Bailiff, Postgraduate only focuses on analyzing three main activities of the Bailiff, which are: delivering documents, verifying conditions for the enforcement of judgments, and organizing the enforcement of

court judgments and decisions. As for the "certificate issuance" activity, although it is also a task performed by the bailiff, it will not be studied in this thesis because the research subject is socialisation within ECJ. Meanwhile, certificates are a source of evidence for the court to consider when resolving civil and administrative cases according to the provisions of the law. Therefore, the certificate issuance activity of the bailiff will not be within the scope of the research of the thesis.

5. Research methodology of the thesis

- The research on the topic is conducted based on Marxist-Leninist methodology and the thoughts of Ho Chi Minh on the State and Law, the viewpoints and policies of the Party and the State on judicial reform in Vietnam.

6. The scientific and practical significance of the topic

- The thesis is the first scientific research work that deeply and systematically studies the fundamental theoretical issues of SJCE.

- The thesis analyzes and evaluates comprehensively the current legal situation of SJCE in Vietnam, thereby analyzing the advantages and disadvantages as well as the causes of these limitations in the legal regulations on SJCE.

- The thesis evaluates the effectiveness of the bailiff model which has been implemented and put into practical operation in the recent time.

- The thesis seeks solutions and proposes recommendations to improve the legal regulations on SJCE and enhance the effectiveness of implementing the SJCE law.

7. The new points of the thesis

The first, aspect of this thesis is to establish some fundamental theoretical issues regarding the socialization of civil enforcement, including the concept, characteristics, essence, significance, scientific basis, and content of the socialization of civil enforcement.

The second, aspect of this thesis is to comprehensively analyze and evaluate the current status of the legal system of socialization of civil enforcement in Vietnam, and to analyze the advantages and disadvantages as well as the causes of the limitations in the regulations of the law on socialization of civil enforcement.

The third, aspect of this thesis is to evaluate the practical implementation of the law on socialization of civil enforcement, identify the limitations and drawbacks in the process of implementing the socialization of civil enforcement, analyze the achievements, limitations, and causes of it in practice.

The fourth, aspect of this thesis focuses on studying the contents of socialization of civil enforcement, including the socialization of civil enforcement organizations and the socialization of civil enforcement activities.

Finally, this thesis proposes recommendations to improve the legal regulations on socialization of civil enforcement and enhance the effectiveness of implementing the law on socialization of civil enforcement. These are new recommendations based on scientific evidence and reasoning, consistent with the orientation of judicial reform, and contribute to improving the effectiveness of civil enforcement and protecting the legitimate interests of agencies, organizations, and individuals in society.

8. The structure of the topic

In addition to the introduction, an overview of the research issue, conclusion, reference list, and appendix, the topic is presented with the following structure consisting of 03 chapters:

Chapter 1: Theoretical issues on the socialization of civil enforcement.

Chapter 2: Current legal situation and practical implementation of the current Vietnamese law on the socialization of civil enforcement;

Chapter 3: Directions and recommendations to improve the effectiveness of socialization of civil enforcement in Vietnam.

OVERVIEW OF THE RESEARCH ISSUE

1. SCIENTIFIC RESEARCH WORKS RELATED TO THE TOPIC

1.1. Scientific research works in Vietnamese language.

1.1.1. Scientific research projects and topics.

- Scientific research project funded by the Ministry: "*Theoretical foundations and practices of legislation*", Code: 95-98-114/ĐT), Institute of Legal Science Research, Ministry of Justice, 1996 by lead researcher Nguyen Duc Chinh.

- State-funded scientific research project: "*Theoretical foundations and practices of reforming organization and activities of enforcement of judgments in Vietnam in the new phase*" by Institute of Legal Science Research, Ministry of Justice, in 2001 with lead researcher Nguyen Dinh Loc.

- Basic-level scientific research project: "*Improvement of ECJ legal system"* by the Hanoi Law University in 2004, with lead researcher Nguyen Cong Binh.

- The research project at the fundamental level: "*New points of the 2008 Civil Procedure Code"* conducted by the Hanoi Law University in 2008, led by Bui Thi Huyen.

- The scientific research project "*Surveying and evaluating the socio-economic impacts of piloting the Law on BAILIFF in some provinces and cities",* conducted by the Institute of Legal Science, Ministry of Justice in 2016, led by Nguyen Van Hien.

- The research project at the Ministry level: "*Identifying major policy orientations to serve the construction of the bailiff Law*", conducted by the Institute of Legal Science - Ministry of Justice in 2017, led by Duong Thi Thanh Mai.

1.1.2. Thesis, dissertation, book, textbook

- The doctoral dissertation in law *"Improving the current ECJ legal system in Vietnam"* by Nguyen Thanh Thuy, defended at the Ho Chi Minh National Academy of Politics and Public Administration in 2008.

- The doctoral dissertation in law "*ECJ law in judicial reform in Vietnam*" by Chu Thi Hoa, defended at the Vietnam Academy of Social Sciences in 2016.

- The doctoral dissertation in law *"The current BAILIFF law in Vietnam*" by Huynh Duc Thai Lam Hoang, successfully defended at the Vietnam Academy of Social Sciences in 2019.

