

Information Sheet - Vietnam

I General Information

1 Number of stakeholders in the Country

1-1-1 Population

90,549,390 people.

1-1-2 Number of lawyers/attorneys-at-law

Vietnam has 6559 lawyers as of 31 September 2011.

1-1-3 Number of judges

About 4,680 Judges of People's Court at all levels and about 140 Judges of Military Court at all levels.

1-1-4 Number of prosecutors

About 7,590 prosecutors of People's Procuracies at all levels and about 390 prosecutors of Military Procuracies.

2 Number of court cases handled by first instance courts

1-2-1 Number of civil cases

177, 417 civil cases as of 2009.

1-2-2 Number of family cases

Number of family cases had been included in the number of civil cases aforementioned.

1-2-3 Number of criminal cases

65,462 criminal cases as of 2009.

3 Attorneys for Defendants in Criminal Procedures

Please explain in what kinds of criminal cases attorneys must be appointed for suspects or defendants in your country. Please also explain who appoints and bears the costs for the attorneys appointed.

According to Criminal Procedure Code, attorney must be appointed in some special cases in which the accused or defendants are tried for offenses with death penalty as the highest punishment; the accused or defendants are minors or persons with physical or mental defects.

In above cases, if the accused, defendants or their lawful representatives do not seek the assistance of lawyer, then, the investigating bodies, procuracies or courts must request bar associations to assign lawyers' offices for appointing an attorney for such persons or request the Vietnam Fatherland Front Committees or the Front's member organizations to appoint an attorney for their organizations' members.

4 Profile of the Bar Association/ Organization and Attorney System

1-4-1 Location and contact information

The Vietnam Bar Federation

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1-4-2 History of Organization

On October 10, 1945, President Ho Chi Minh signed Decree No. 46/SL on the organization of legal profession. Constitutions of the Democratic Republic of Vietnam in 1946, 1959, 1980 and 1992 assert the role and position of the legal profession and provided that the lawyers' organization is established for the purpose of protecting the

legitimate rights and interests of individuals and organizations and at the same time contribute to protection of the rule of the socialist law.

The Vietnam Bar Federation (“**VBF**”) was established on May 12, 2009, under Decision No. 76/QĐ-TTg of Prime Minister dated January 16, 2008. VBF is the nationwide socio-professional organization of Vietnamese lawyers which gathers, unites lawyers and represents the legitimate rights and interests of lawyers and bar associations in Vietnam.

At the time of establishment, VBF had approximately 5300 lawyers.

1-4-3 Governmental Supervision of the Organization and Registration of Members (Please explain whether or not, and if so how, your organization is supervised by the government.)

VBF is a self-governance organization.

1-4-4 Main Activities of the Organization

VBF represents and protects the legitimate rights and interests of lawyers and bar associations as its members; sets up professional standards for Vietnamese lawyers; improves ethic and competence of lawyers in order to meet the demand of society, contribute to economic development and improve a fair, democratic and civilized society.

VBF is a member of the Vietnam Fatherland Front, having working relations with other state agencies and social organizations under the Constitution and the law. VBF is entitled to develop cooperative relations with international bar associations; and join international organizations which operate in line with VBF’s missions and purposes.

1-4-5 Categories of Membership

Members of VBF are: Bar Associations, Practising Lawyers and Honor Members (not a practicing lawyer).

1-4-6 Number of Members

Currently, VBF has 6559 lawyers and 62 Bar associations (without Honorary members) as of 31 September, 2011.

1-4-7 Membership (voluntary or compulsory, please also explain where

such registration should be filed)

Compulsory. All members are required to pay membership fee (provided by The national Council of Lawyers)

1-4-8 Executives and Officers, Number of Positions

- President: 1
- Vice President: 4
- VBF Office and technical committees.

1-4-9 Finances and membership fees (Please provide the yearly budget amount of your organization and also the yearly membership fees in USD)

Currently, operation of VBF relies upon the budget provided by the State (within 3 first years since the date of establishment). Membership fee is 30,000 VND/month/member (equal to US\$ 1.4/month/member).

1-4-10 Journal, Newsletter, Website

Website: www.liendoanluatsu.org.vn

1-4-11 Other Bar Associations (including the provincial associations) in the Country and the Number of Members of such Other Organizations

VBF is the sole organization of lawyers in Vietnam. Provincial bar associations are members of VBF.

1-4-12 Qualifications To Become an Attorney

To become lawyers, one must obtain a law bachelor diploma, be trained in legal profession, complete the probation of legal profession.

The legal professional training duration is six months. A person who completes the legal professional training program shall be granted a graduation certificate by lawyer-training institution.

