

SOME LEGAL ISSUES REGARDING LAW INTERNSHIP IN VIETNAM

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ABSTRACT

This article provides a detailed analysis of the legal provisions related to the limitations of trainee lawyers, the rationale behind these regulations, their practical impact, a comparison with the laws of some other countries, and ultimately proposes several solutions to improve the Vietnamese legal system on this issue.

Keyword: *Lawyer, Trainee Lawyer, Legal Profession*

1. INTRODUCTION

Within the Vietnamese legal system, the legal profession plays a crucial role in upholding justice and safeguarding the lawful rights and interests of individuals and organizations in legal relations. Lawyers are not only representatives, defenders, or legal advisors, but also serve as a bridge between citizens and the judicial system. However, to become a fully qualified lawyer, each individual must undergo a distinctive stage—the period of legal traineeship. This is a phase during which trainee lawyers acquire knowledge and develop practical skills under the supervision of a qualified mentor, in preparation for independent legal practice in the future. One of the most notable characteristics of this traineeship period is the strict limitations imposed on professional practice rights. Under Vietnamese law, specifically the Law on Lawyers of 2006 (as amended and supplemented in 2012) and its guiding documents, trainee lawyers are not permitted to perform certain core functions of a lawyer, including representing clients before courts, defending or protecting the lawful rights and interests of clients at trial, as well as signing legal advisory documents. These restrictions raise a number of questions regarding their reasonableness, effectiveness, and impact on both trainee lawyers and clients.

2. LEGAL BASIS FOR RESTRICTIONS ON TRAINEE LAWYERS

The traineeship of legal practice is currently governed by the Law on Lawyers 2006, as amended and supplemented in 2012 and 2015 (Consolidated Document No. 03/VBHN-VPQH

dated December 31, 2015, hereinafter referred to as the Law on Lawyers), and Circular No. 10/2021/TT-BTP dated December 10, 2021 of the Ministry of Justice guiding the traineeship of legal practice.

2.1. Conditions and Procedures for Traineeship Registration

Pursuant to Clauses 1 and 2, Article 14 of the Law on Lawyers and Article 3 of Circular No. 10/2021/TT-BTP, Vietnamese citizens who are loyal to the Fatherland, comply with the Constitution and laws, possess good moral character, hold a Bachelor's or Master's degree in law, and have obtained a certificate of completion of lawyer training (or whose foreign training is recognized), or who are exempt from training but still required to undergo traineeship under Clause 2, Article 16 of the Law on Lawyers, are eligible to register for traineeship.

Individuals wishing to undertake traineeship shall reach an agreement with a law-practicing organization. The receiving organization shall appoint a supervising lawyer and issue a written confirmation to the trainee and the local Bar Association. Such agreement may be established verbally, through conduct (e.g., acceptance of the confirmation document), or in writing; however, a written agreement is recommended to ensure professionalism.

In cases where no agreement can be reached, the trainee may request the Executive Board of the local Bar Association to introduce a suitable law-practicing organization. Within 10 days, the Executive Board shall assign the head of a law-practicing organization to accept the trainee; any

refusal without legitimate reasons shall be subject to sanctions under Clause 3, Article 33 of Circular No. 10/2021/TT-BTP. The supervising lawyer must have at least three years of professional experience, must not be subject to disciplinary measures (Clause 1, Article 85 of the Law on Lawyers), and may not supervise more than three trainees at the same time. Organizations eligible to accept trainees include law offices, law firms, and branches of both domestic and foreign legal practice organizations operating in Vietnam.

2.2. Registration and Duration of Traineeship

Trainee lawyers shall register with the local Bar Association where the law-practicing organization is headquartered, submit an application dossier in accordance with Article 5 of Circular No. 10/2021/TT-BTP, and be granted a certificate of traineeship registration. The standard traineeship period is 12 months (Clause 1, Article 14 of the Law on Lawyers; Article 10 of Circular No. 10/2021/TT-BTP). This period may be reduced to 4 or 6 months in cases specified in Clauses 2 and 3, Article 16 of the Law on Lawyers, applicable to individuals who have previously served as judges, procurators, or investigators for a certain period of time. Nevertheless, in all cases, trainee lawyers are not permitted to perform the aforementioned core professional functions until they are officially admitted as lawyers.

The 12-month traineeship period applies to individuals who have completed a 12-month lawyer training course at the Judicial Academy or those exempt from training but not from traineeship. Previously, the Law on Lawyers 2006 provided for a 6-month training period and an 18-month traineeship; however, under the amended law, both periods are now set at 12 months.