- The article "*Socialisation legal services in Areas under the Management of the Ministry of justice - current situation and Solutions for Improvement*" by Tran Thu Huong, published in the Journal of Democracy and Law, Issue 8 (257) in August 2013, pp. 28-31.

- The article "*Socialisation in some judicial activities and the implementation of piloting bailiff*" by Nguyen Van Son, published in the Journal of Democracy and Law, Special Issue "BAILIFF legislation" in 2014, pp. 26-33.

- Article: "*Historical value, political perspective - legal provisions on bailiff*", Democracy and Law Journal, Ministry of Justice, Special Issue 2014 by Associate Professor Ha Hung Cuong.

- Article: "*The Necessity of Enacting the Law on Socialisation and its main contents*", Legislative Research Journal, Issue 24 (304), 12/2015, pp. 24-28 by author Le Van Hoe.

- Article: "*Developing the bailiff profession towards socialisation in supporting areas of judicial assistance*", Democracy and Law Journal, Special Issue 11/2016, pp. 2-8 by the Department of Judicial Support, Ministry of Justice.

- Article: "*Some contents about bailiff*", Democracy and Law Journal, Special Issue 11/2016, pp. 9-13 by author Nguyen Van Lang.

- Article: "*Solutions to enhance the effectiveness of state management in bailiff activities*", Democracy and Law Journal, Special Issue 11/2016, pp. 14-19 by author Chu Van Khanh.

1.2. Research works in foreign languages

- The book: "*Court Delay and Law Enforcement in China - Civil process and economic perspective*" by author Qing-Yun Jiang, published by Gabler edition Wissenschaft in 2005.

- The book: *"Handbook of bailiff: Training and practical guide"*, by a group of authors edited by Ed. Gureeva VA, "Statute" 2011 "www.consultant.ru, in 2015.

- Seminar document *"bailiff legislation*", Nicolas Monachon Duchene, Vice President of the Court of Appeals of Rennes, France, Draft ECJ Law seminar documents (translated version), Vietnamese-French lawyer, Hanoi 24-25/9/2008, pages 35-38.

- Seminar document "Legal Information on ECJ of some countries", Ministry of Justice, Reference materials for the construction of the Civil Enforcement Law; Government, ECJ Law Project (documents submitted to the National Assembly), 2008.

- Document of The Legal Partnership Forum in 2012: "*Strengthening Legal and Judicial Reform in Vietnam", Government of Vietnam - United Nations Development Programme, Legal Partnership Forum 2012: "Strengthening Legal and Judicial Reform in Vietnam".*

- Article: *"The Estonian Universal Enforcement Procedure and the Bailiff as the Taker of Procedural Decisions*" by author Anneli Alekand, published by Juridica International in 2008.

2. EVALUATION OF SCIENTIFIC RESEARCH WORKS RELATED TO THE DISSERTATION TOPIC

2.1. Evaluation of scientific research works that have been published related to the theoretical issues of socialization of civil judgment enforcement in Vietnam

2.1.1. Regarding the concept of socialization of civil judgment enforcement.

The author Tran Anh Tuan *Completed the ECJ law*[2], conducted by the Hanoi Law University in 2004; Ta Quynh Anh in the master's thesis *"The current status of socialization of civil judgment enforcement in Vietnam*"[3]. *"*. When studying the concept of socialization of civil judgment enforcement, most authors agree that it is "*the transfer of some or all of the tasks of judgment enforcement to individuals or organizations that meet the conditions stipulated by law".*

2.1.2. Regarding the characteristics of socialization of civil judgment enforcement

[2]Nguyễn Công Bình (head researcher), Improving the THADS Legal System, School-level Scientific Research Project, 2004, p. 166.

[3] Tạ Quỳnh Anh (2015), Socialization of Civil Enforcement in Vietnam Today, Master's thesis in Law, 2015, p.7."

Author Luu Binh Nhuong in "*Socialisation enforcement of ECJ in the current context*" states that socialisation enforcement of judgments has three characteristics: The state transfers its enforcement tasks (criminal, civil, administrative) to organizations and individuals in society who meet the legal requirements; The state still retains the right to manage enforcement activities; Enforcement of judgments by socialisation has the nature of a public service.

2.1.3. Regarding the significance of socialization of civil judgment enforcement

Master Dinh Duy Bang in the article *"Socialisation enforcement of ECJ, benefits, models, and state management"* published in the Democracy and Law journal, special issue September 2011, 2011; author Le Xuan Hong analyzes in the master's thesis "*SJCE"*, Hanoi Law University, 2001, page 17,18; author Nguyen Duc Chinh in the special issue "*socialisation ECJ activities- some theoretical and practical issues*" published by the Institute for Legal Science Research - Ministry of Justice, issue 5/2001, page 123,124; author Nguyen Thanh Thuy in the doctoral dissertation *"Completing ECJ laws in Vietnam today*", Ho Chi Minh National Academy of Politics, 2008, pages 166-167; author Chu Thi Hoa in the doctoral dissertation "*ECJ laws in judicial reform in Vietnam"*, Vietnam Academy of Social Sciences, 2016, pages 132-133.