Persons who obtained professional training certificates will take probation at

law-practicing organizations within 18 months in general. After completing probation, probationers shall report in writing on law-practicing probation results to the bar association with which they have registered for probation. The Ministry of Justice shall preside and coordinate with the national lawyers' organization in testing law practice-probation results. Persons who pass law practice probation tests shall be granted certificates by the Justice Minister.

Persons who pass law practice probation tests shall submit application dossiers for law practice certificate to managing boards of bar association where they register probation. Within 30 days after receiving completed application dossiers for law practice certificates, the Justice Minister shall grant such certificates.

A person who obtained a law practice certificate may join a bar association of his/her choice for law practice.

1-4-13 Laws, Decrees or Regulations on Attorneys (Please explain if there are any laws, decrees or regulations on attorneys in your country. Please provide the JFBA an English translation if they are available.)

- Law on Lawyers No. 65/2006/QH11 dated June 29, 2006 by National Assembly;
- Criminal Procedure Code No. 19/2003/QH11 dated November 26, 2003 by National Assembly;
- Civil Procedure Code No. 24/2004/QH11 dated June 15, 2004 by National Assembly;
- Law on Administrative Procedure No. 64/2010/QH12 dated November 24, 2004 by National Assembly;
- Decree No. 28/2007/ND-CP dated February 26, 2007 by the Government detailing and guiding the implementation of a number of articles of the Law on Lawyers;
- Decree No. 131/2008/ND-CP dated December 31, 2008 by the Government guiding the implementation of the Law on Lawyers regarding lawyers' socio-professional organizations;

- Circular No. 21/2010/TT-BTP dated December 01, 2010 by Ministry of Justice promulgating the regulation on law-practicing probation;
- Circular No. 02/2007/TT-BTP dated April 25, 2007 by Ministry of Justice guiding a number of provisions of the Law on Lawyers and the Decree detailing and guiding the implementation of a number of articles of the Law on Lawyers;
- Circular No. 17/2011/TT-BTP dated October 14, 2011 by Ministry of Justice guiding a number of provisions of the Law on Lawyers, the Decree detailing and guiding the implementation of a number of articles of the Law on Lawyers and the Decree guiding the implementation of the Law on Lawyers regarding lawyers' socio-professional organizations Joint Circular No. 88/2007/TTLT-NTC-BTP dated June 19, 2007 guiding remuneration and payment of expenses for lawyers who participate in legal proceedings at the request of proceedings-conducting agencies. This Circular will take effect from December 1, 2011 and supersede Circular No. 02/2007/TT-BTP.
- Decision No. 667/2004/QĐ-BTP dated December 8, 2004 promulgating the regulation on testing law practice probation result by Minister of Justice.

1-4-14 Code of Ethics and/or Rules of Professional Conduct (Please provide the JFBA an English translation if an English translation of these is available.)

Code of Ethics and Professional Conduct have been approved by National Council of lawyers. On July 20, 2011, President of VBF signed Decision No. 68/QĐ-HĐLSTQ promulgate this Code.

1-4-15 Disciplinary Functions (Please explain who has the power to take disciplinary action against members.)

The managing board of a bar association has the power to take disciplinary action against members.

1-4-16 Continuous Legal Education for Members (Please explain about the program, if any)

There are a Committee on Education, Training, Legal Development and Dissemination and a Professional Training Center. These units co-ordinate in

organizing professional training courses for lawyers, such as: training on Code of Ethics and Professional Conduct, training course for improving legal knowledge on several sectors: commercial arbitration, investment consult, land...

1-4-17 Challenges the Organization is Facing (Please briefly explain the problems and challenges your organization is currently facing.)

The VBF is a newly established organization. It has facing both institutional and financial difficulties to run its operation. Therefore, VBF is facing the challenge to establish and put into practice a solid legal solutions system for promoting lawyers' role and improving their competence.

The number of lawyers per capita in Vietnam is still lower than many developed countries in the world. The number of lawyers is not equally distributed among local areas. The quality of lawyers' work is also need to be improved, especially its capacity to handle cross-border and international litigation and dispute settlement.

The financial support of the State in favor of VBF is only provided during the first three years after the establishment of VBF. In the long term, VBF must pay all operating costs and expenses by itself, while the current fees of the members are far to enough.

II Legal Aid

2-1 Please describe briefly the history of legal aid in your country.

Legal aid activities have been conducted since the late of twentieth century. From 1945 to 1996, free legal aid services developed along with activities of lawyers and the judiciary bodies.