During the traineeship, trainees may change their place of traineeship, request extensions, temporarily suspend, or terminate the traineeship, with their rights and obligations governed by Articles 9 to 12 of Circular No. 10/2021/TT-BTP. Pursuant to Article 6 of Circular No. 10/2021/TT-BTP, the content of legal practice traineeship includes: (i) studying the laws on lawyers and legal practice, as well as the Code of Ethics and Professional Conduct for Vietnamese Lawyers; (ii) developing skills in legal research, document collection, and proposing solutions for case files; (iii) practicing litigation skills as defense counsel in criminal cases (for arrested persons, detainees,

suspects, or defendants) or as representatives protecting the rights of victims, civil plaintiffs, civil defendants, and related parties; (iv) practicing litigation skills as representatives or defenders of lawful rights and interests in civil, marriage and family, commercial, labor, administrative, and other legal cases; (v) developing legal advisory skills; (vi) practicing representation outside litigation for clients in legal matters; and (vii) practicing other legal service skills [5].

2.3. Activities Permitted and Prohibited for Trainee Lawyers

Pursuant to Clause 3, Article 14 of the Law on Lawyers, trainee lawyers are allowed to assist their supervising lawyers in professional work, including accompanying them in meetings with relevant parties in criminal, civil, and administrative cases (with consent); studying case files; collecting documents and evidence; providing legal advice; engaging in out-of-court representation; and performing other legal services as assigned by the supervising lawyer and with the client's approval. However, trainee lawyers are not permitted to represent clients, act as defense counsel, or protect clients' lawful rights and interests before the court, nor are they allowed to sign legal advisory documents.

For tasks of a more independent nature—such as legal research, case file review, evidence collection, or drafting legal arguments—trainees may carry them out as assigned. Nevertheless, when working directly with clients, in addition to being assigned tasks by the supervising lawyer, they must also obtain the client's consent. Any legal advisory document, even if prepared with the trainee's involvement, must be signed by the supervising lawyer.

This regulation reflects the principle that individuals who are not yet fully qualified lawyers are not permitted to independently provide legal services to clients. Compared to earlier regulations, the scope of activities permitted for trainee lawyers has been significantly narrowed. For instance, Article 12 of the Ordinance on the Organization of Lawyers 1987 allowed trainee lawyers to participate in defense and perform other legal services, with rights and obligations similar to those of lawyers (except for eligibility to be elected to the Bar executive board). Similarly, the Ordinance on Lawyers 2001 and Decree No. 94/2001/ND-CP permitted trainees to participate

in court proceedings at district-level courts and military regional courts under assignment and with client consent, enjoying rights and obligations equivalent to those of lawyers; or to assist in case file research and meet litigants in provincial-level cases when authorized.

The current Law on Lawyers imposes stricter limitations, which are considered by some to be overly cautious and to diminish the practical value of the 12-month traineeship period [6].

One of the primary reasons for these restrictions is to protect the lawful rights and interests of clients. The traineeship period is considered an apprenticeship phase, during which trainee lawyers have not yet accumulated sufficient practical experience or professional skills to handle complex legal matters. Allowing them to represent clients before courts or to sign legal advisory documents may lead to errors, potentially causing serious harm to clients, particularly in criminal cases or high-value civil disputes. For example, in a criminal case, defense work requires not only in-depth legal knowledge but also strong advocacy, argumentation, and courtroom skills. A trainee lawyer, despite having completed theoretical training, may still lack the necessary responsiveness and practical experience to effectively defend the accused.

The Vietnamese legal system aims to build a professional, ethical, and competent body of lawyers. The traineeship period is designed as a “filter” to ensure that only individuals who are truly qualified are permitted to practice independently. Prohibiting trainee lawyers from performing critical functions such as court representation or legal advisory work helps maintain the quality standards of the profession, while also safeguarding the reputation of the legal community as a whole.

Lawyers bear legal responsibility for their professional conduct. If trainee lawyers were allowed to represent clients or sign legal advisory documents, the question would arise as to who would be liable in the event of errors—the trainee or the supervising lawyer. As trainee lawyers have not yet been granted a practicing certificate, they do not possess sufficient legal standing to assume independent responsibility. Therefore, these restrictions are intended to prevent unnecessary legal disputes and to protect the judicial system from potential risks.

3. PRACTICAL IMPACTS OF REGULATIONS ON TRAINEE LAWYERS

3.1. Impacts on Trainee Lawyers

These restrictions have both positive and negative effects on trainee lawyers. On the positive side, they provide an opportunity for trainees to focus on learning, observing, and accumulating experience without the pressure of directly handling complex legal matters. However, on the negative side, trainee lawyers may feel constrained in developing practical skills, particularly litigation and direct advisory skills. Being limited to a supporting role rather than active participation may, in some cases, result in a lack of confidence when they officially begin independent practice. Specifically:

3.1.1. Procedural Status of Trainee Lawyers in Legal Proceedings

Although provisions on trainee lawyers are set out in the Law on Lawyers and Circular No. 10/2021/TT-BTP, they are not recognized as procedural participants under current procedural laws. This creates a lack of consistency between different legal instruments. According to procedural law, all litigation activities must comply with the relevant procedural regulations, unless such laws expressly refer to the Law on Lawyers.