2.1.4. Regarding the content of socialization in the enforcement of civil judgments

Firstly, regarding the organization of socialized enforcement of civil judgments (ECJ): According to author Nguyen Thanh Thuy[4], there are three options for the model of organizing the enforcement of judgments. *Secondly*, regarding the scope of socialized enforcement: author Nguyen Thanh Thuy has proposed two options for socialized enforcement of civil judgments; lawyer Truong Thi Hoa, in her speech "Alternative dispute resolution in the process of socialization of ECJ," also affirmed: "In the field of justice, some activities can be socialized to improve the effectiveness and quality of serving the legitimate and legal rights and interests of citizens, including ECJ activities." According to Master Le Xuan Hong "Some

[4] Nguyen Thanh Thuy (2008), Improving the legal system of THADS in Vietnam today, Doctoral dissertation in Law, National Political Academy, Hanoi.

thoughts on socialized enforcement of judgments"[5], published in the journal Democracy and Law, he proposed the viewpoint that "Socialized enforcement of civil judgments needs to be synchronized and have a suitable roadmap."

2.1.5. ***Regarding the scientific basis for socializing the enforcement of civil judgments***

Articles "Issues of Socializing the Enforcement of Civil Judgments , " by Master Tran Anh Tuan, pages 59-60; "Socializing the Enforcement of Civil Judgments *S*"[6], " by Le Xuan Hong, pages 15-18; "Socializing the Enforcement of Civil Judgments in Vietnam Today"[7], " by Ta Quynh Anh, pages 12-18; "Judicial Work on the Enforcement of Civil Judgments in the Current Context" by Luu Binh Nhuong, Specialized Topic of the Ministry-level research project "Determining the major policy directions to serve the construction of the Law on Enforcement of Judgments", chaired by Duong Thi Thanh Mai in 2017.

2.2. Evaluation of published research on the current legal situation and practical implementation of socialization of civil judgment enforcement.

2.2.1. Evaluation of the current legal situation and practical implementation of socialization of civil judgment enforcement organizations.

Author Do Thu Thuy in "Specialization on BAILIFF, on the organization and operation model of BAILIFF" from pages 136-149, 1996; Nguyen Duc Chinh, in the book "Organization of BAILIFF", Justice Publisher, 2006; Vu Hoai Nam, in the book "Organization and Operation of BAILIFF in Vietnam today", Justice Publisher, 2013; Le Xuan Hong, in the article "Organization and Operation Model of BAILIFF", pages 34-43 and Nguyen Van Lang, in the article "Some contents about BAILIFF", pages 90-98 published in the journal "Democracy and Law", Special Issue on Legislation, Justice Publisher, 2016. In addition, the content of the master's theses of authors Le Xuan Hong Hồng[8], Nguyen Thanh Thu Thư[9], Ta Quynh Anh

[5]Le Xuan Hong's "Some thoughts on socialization of civil judgment enforcement" published in the journal "Democracy and Law" in 2008, page 20

[6] Le Xuan Hong (2001), "XHHTHADS", master's thesis in law, Hanoi Law University, pp. 15-18.

[7] Ta Quynh Anh (2015), "XHHTHADS in Vietnam today", master's thesis in law, Hanoi Law University, pp. 11-17.

[8] Le Xuan Hong (2001), XHHTHADS", master's thesis in law, Hanoi Law University.

[9] Nguyễn Thanh Thư (2014), "The Model of Organization and Operation of People's Courts at the Grassroots Level - Some Theoretical and Practical Issues", Master's thesis in Law, 2014, Hanoi Law University

Anh[10], Nguyen Minh Thuy Thùy[11] in Chapter 2 also mentions the organizational model of bailiff.

2.2.2. Evaluating the current status of legal implementation and practical implementation of socialization of civil judgment enforcement activities.

The project "Surveying and evaluating the economic and social impacts of piloting the bailiff provisions in some provinces and cities" (hereafter referred to as the Project) was assigned to the Institute of Legal Science to lead and carry out in two years from 2014 to 2015. The scientific research work "Identifying major policy orientations to serve the construction of the BAILIFF law" by author Duong Thi Thanh Mai in 2017 (from pages 44-58) and the doctoral dissertation in Law on BAILIFF in Vietnam by author Huynh Duc Thai Lam Hoang in 2019 (from pages 75-109) are in-depth studies on BAILIFF after the effectiveness of Resolution 107/2015/QH13.

2.3. Evaluation of scientific research works related to directions and solutions to enhance the effectiveness of socialization in civil judgment enforcement.

2.3.1. Regarding the direction of socialization in the enforcement of civil judgments

The scientific research works of authors Nguyen Thanh Thu, Ta Quynh Anh, Huynh Duc Thai Lam Hoang, Duong Thanh Mai, Luu Binh Nhuong also have similar recommendations for expanding the scope of BAILIFF activities to correspond to restore this institution.

2.3.2. Regarding solutions to enhance the effectiveness of socialization in the enforcement of civil judgments: Authors Tran Cong Phan "Issues of socialization in the regulation of enforcement activities in the draft Law on Enforcement of Judgments ***[12];***"; Le Xuan Hong "Some thoughts on socialization in

[10] Ta Quynh Anh (2015), "XHHTHADS in Vietnam today", master's thesis in law, Hanoi Law University.

[11] Nguyễn Minh Thùy (2011), "The Model of Organization and Operation of People's Courts at the Grassroots Level - Some Theoretical and Practical Issues in Vietnam Today", Master's thesis in Law, 2011, Hanoi Law University.