Under the direction of the Government, Ministry of Justice researched and advised the Government to establish Legal Aid Centers of the State in several provinces. From these initial results, based on experience in organizing legal assistance activities of developed countries, the Prime Minister issued Decision No. 734/TTg dated September 6, 1997 on establishment of a system of legal assistance for the poors and policy beneficiaries. This Decision created a legal basis for the introduction of legal aid organization system of the State. Accordingly, Legal Aid Department under Ministry of Justice was established at national level and Legal Aid Centers under Departments of Justice are established in provinces and cities directly under the

Central Government.

On June 29, 2006, National Assembly of Vietnam approved the Law on Lawyers and the Legal Aid Act. The issuance of two Acts has shown a consistent policy on legal to protect rights and legitimate interests of people.

2-2 Please outline the legal aid organization and its programs.

Legal Aid Centers under Departments of Justice:

- Organizing public legal education programs and spreading leaflet which introduce the main content of legal documents ;
- Establishing legal aid clubs at localities.

2-2-1 Name of the legal aid organization/head office location

- Legal Aid Department under Ministry of Justice, 58 – 60 Tran Phu street, Ba Dinh district, Ha Noi.
- Legal Aid Centers under Departments of Justice: located in many cities and provinces in Vietnam

2-2-2 When was the above organization established?

Legal Aid Department under Ministry of Justice was established in September 6, 1997 under Decision No. 734/TTg of the Prime Minister.

2-2-3 Please describe briefly the organization structure such as branches and other offices.

Legal Aid Department under the Ministry of Justice is responsible for matters of legal aid work at national level, while matters at local level shall be handled by Legal Aid Centers under Departments of Justice.

2-2-4 Please explain about the organization's service delivery model such as salaried legal professional (staff attorney) and/or private legal professional (judicare).

There are two models of legal service delivery. First one is salaried legal professional

which means that legal consulting centers will appoint their lawyers to give clients legal advice per case. Another model is private legal professional where the legal consulting center appoints a specific private lawyer to handle all legal matters at client's request at any time.

2-2-5 Please explain about the budget for the legal aid system.

Legal Aid Fund is created to annually finance Legal Aid Department's activities.

2-2-6 How many recipients have received the legal aid assistance in main legal aid programs in recent years?

Legal aid activities have gradually developed in recent years. Legal aid centers in Vietnam assisted many subjects such as: the poor, children, women, the disabled person, people of ethnic minority...

2-2-7 Please explain about the main activities of the legal aid organization, including entitlement to legal aid and reimbursement of the assisted legal aid costs

- Main activities of Legal Aid Department under Ministry of Justice are:
 - Managing and guiding on operation of legal aid centers.
 - Providing training and professional improvement courses for officers/staffs conducting legal aid activities and granting certificate of professional training in legal aid.
 - Managing legal aid fund.
- Main activities of Legal Aid Centers under Departments of Justice are:
 - Organizing public legal education programs for the people and subjects of legal aid activities.
 - Appointing lawyers who collaborate with Legal Aid Center to protect the rights and legitimate interests for subjects of legal aid activity in the proceedings in accordance with the law.
 - Organizing seminars on some legal issues and disputes arising frequently.

2-3 What are the future issues or challenges with respect to the legal aid system in your country?

Some challenges with respect to the legal aid system in Vietnam are:

- Financial, equipments and working facilities are not adequate enough for legal aid centers to work well.
- There are a very few legal aid centers. Therefore, people have a number of difficulties in accesssing the legal aid centers.
- The limitation of professional level of officers in rural areas and financial shortage also cause a lot of challenge for legal aid centers.

2-4 Please let me know if the legal aid organization have an English language website.

Not available.

III Legal consultation (other than that covered by the Legal Aid system explained in above II.)

3-1 Legal Consultation Programs (Please explain if there are legal consultation programs managed by your organization (or other institutions) other than those covered under the Legal Aid system in your country.)

VBF has just established its one legal consulting center but this center has not operated yet.

Vietnam Lawyers' Association has established legal consulting centers located in some cities like Hanoi and Ho Chi Minh city. These centers give legal advice to individuals and organizations and also organizes working legal consulting activities in remote areas every year.

3-2 Fees for Legal Consultation (Please explain the fee structure for such legal consultation programs.)

N/A.

3-3 Management of the Legal Consultation Program (Please explain how such program is run by the organization.)

Legal consulting centers of Vietnam Lawyers' Association have many boards in these legal consulting centers: civil - land consulting board, business consulting board, administrative - labour - marriage and family consulting board, criminal consulting board. Each board will be responsible for legal advice in each legal area.