Trainee lawyers may perform independent supporting tasks (such as legal research or case assistance) or work directly with clients if consent is obtained. However, for activities conducted by procedural authorities, they are generally not permitted to participate due to the absence of procedural status, and their involvement depends largely on the discretion of the competent procedural officers.

Although the Law on Lawyers allows trainee lawyers to accompany their supervising lawyers in meeting detainees, suspects, or defendants, this is often difficult in practice, particularly when such individuals are held in detention. The reason is that trainee lawyers lack procedural standing, and the right to meet such persons is governed by procedural law as well as the law on custody and detention [1].

In the United States, regulations concerning trainee lawyers (often referred to as “law clerks” or early-stage “associates”) vary by state.

However, in many jurisdictions, law students or individuals who have not yet passed the Bar Exam may still participate in court advocacy under the supervision of a licensed attorney, particularly through clinical legal education programs (legal clinics) at universities [2]. State court regulations permit law students to participate in legal defense in certain cases under the supervision of a licensed attorney [3]. This approach enables them to gain practical experience earlier than in the Vietnamese model. Compared to Vietnam, countries such as the United States adopt a more flexible approach, allowing trainee lawyers to engage in real legal practice under close supervision. This not only facilitates the development of professional skills but also helps meet the growing demand for legal services in society.

3.1.2. Practical Training of Professional Skills During Traineeship

Clause 3, Article 14 of the Law on Lawyers provides that trainee lawyers may assist their supervising lawyers in professional work but are not permitted to represent clients, act as defense counsel, protect clients' rights and interests before the court, or sign legal advisory documents. This restriction is often likened to "learning to swim without entering the water," as these are core skills that require practical exposure during the traineeship period in order to achieve professional competence.

There are opinions that prohibiting trainees from representing clients in court is inconsistent with the objectives of traineeship. In practice, for simple civil cases, clients may be willing to allow trainee lawyers to act on their behalf under the supervision of a qualified lawyer in order to reduce costs, thereby benefiting law-practicing organizations, supervising lawyers, clients, and the trainees themselves. For trainees with strong academic backgrounds (such as postgraduate or master's degree holders in law), early participation in proceedings—with client consent and proper supervision—not only provides valuable practical experience but also enhances the overall effectiveness and engagement of the traineeship process. However, current regulations create what may be seen as unnecessary barriers.

In addition, the interpretation of the prohibition on trainee lawyers representing clients in court remains inconsistent among lawyers and

procedural authorities, reflecting a lack of uniformity in the application of the law.

3.1.3. Scope of Work During Legal Practice Traineeship

Under current regulations, the content of legal practice traineeship comprises seven categories of work. During the traineeship, trainees are required to maintain a logbook in the prescribed format to record the tasks performed. However, the logbook template attached to Circular No. 10/2021/TT-BTP requires weekly entries and a clear classification between "advisory" and "litigation" work. This has led to uncertainty among trainees as to whether administrative tasks—such as office duty or studying legal documents on the legal profession—may be recorded in the logbook. This issue requires further guidance from competent authorities to ensure consistent implementation.

These practical difficulties should be considered and addressed by lawmakers in order to improve the legal framework governing legal practice traineeship, ensure consistency with procedural laws, and make the traineeship process a solid foundation for training future lawyers with strong expertise, practical experience, and professional skills.

3.2. Impacts on Clients

For clients, these regulations ensure that they engage only with fully qualified lawyers who possess adequate training and professional competence. However, in the context of a limited supply of lawyers in Vietnam—particularly in rural areas—the inability to utilize trainee lawyers may slow down public access to legal services.

Pursuant to Clause 3, Article 14 of the Law on Lawyers 2006 (as amended and supplemented in 2012 and 2015), trainee lawyers are not permitted to represent clients, act as defense counsel, protect clients' rights and interests before the court, or sign legal advisory documents. As a result, clients are required to work directly with fully qualified lawyers—those who have completed traineeship, obtained a practicing certificate, and joined a Bar Association.

Article 16 of the Law on Lawyers stipulates that individuals seeking to become lawyers must complete professional training (12 months) and a

traineeship period (12 months), followed by passing an assessment of traineeship results. This process functions as a screening mechanism to ensure that lawyers possess the necessary knowledge, skills, and experience.