[12]Trần Công Phàn (2006), "Issues of Socialization of Civil Judgment Enforcement Activities as Regulated in the Draft Law on Enforcement of Judgments," Journal of Prosecution, Issue 10 (5-2006), pp.21-23;

the enforcement of judgments[13].. " .. all agree that whether at this time or not, and most authors agree that socialization in the enforcement of civil judgments should be implemented, but there must be a reasonable roadmap.

3. REFERS TO THE RESEARCH QUESTIONS AND DIRECTIONS OF A GRADUATE STUDENT'S RESEARCH PROJECT ON "SOCIALIZATION OF CIVIL EXECUTION OF JUDGMENTS IN VIETNAM."

3.1. Hypothesis questions and orientation of the graduate research related to the theoretical issues of socialization in the enforcement of civil judgments in Vietnam.

Research question 1: What is socialization in the enforcement of civil judgments? How is socialisation understood in the context of the Vietnamese legal system?

Hypothesis 1: Currently, there are different perspectives and approaches to the concept of socialisation in Vietnam. These differences stem from the research perspectives, changes in socio-economic conditions, the views of lawmakers in each period, and have been analyzed in the evaluation of related works.

Research result 1: In addition to continuing to inherit the viewpoints of previous research works, such as "ECJ Law textbook" by Hanoi Law University; "socialisation ECJ - Some theoretical and practical issues" by Nguyen Duc Chinh, and the basic research topic "Improving ECJ Law" with the topic "Issues of socialisation in ECJ work" by Tran Anh Tuan, especially the new works published recently by authors Chu Thi Hoa, Duong Thi Thanh Mai, Huynh Duc Thai Lam Hoang. However, these works only introduce the concept of socialisation under the perspective of "enforcement" but not from the perspective of "organization". Therefore, the research project will focus on the idea that socialisation in the enforcement of civil judgments is the process where the state establishes and transfers certain tasks to individuals or non-state organizations to carry out.

[13]Lê Xuân Hồng (2006), "Some Thoughts on Socialization of Judgment Enforcement Activities," Journal of Democracy and Law, Special Issue June 2008.

Research question 2: How have the characteristics of the Socialization of Civil Execution of Judgments (SCEJ) been addressed in previous scientific studies?

Research hypothesis 2: Previous scientific studies have only focused on the significance of SCEJ, with little attention paid to its characteristics.

Research result 2: The research project identifies several characteristics of SCEJ, including the transfer of some tasks from the state agencies to private organizations and individuals, the continued leadership role of the state in SCEJ, and the dependence of SCEJ on socio- economic development.

Research question 3: What is the scientific basis for SCEJ? Should there be laws governing SCEJ?

Research hypothesis 3: During the research process, the project has found that it is necessary to establish laws governing SCEJ in the field of civil execution of judgments.

Research result 3: The scientific basis for SCEJ includes the following basic principles: the theory of civil obligations, the assurance of court decisions, the effectiveness of civil decisions in practice, the protection of human rights during the execution of judgments, the protection of legitimate interests of the parties involved in SCEJ, and the provision of public services in the field of civil execution of judgments economic development.

Research question 4: What are the contents of the law on the socialization of civil execution of judgments (SJCE) in Vietnam? How has it been studied in previous research, and how will it be further studied?

Research hypothesis 4: There are still different opinions about the content of organizational and operational aspects of socialisation in ECJ, as well as the theoretical and practical scope of SJCE.

Research result 4: The researcher will focus on analyzing the content of organizational and operational aspects of socialisation in ECJ, clarifying which tasks should be transferred and how they should be organized to effectively carry out the duties of ECJ.

3.2. Research hypotheses and directions of the graduate student's research related to the current status of the legal framework on the socialization of civil execution of judgments in Vietnam and its practical implementation.

Research question 5: What is the current situation of socialization of civil judgment enforcement in Vietnam? How are the legal regulations and practical implementations applied?

Research hypothesis 5: Up to the present time, there have been many studies on the difficulties and limitations in socializing civil judgment enforcement. These issues are mainly due to inadequate and weak legal regulations on socialization of civil judgment enforcement, lack of consistency, and lack of specificity.

Research conclusion 5: The researcher will study and analyze the legal regulations and practical implementation of the socialization of civil judgment enforcement in Vietnam. The study will focus on the following directions:

- The current state of legal regulations on the socialization of civil judgment enforcement in terms of organizational structure.
- The current state of legal regulations on the socialization of civil judgment enforcement in terms of operational activities.
- The practical implementation of legal regulations on the socialization of civil judgment enforcement in terms of organizational structure.
- The practical implementation of legal regulations on the socialization of civil judgment enforcement in terms of operational activities.

3.3. Research hypothesis and orientation related to the issue of improving the legal framework for the socialization of civil judgment enforcement in Vietnam

Research question 6: Given the identified shortcomings and limitations, what requirements and solutions are needed to address the difficulties related to the socialization of civil judgment enforcement in Vietnam from the perspective of legal regulations and practical implementation of the law?

Research hypothesis 6: Currently, socialization of civil judgment enforcement in Vietnam is still a relatively new issue, and therefore, there are still many challenges and limitations that cannot be completely solved during the implementation process.