3-4 Appointment of an Attorney for Legal Consultation (Please explain how an attorney (consultant) is appointed.)

Legal consulting centers may also appoint lawyers involving in legal proceedings to defend and protect legitimate rights and interests for individuals and organizations before the court.

3-5 Flow to the legal representation (Please explain how such legal consultation may lead to legal representation by an attorney)

The legal consultation shall be provided at the specific request of clients. If the client asks the lawyer to be their legal representation before the court, the lawyer shall become an attorney in order to defend and protect legitimate rights and interests for clients.

3-6 Number of Consultations (Please provide statistics on how many legal consultations have been carried out per year.)

There is no accurate statistics on the number of consultations since it depends on each legal consulting centers in the country.

IV Shortages of Lawyers in Local Areas

4-1 Is there any figure of lawyers who work in local areas in your country?

The number of lawyers is not equally distributed among local areas. In some rural areas, the number of lawyers are too small to establish bar association.

4-2 Do you think that there are a sufficient number of qualified lawyers working for citizens in local areas in your country?

It would be difficult to assess whether the current number of qualified lawyers working for the citizens in the local areas because of the lack of the statistics and assessment from the clients' perspectives. However, there is a fact that most of the highly qualified lawyers are based in the city or urban locations.

4-3 If the answer of Question 3-2 is negative, what have caused such shortage of lawyers?

I think that the main reason is that there are more demands and businesses in the cities and urban locations.

4-4 Does the legal aid organization or the bar association/law society has any programs in dealing with legal services in local areas in your country?

Yes.

4-5 If the answer of Question 3-4 is affirmative, please describe briefly such programs.

Such programs shall be provided by bar associations in accordance with specific demand and actual context of each locality, including public education, career orientation...

4-6 What are the future issues or challenges with respect to the shortage of legal services in local areas in your country?

The shortage of lawyers for legal aid activities may lead to numerous unsolvable cases and failure in handling cases timely, thus affects the legitimate rights and interests of people.

5-1 Are there any obstacles to hinder access to justice other than the problems with the legal aid system and the shortage of lawyers in local areas?

Yes.

5-2 If the answer of Question 4-1 is affirmative, please describe briefly such obstacles.

Some obstacles which hinder access to justice other than the problems with the legal aid system and the shortage of lawyers are:

- A lack of understanding on rights and the role of lawyers.
- Corruption is big issue in Vietnam as in other developing countries, affecting access to justice.

5-3 Please explain briefly the educational system to produce qualified lawyers in your country.

To become lawyers, one must obtain a law bachelor diploma, be trained in legal profession, complete the probation of legal profession as provided in section 1.4.12 above.

5-4 Do you think that your country has enough lawyers to substantiate the access to justice?

There are not enough lawyers to substantiate the access to justice.

5-5 Do you think that your country produces newly qualified lawyers every year to substantiate the access to justice?

No, because only a small number of law graduate go on to become lawyers. Besides, the training period is quite long to obtain law practice certificate.

5-6 If the answer of Question 4-4 or 4-5 is negative, please describe briefly the reason for such shortage and your thoughts on how to solve such problems.

There is a very low number of lawyers comparative to the population. Moreover, the number of lawyers residing in such areas is too small in rural areas.

VBF should work with the local government authorities to address this issue.

VI Cooperation with Foreign Organizations

6-1 Please explain the details of recent and future projects relating to any of the above discussed issues in your country, in regard to

which any foreign (governmental or non-governmental) organizations are providing assistance.

UNDP and other donors have provided support for legal activities in Vietnam. Some of projects are: Supporting for the Task Force on implementation of the Enterprise Law and the Investment Law; Strengthening the capacity of the Vietnam Lawyers Association; Supporting for implementation of Vietnamese law system development strategy, etc.

VII Others

7-1 Recent Judicial Movement

Please describe briefly the recent movements or topics in the legal community, including the bar association/law society in relation to the topics above.

Resolution No. 49-NQ/TW of the Politburo of the Communist Party of Vietnam on “Judicial reform strategy till 2020” has provided for the policy and direction to increase the awareness of the people and state agencies of the position and the role of lawyers and the improvement of the legal profession.

The recent policy and law making agendas also paid attention to the increase of the role and quality of the legal profession.

7-2 Comments

Please fill in any comments or your thoughts to way to achieve the well-organized access to justice in your country.

To achieve the well-organized access to justice in your country, it is necessary to:

- Intensify the function of VBF;
- Improve the awareness of the role of lawyers;
- Encourage the lawyer to return to their countryside and joined bar association in their locality.