
Internal Supervision of The Administration Over the Performance of Public Duties by State Administrative Agencies of Vietnam

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Abstract

In the context of public administration reform, the internal supervision of the public administration has contributed to reducing incidents and damage, ensuring a unified executive system, and ensuring prevention, detection, and promptly handling risks and increasing the operational efficiency of state administrative agencies, contributing to building a modern and scientific administration. However, in the current conditions, the public administration poses many challenges such as violations of the law by subjects while performing public duties, improper implementation of procedures of public duties execution activities, corruption in the administration... The internal supervision of the administration over the performance of public duties by cadres and civil servants is one of the issues of special concern in Vietnam nowadays.

Keywords: Internal supervision, performance of public duties, state administrative agencies.

1. Contents of internal supervision of the administration over the performance of public duties by state administrative agencies

Supervision is “monitoring and checking whether the prescribed things are properly performed or not (Nguyen Nhu Y 1998). Supervision is defined as the gathering, influencing, managing, or directing of behavior, activities, or information (Monahan, Turin; Murakami Wood, David 2018). Supervision is understood in various ways. According to the first approach, it is understood as monitoring outside the system, “Supervision refers to the activities of state power agencies, courts, social organizations society and citizens in order to ensure strict observance of the law in social management. Thus, monitoring activities are mainly carried out in addition to vertical dependence” (Prof. D.Sc. Dao Tri Uc, et. Al 2003). According to the second approach, it is understood as monitoring inside the system, “Monitoring includes both checking and self-checking. Whether self-monitoring means self-tracking, reviewing and checking if you’re doing what you’re supposed to do?”.

The second approach pertains to internal administrative oversight. Internal supervision in the administration for the performance of public duties by state administrative agencies is the supervision of functions and tasks of central and local state administrative agencies to ensure transparency, strength, modernity, effectiveness, and efficiency.

The content of internal supervision in state administrative agencies focuses on controlling the compliance with laws and regulations by agencies and units, and people’s trust in state administrative agencies. “*Internal inspection activities within the administrative system, inspection activities within administrative agencies; testing of the administrative system’s function; inspection activities of state inspectors, specialized state inspectors for all state administrative activities*” (Pham Hong Thai 2012). Supervision of the performance of state functions and tasks by heads of state administrative agencies (Prime Minister, Ministers, Heads of ministerial-level agencies, Chairman of provincial-level People's Committees, Chairman of district-level People's Committees, Chairman of commune-level People's Committees, Director of the Department, etc.); supervision of inspection agencies...

The content of supervision within the state administration for the performance of official duties by state administrative agencies is extensive. The following specific contents, which can vary depending on the type of activity being supervised, form the primary basis for the internal supervision of state administrative agencies:

Firstly, ensuring that state administrative agencies are subject to adequate oversight during the process of formulating and publishing special and legal decisions

Individual decisions and administrative-legal decisions both express the establishment of a system of documents that are issued by state administrative agencies in accordance with the areas of authority that are specifically delegated to them. Administrative decisions are intended to perform the state administrative management function in all areas of social life.

Supervising the promulgation of legal documents by state administrative agencies to ensure the constitutionality and legitimacy of this activity. Legal documents are drafted and promulgated to achieve one or certain goals, especially in the administrative field, which have a great impact on the economy, culture and society. If not carefully considered and evaluated based on criteria, i.e., accurate legal grounds; proper authority; contents consistent with the Constitution, laws, and documents of lower-level agencies must be consistent with those of superior agencies; the correct order, procedure, format and technique of presentation in accordance with the law..., it not only leads to mistakes in management but also directly affects the economy and people's lives (Dr. Ta Thu Thuy 2022). Article 4, Law on Promulgation of Legal Documents in 2015, Amendments and Supplements in 2020, stipulates the system of legal documents of Vietnam. In which, central state administrative agencies such as the Government issue Decrees, ministries and ministerial-level agencies issue Circulars. The People's Committee of a province, district, or commune is a local state administrative agency with the authority to make decisions at the level of that entity. The internal supervision in state administrative agencies means that state administrative agencies are competent to self-check legal documents according to the provisions of Article 111, Decree 34/2016/ND-CP of the Government. The Government shall detail and implement the Law on Promulgation of Legal Documents.