Research outcome 6: The researcher proposes some solutions that can contribute to the improvement of the legal framework for socialization of civil judgment enforcement in Vietnam.

Regarding the requirements for socialization of civil judgment enforcement: Social organizations must not cause inconvenience to the people and should create mechanisms to encourage people's participation in civil judgment enforcement activities. Socialization of civil judgment enforcement must meet the requirements of market economy development and the trend of economic integration - internationalization. It must also meet the requirements of judicial reform of the Party and the State, and build a socialist rule-of-law state.

Solutions to enhance the effectiveness of socialization of civil judgment enforcement: Improve legal documents related to socialization of civil judgment enforcement; Develop and improve the institutional framework for judicial reform, while also issuing the Law on Judicial Administration soon; Strengthen state management of judicial administration; Establish private enforcement organizations with independent jurisdiction, but with certain conditions to ensure effective enforcement.

Regarding the direction of enhancing the effectiveness of socialization of civil judgment enforcement: Social organizations should participate in all civil judgment enforcement activities, but initially following the current model. When economic and social conditions permit, people's awareness and understanding improve, and the legal framework is affirmed, socialization of civil judgment enforcement should move towards comprehensive socialization.

Chapter 1

THEORETICAL ISSUES ON THE SOCIALIZATION OF CIVIL JUDGMENT ENFORCEMENT

1.1. DEFINITION, CHARACTERISTICS, AND SIGNIFICANCE OF SOCIALIZATION OF CIVIL JUDGMENT ENFORCEMENT

1.1.1. Definition of Socialization of Civil Judgment Enforcement:

The socialization of civil judgment enforcement (SJCJE) is a process in which the state gradually transfers the organization and operation of civil judgment enforcement activities to individuals and private organizations to enhance the effectiveness of judgment enforcement and meet the requirements of the market economy and international integration. This transfer occurs as these individuals and organizations meet the conditions and standards set forth by the law and are subject to state regulation.

1.1.2. Characteristics of socialization of civil judgment enforcement

Firstly, the socialization of civil judgment enforcement involves the establishment of private civil judgment enforcement organizations and support organizations to carry out tasks that were previously only done by state agencies.

Secondly, it involves the transfer of civil judgment enforcement tasks to individuals and private organizations.

Thirdly, the socialization of civil judgment enforcement must be linked to the state's management responsibility as well as the position, role, and responsibility of each subject in society when carrying out tasks with socialization characteristics.

Finally, the socialization of civil judgment enforcement is an objective necessity of the process of developing a market economy and integrating into the international economy, contributing to improving the efficiency of civil judgment enforcement as a public service

1.1.3. Significance of socialization of civil judgment enforcement

Firstly, the socialization of civil judgment enforcement provides opportunities for individuals and organizations to actively participate in enforcement activities,

promote their potential and creativity, and encourage proactive engagement of citizens.

Secondly, the socialization of civil judgment enforcement contributes to enhancing the position and role of the judicial authorities, promoting and ensuring the basic principles of judicial proceedings.

Thirdly, the socialization of civil judgment enforcement contributes to improving the efficiency of civil judgment enforcement activities.

Finally, the socialization of civil judgment enforcement helps to better protect the legitimate rights and interests of individuals and organizations, and contributes to the stability of social relationships.

1.2. THE SCIENTIFIC BASIS OF REGULATIONS ON CIVIL ENFORCEMENT SOCIALIZATION

1.2.1. The construction of regulations on civil enforcement socialization is based on the theoretical basis of civil obligations.

1.2.2. Ensuring the effectiveness of the enforcement of civil judgments and decisions.

1.2.3. Ensuring the rights and legitimate interests of individuals and entities in civil enforcement activities.

1.2.4. Meeting the demand for public services in civil enforcement activities.

1.3. THE ESSENCE OF SOCIALIZATION OF CIVIL JUDGMENT ENFORCEMENT

The essence of socializing civil judgment enforcement is gradually transferring the operation of civil judgment enforcement, which is currently monopolized by the State, to private organizations and individuals. This means gradually transforming the model of State enforcement of judgments to private enforcement, contributing to improving the effectiveness and efficiency of State management, as well as enhancing the effectiveness of civil judgment enforcement. It also promotes the role of private enforcement organizations in social life.

1.4. CONTENT OF CIVIL JUDGMENT ENFORCEMENT SOCIALIZATION

1.4.1. Content of socializing the organization of civil judgment enforcement

The socialization of civil judgment enforcement organizations is a solution to reform the organization and operation of the state's civil judgment enforcement system, mobilizing resources and increasing social responsibility for state activities. The central content is the transfer of the state's direct duties to social organizations, gradually reducing and transferring unnecessary tasks to individuals and organizations in society to unleash their potential.

1.4.2. The Content of Civil Execution Socialization

Firstly, socialization of civil execution involves the transfer of the state's direct responsibilities to social organizations, mobilizing resources, and strengthening social responsibility for state activities. Its core is to reduce and gradually transfer unnecessary tasks from the state to individuals and organizations in society, thereby unleashing the potential of individuals and organizations in society.

Secondly, the socialization of civil execution involves the verification of conditions for civil execution.

Thirdly, it involves the organization and implementation of civil judgments and decisions.