These regulations protect clients from the risks associated with working with individuals who lack sufficient competence. For example, a complex land dispute requires a lawyer to have a thorough understanding of procedural rules and strong courtroom advocacy skills. If such a case were handled by an unlicensed trainee, the client's rights and interests could be adversely affected due to errors or lack of expertise. Therefore, the restrictions imposed on trainee lawyers play an important role in ensuring that clients receive reliable, high-quality legal services from properly trained professionals.

However, the failure to effectively utilize trainee lawyers has slowed access to legal services in Vietnam, particularly in rural areas. According to summary reports from 63 localities and the Vietnam Bar Federation, the number of practicing lawyers increased from 4,161 in 2007 to 17,284 as of December 31, 2022 (based on data reported by local authorities at the time of reviewing the implementation of the Law on Lawyers) (see Appendix No. 02), and has since risen to approximately 18,200 lawyers. On average, the number of lawyers increases by nearly 1,000 each year [4].

The uneven distribution of lawyers further exacerbates the situation: most lawyers are concentrated in major cities such as Hanoi and Ho Chi Minh City, while rural and mountainous areas face severe shortages. Many mountainous districts have only one or two lawyers, or even none at all.

Although trainee lawyers are restricted from representing clients in court, they can still assist with various tasks such as providing legal advice, drafting documents, and conducting case research under the supervision of qualified lawyers (pursuant to Article 6 of Circular No. 10/2021/TT-BTP). This represents a readily available resource, with a considerable number of trainees participating each year.

In simple civil matters (such as divorce or minor contractual disputes), trainee lawyers can support initial consultations or assist in preparing case files, thereby reducing the workload for qualified

lawyers and improving public access to legal services.

While restrictions on trainee lawyers are necessary to ensure service quality, in the context of a shortage of lawyers, a more flexible approach could be considered—allowing trainees to participate in simple cases under strict supervision and with client consent, rather than imposing a complete prohibition.

The judicial system benefits from maintaining high professional standards among lawyers; however, it also faces challenges when the number of fully qualified lawyers fails to meet the growing demands of society. This is particularly evident in cases where lawyers are appointed to provide free legal defense at the request of the State.

4. RECOMMENDATIONS FOR LEGAL REFORM

Based on the aforementioned challenges, it is necessary to amend the legal framework governing legal practice traineeship, ensuring consistency between the Law on Lawyers and procedural laws in order to facilitate trainees' participation in legal proceedings. The following solutions are proposed:

Firstly, expanding participation rights in legal proceedings

Trainee lawyers may be permitted to represent clients or sign legal advisory documents under the supervision and approval of supervising lawyers, with legal responsibility borne by the supervising lawyers.

Clause 3, Article 14 of the Law on Lawyers should be amended to allow trainees to represent and protect clients' rights and interests (excluding criminal defense) in simple and less serious cases, subject to client consent and with a reasonable limit on the number of cases handled during the traineeship period. For individuals with prior legal experience, the traineeship duration could be adjusted more flexibly to enable earlier participation in professional practice.

Secondly, clarifying legal status in court proceedings

Clear provisions should be introduced regarding the participation and role of trainee lawyers in court hearings when accompanied by supervising lawyers. At the same time, inconsistencies in practice—such as certain courts prohibiting trainees or law students from attending public

hearings (e.g., corruption cases) without justified reasons, despite such hearings not being conducted in camera—should be addressed.

Thirdly, providing guidance on traineeship logbooks

Law-practicing organizations should develop more structured traineeship programs, including mock trials and simulated advisory scenarios. Further clarification is needed on how to maintain weekly logbooks (distinguishing between advisory and litigation work) under Circular No. 10/2021/TT-BTP. The scope of cases in which trainees may participate should be expanded (not limited solely to cases handled by the supervising lawyer but including those of the law-practicing organization as a whole). Additionally, trainees should be allowed to attend court hearings as observers under a reasonable quota to enhance practical exposure and diversify their training experience.

Moreover, the Vietnam Bar Federation should recommend that the Ministry of Justice coordinate with central procedural authorities to develop a regulatory framework supporting trainees' participation in proceedings and attendance at court hearings, thereby ensuring effective accumulation of practical experience.

5. CONCLUSION

The restrictions imposed on trainee lawyers in Vietnam are grounded in the objectives of protecting clients, ensuring professional quality, and maintaining legal accountability. However, in the context of an increasing demand for legal services, these regulations should be reconsidered and adjusted toward greater flexibility—balancing training objectives with practical societal needs. Learning from international experiences and reforming the traineeship system will contribute to the development of a professional corps of Vietnamese lawyers, better equipped to meet the public's demand for justice.

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