1.5. FACTORS AFFECTING THE SOCIALIZATION OF CIVIL ENFORCEMENT IN VIETNAM

The factors affecting the socialization of civil judgment enforcement in Vietnam include: political factors, economic and social conditions, public awareness, professional expertise, and ethics of those working in civil judgment enforcement.

CHAPTER 1 CONCLUSION

SJCE is one of the important solutions in the reform of the organization and operation of the State machinery to increase the responsibility of individuals, organizations and mobilize resources for the development of society. At the same time, the participation of organizations and individuals in the process of enforcing civil judgments is not a sharing of power, but rather a transfer of some of the tasks

that the State does not necessarily have to perform to organizations and individuals in society.

SJCE is when the State allows the establishment or transfer of some tasks that are not necessarily directly performed by the State to private enforcement organizations or individuals when they meet certain standards and conditions. In addition, the State still plays a leading role, manages through legal regulations and inspects the implementation. SJCE will contribute to improving the effectiveness of the judicial enforcement work, helping people have more positive tools to ensure their legitimate rights and interests in the process of enforcing judgments, and contributing to enhancing the role and position of the judicial system.

To make SJCE successful, it is necessary to determine the scope of judicial enforcement, which tasks are transferred, and which tasks are only directly organized and implemented by State agencies. How is the socialisation model organized? Is all the work transferred to organizations and individuals outside the State, or only some of it, and when to transfer is also a matter that needs to be determined. Therefore, identifying theoretical issues about the concept, characteristics, scientific basis, significance, and content of SJCE is a fundamental issue that needs to be addressed. The theoretical issues in this chapter will be an important premise for evaluating the legal reality and practical implementation, from which it will be the basis for proposing important solutions to improve the effectiveness of SJCE in Vietnam.

Chapter 2 THE CURRENT SITUATION OF SOCIALIZATION OF CIVIL JUDGMENT ENFORCEMENT IN VIETNAM

2.1. THE CURRENT LEGAL SITUATION IN VIETNAM REGARDING THE SOCIALIZATION OF CIVIL JUDGMENT ENFORCEMENT

2.1.1. The current legal situation in Vietnam regarding the socialization of civil judgment enforcement organizations

Since 2008 until now, in Vietnam, there have been two entities responsible for the civil enforcement of judgments (CEJ): the CEJ officers of the CEJ agency and the Inheritance Executors (IEs). Following the state's policy of gradually transferring CEJ operations to individuals and organizations to timely and properly enforce court judgments and civil decisions by legal regulations, the IE office is tasked with ensuring the legitimate rights and interests of parties, the interests of the state, and society as a whole.

As such, the IEs perform tasks such as delivering documents as required by the court or the CEJ agency, verifying the conditions for CEJ as requested by the parties, and directly organizing the CEJ of court judgments and decisions at the request of the parties. These tasks also fall under the jurisdiction of the CEJ officers.

2.1.2. The current state of Vietnamese law regarding the socialization of civil enforcement activities

2.1.2.1. The current state of Vietnamese law regarding the socialization of activities related to the notification, issuance, and delivery of civil enforcement documents

2.1.2.2. The current state of Vietnamese law regarding the socialization of activities related to the verification of the conditions for civil enforcement

2.1.2.4. The current state of Vietnamese law regarding the socialization of activities related to the direct organization of civil enforcement of court judgments and decisions.

2.2. PRACTICAL APPLICATION OF SOCIALIZATION OF CIVIL ENFORCEMENT IN VIETNAM

2.2.1. The practical application of socialization in organizing civil enforcement

There are two entities with jurisdiction over civil enforcement in Vietnam: the Civil Enforcement Agency and the Inheritance Assignee Office. While the state's Civil Enforcement Agency has been increasingly invested in terms of infrastructure, personnel and a vast legal document system providing a legal basis for its operations, the Inheritance Assignee Office – a private civil enforcement organization – has only been recently re-established and its legal framework for operation is still unclear. Its personnel have not received systematic training, and it lacks sufficient facilities and offices. These factors have created a disparity between the state's Civil Enforcement Agency and the private Inheritance Assignee Office, leading to difficulties and obstacles in implementing the Inheritance Assignee Office in practice.

2.2.2. Implementing socialization of civil judgment enforcement activities

2.2.2.1. Implementing socialization of activities related to notification, issuance, and delivery of judgment enforcement documents

2.2.2.2. Implementing socialization of activities related to verifying the conditions for civil judgment enforcement

2.2.2.3. Implementing socialization of activities related to organizing judgment enforcement upon request

CONCLUSION CHAPTER 2

Based on the evaluation of the current status of the Socialization of Civil Judgment Enforcement (SCJE) legal system in Vietnam, it can be seen that the legal system has been inherited from previous historical periods. The restoration of the regulations on administrative procedures and judicial reforms reflects the correct direction of the Party and the State in strengthening administrative and judicial reforms.

Although it is a major policy of the Party and the State, the implementation of the SCJE legal system has revealed many shortcomings and limitations. The legal system is still incomplete and lacks unity, especially without a Law on Socialization

in general and a Law on Civil Judgment Enforcement in particular. The regulations on SCJE or related issues are either non-existent or incomplete, scattered in various legal documents, inconsistent with related laws, and lack coordination among agencies and individuals, causing difficulties for their activities.

The current situation has put urgent demands on the completion of the SCJE legal system in general and the establishment of a Law on Civil Judgment Enforcement in particular to create an effective legal basis for the implementation of the Party and State's policies and to reduce the burden on civil courts.

Chapter 3

DIRECTIONS AND RECOMMENDATIONS TO ENHANCE THE EFFECTIVENESS OF CIVIL JUDGMENT ENFORCEMENT SOCIALIZATION IN VIETNAM

3.1 DIRECTIONS TO ENHANCE THE EFFECTIVENESS OF CIVIL JUDGMENT ENFORCEMENT SOCIALIZATION IN VIETNAM.

3.1.1. Improving legal policies on socialization of civil judgment enforcement

Regarding institutional aspects, it is necessary to study and develop a system of regulations on the socialization of civil judgment enforcement in general, and it is not necessary to have a bailiff everywhere.

3.1.2. Socialization of civil judgment enforcement must be based on the goal of judicial reform and building a clean and strong legal system.

Firstly, Socialization of Civil Judgment Enforcement is a major direction of our Party and State in implementing judicial reform and administrative procedure reform. S*econdly*, Socialization of Civil Judgment Enforcement is carried out based on attracting the participation of society in providing public services. *Thirdly*, entities participating in the socialization process and providing services in the civil judgment enforcement process must abide by the principle of personal responsibility before the law regarding the provision of those services.

3.1.3. Socialization of civil judgment enforcement must be based on socio-economic development and the regulatory role of the State.

The socialization of civil judgment enforcement in general and the construction of the Inheritance Recovery in particular, although the correct direction and orientation of the Party and the State, must be in line with the needs and conditions of the development of these services in each locality, and not necessarily required everywhere to Bailiff.

3.2. RECOMMENDATIONS TO IMPROVE VIETNAM'S LEGAL FRAMEWORK ON SOCIALIZATION OF CIVIL JUDGMENT ENFORCEMENT

3.2.1. Improve Vietnam's legal framework on socialization of civil judgment enforcement organization.

Firstly, the regulations on the organization of the bailiff apparatus: According to the temporary Ph.D. student in the current period until the end of 2030, we should still keep the current model of semi-public civil judgment enforcement, that is, with the participation of private judgment enforcement organizations in the future. The judgment enforcement process alongside the State's civil judgment enforcement agency.

Second, regarding the jurisdiction of the bailiff: The Government needs to amend Decree 08/2020/ND-CP in the direction of increasing the authority and expanding the scope of work that the bailiff can perform to suit the practice of civil judgment enforcement.

3.2.2. Completing Vietnam's law on socialization of civil judgment enforcement activities

3.2.2.1. Completing the Vietnamese law on socialization of the notification, issuance and service of civil judgment enforcement documents: it is necessary to adjust the fees appropriately according to the nature and laws of the market; there should be an open provision on who has the right to request service from the bailiff.

3.2.2.2. Completing the law on judgment enforcement competence of bailiffs in the process of verifying judgment execution conditions and directly organizing civil judgment enforcement

Firstly, on the authority to make decisions on civil law enforcement; *Second*, the competence to apply coercive measures of civil judgment enforcement during the verification of judgment execution conditions and directly organize judgment enforcement; *Third*, to delimit the authority to organize judgment enforcement between the BAILIFF and the CHV; *Fourth*, on the support of agencies, organizations and individuals in the process of civil law enforcement.

3.3. PROPOSED SOLUTIONS IMPLEMENTATION OF LAW ON SOCIALIZATION OF CIVIL JUDGMENT EXECUTION

3.3.1. Build and develop a team of professional bailiffs

3.3.2. Strengthen the propaganda and dissemination of the law on bailiffs

3.3.3. Establishing a professional society of bailiffs and promulgating regulations on professional ethics of bailiffs

3.3.4. Proposing a career development roadmap for bailiffs

3.3.5. Proposing the structure and main content of the Law on bailiffs

3.3.5.1. About the structure of the Law on bailiffs: Includes 7 chapters

3.3.5.2. About some main contents of the Law on bailiffs: Includes general provisions and some specific provisions in each chapter.

CONCLUSION CHAPTER 3:

Improving the legal framework on socialization of civil judgment enforcement activities is of great significance in sharing and reducing the burden of enforcement for the state enforcement agencies. The completion of the legal framework on socialization of civil judgment enforcement activities is reflected in the administrative and judicial reforms, the construction of a socialist rule of law state, to have a strong and effective administrative and judicial system that serves the country's development and innovation, and actively mobilizes the participation of agencies, organizations, and individuals in socialization activities, with the focus on transferring tasks that the society can do well to social organizations.

Completing the legal framework for the socialization of civil judgment enforcement activities must adhere to the Party's and State's viewpoints, policies on judicial enforcement. The focus should be on proposing the construction of a general model for judicial enforcement and a specific model for judicial reform that is appropriate for the new situation. In the short term, the current model for judicial enforcement should be maintained, but with amendments to the Law on Judicial Enforcement and the Decree on Judicial Reform to suit the reality. In terms of judicial enforcement activities, it is necessary to promote socialization of the delivery and serving of civil judgment documents, expand the subjects who have the authority to demand delivery, and gradually move towards judicial reform as the exclusive subject in delivering and serving litigation and judicial enforcement documents. For the activities of verifying conditions for civil judgment enforcement

and organizing enforcement, it is proposed to increase the jurisdiction in applying coercive measures for BAILIFF equal to that of CHV, while clearly distinguishing the functions, duties, and scope of operation between BAILIFF and CHV. In addition, it is also necessary to regulate the responsibilities of relevant agencies and organizations in coordinating with BAILIFF to perform their functions and tasks.

Completing the law on the socialization of civil judgment enforcement activities not only involves mobilizing agencies, organizations, and individuals to participate in the process of enforcement but also creating conditions for them to operate effectively through regulations on improving the system of ECJ laws, revising related legal documents such as the ECJ model, organization, and the coordination between agencies, organizations, and individuals in the process of judgment enforcement, along with enhancing professional expertise and promoting the dissemination of laws on enforcement, the functions and powers of BAILIFF through mass media.

CONCLUSION

ECJ is a decisive stage in ensuring the enforcement of legally effective civil judgments and decisions. SJCE is one of the important solutions in reforming the organization and operation of the state apparatus, aiming to enhance the responsibility of individuals and organizations and mobilize resources for the development of society. Moreover, the participation of organizations and individuals in the process of executing judgments is not a sharing of power, but a transfer of part of the state's tasks to organizations and individuals in society.

Although the state transfers a part of the ECJ work to private enforcement organizations when they meet certain standards and conditions, it still plays a leading role and manages through legal regulations and inspections. SJCE will contribute to improving the effectiveness of ECJ work, helping citizens to have more positive tools to ensure their legitimate rights and interests in the process of enforcing judgments and contributing to enhancing the role and position of the judiciary.

To successfully implement SJCE, it is necessary to systematically study theoretical issues related to civil enforcement, such as concepts, scientific foundations, significance, and contents of SJCE. Based on the resolved theoretical issues, an appropriate model for SJCE can be proposed.

The process of formation, development, and current status of the law on civil enforcement in our country demonstrates that the law on civil enforcement has been inherited from previous historical periods. The restoration of the legal provisions reflects the correct orientation of the Party and the State in strengthening administrative and judicial reforms, which has contributed significantly to ensuring the rights and legitimate interests of the State, society, and citizens. Besides the achieved results, during the implementation of SJCE, there have been also revealed drawbacks and limitations hindering the effectiveness of socialisation, such as the legal system regarding SJCE is still incomplete and lacks uniformity, especially the absence of a general Law on socialisation and the Law on bailiff, The regulations on SJCE are either incomplete or unclear, with scattered provisions found in various legal documents that are not consistent with related laws. In addition, there is a lack of coordination and trust among individuals and organizations in implementing these regulations, which creates significant difficulties for the operations of the organization.

The above situation has posed an urgent requirement to perfect the law on civil society in general, and to develop the Law on Civil Code in particular in order to create an effective legal basis for the implementation of the socialization policy of the Party and the State, reducing the burden on the ECJ Agency.

Completing the law on civil judgment enforcement has an important meaning in sharing and reducing the burden of judgment enforcement for civil judgment enforcement agencies. The improvement of civil society is reflected in the policy of administrative reform, judicial reform, building a socialist rule of law state in order to have a strong administrative and judicial system that operates effectively and efficiently, meet and effectively serve the renovation and development of the country; mobilize the active participation of agencies, organizations and individuals

in socialization activities with the focus on transferring to social organizations the jobs that society can do well.

Completing the civil law enforcement action must thoroughly grasp the viewpoints and policies of the Party and the State on judgment enforcement, focusing on the proposal to build a civil judgment enforcement model in general and a criminal justice model in particular to suit the situation. Accordingly, in the immediate future, it is advisable to keep the current civil law enforcement model, but amend the Law on Civil Law and the Decree on bailiff to suit reality; for civil judgment enforcement activities, it is necessary to promote the socialization of the issuance and service of judgment enforcement documents, expand the competent subject to request service, and gradually move towards the bailiff as the exclusive subject in the issuance and service of judgment enforcement documents proceedings and judgments. For the verification of judgment execution conditions and organization of judgment enforcement, it is proposed to increase the authority in applying coercive measures to the bailiff on par with the CHV, and at the same time have a clear delineation of functions, tasks and scope of activities between bailiff and CHV. In addition, it is also necessary to stipulate the responsibilities of relevant agencies and organizations in coordinating at the request of bailiff when performing functions and tasks. Completing the law on civil society is not only about mobilizing agencies, organizations, and individuals to participate in social insurance activities, but also about creating favorable conditions for them to operate effectively through the provisions on improving the legal system of social insurance, amending related legal documents such as social insurance models, organizations, and coordination among agencies, organizations, and individuals in the process of enforcing judgments, while simultaneously enhancing professional competence, expertise, and strengthening the dissemination and popularization of social insurance laws, functions, and jurisdiction of social insurance agencies on various public media platforms.

LIST OF RELATED PUBLIC WORKS GO TO THE THESIS

1. Adjudicator – some theoretical and practical issues People's Court Journal, No. 20/2016. P.37-39;

2. The institution of bailiff in Vietnam and the experience of some countries in the world, People's Court Journal, No. 20/2017. P.42-48;

3. Some issues on socialization of civil judgment enforcement, Democracy & Law Review, Special Issue 2017, P. 19-22