The superior state administrative agencies have the right to supervise and check the constitutionality, legitimacy, and rationality of documents according to the provisions of the law of the state administrative agencies at lower levels. According to Article 28 of the Law on Organization of Government 2015 on the duties and powers of the Prime Minister: *"8. Suspension of the execution or annulment of documents issued by ministers, heads of ministerial-level agencies, and the Human Resources Committee. People, chairpersons of provincial-level People's Committees contravene the Constitution, laws and documents of superior state agencies"*. It is clear from Article 36 of the Law on Government Organization that ministers and the heads of ministerial agencies have certain responsibilities and powers in regards to local governments: *"2. To request the People's Committee, the President of the People's Committee of the province to suspend the implementation or annul the legal documents of the People's Committee and the President of the People's Committee of the province that is contrary to the documents on the assigned branch or field. If the People's Committees or chairpersons of the provincial People's Committees fail to comply, they shall report them to the Prime Minister for decision"*.

According to Article 22 of the 2015 Law on Organization of Local Government, duties and powers of the Chairman of the Provincial Peoples Committee: *"5. Suspend the execution or annul illegal documents of specialized agencies of the People's Committee of the province and illegal documents of the People's Committee and the Chairman of the People's Committee of the district"*. The responsibilities and authority of district People's Committee chairpersons are outlined in Article 29 of the 2015 Law on the Organization of Local Government: *"5. Suspend the execution or annul illegal documents of specialized agencies of district People's Committees and illegal documents of People's Committees and Chairman of commune-level People's Committees"*. The ability to oversee the methodology, practicability, and creation of legal documents by state administrative agencies at lower levels is a power granted by the state constitution.

State administrative agencies carry out internal supervision of state administrative agencies in the promulgation of administrative decisions that meet the content and purposes of the law, and are not contrary to the Constitution, the Law, ordinances and decisions of state administrative agencies at higher levels. Supervision based on competence, such as the Prime Minister has the power to issue special administrative decisions, the Ministers, the heads of the ministerial-level agencies have the power to issue special decisions, the Chairman of the People's Committees at all levels issue special decisions, the Director of the Department has the right to issue special documents... Carry out internal supervision of state administrative agencies in the issuance of special administrative decisions according to their competence, not beyond its authority, to identify whether the order, procedures, and form of issuing special decisions are in compliance with the provisions of the law?. *"The problem is that special administrative decisions issued by state administrative agencies have a very large number and arise every day, so whether the competent authorities can monitor, check and evaluate the entire or only inspect and evaluate when there are complaints, denunciations,*

reflections, recommendations or suspicions of violations” (Dr. Tran Van Long 2022). Public administrative agencies must exercise internal oversight of special administrative decisions, including considering both the feasibility and effectiveness of special administrative decisions promulgated by the competent state administrative agencies.

Second, supervision in the execution and administration of state administrative agencies

According to the provisions of the 2013 Constitution, the 2015 Law on Government Organization, the 2019 Amendments and Supplements, the 2015 Law on Organization of Local Governments, amended and supplemented in 2019, the 2011 Law on Complaints, the 2018 Law on denunciation...outlines the rules for how the National Assembly, People's Councils at all levels, the Fatherland Front, and other sociopolitical groups can monitor the work of state administrative agencies. However, there are no direct regulations on the content of supervision within the state administration for the performance of public duties by state administrative agencies. Carefully reviewing the provisions of current legal documents, the author finds that the relevant provisions are as follows:

Article 28, Law on Organization of Government 2015, amended and supplemented in 2019 regarding the Prime Minister's responsibilities and authority: *“Request the National Assembly to approve the proposal to appoint, relieve, and dismiss the Prime Minister, Ministers and other members of the Cabinet; At a meeting of the National Assembly, ask the President of Vietnam to take a decision to temporarily suspend the powers of the Prime Minister's Deputy Minister and other Cabinet members. Authorize the election, discharge and dispatch, suspension and dismissal of work to the President and Vice-President of the Provincial People's Committee. The President of the Provincial People's Committee is requested to dismiss and relieve the President and Vice-President of the People's Committee at the lower level if they fail to perform the duties of the appropriate authority or violate the law. Requesting the National Assembly to approve a proposal to appoint, dismiss, or remove the Deputy Prime Minister, ministers, and other members of the government, the Prime Minister demonstrates internal control over state administrative bodies.*

In Article 22 of the Local Government Bodies Act of 2015, which was amended and supplemented in 2019, the duties and powers of the Chairman of the Provincial People's Committee are mentioned as follows: "2. Accept the results of the election of the President and Vice-President of the People's Committee at the district level and authorize their discharge or dismissal from their duties; If the president of the District Level People's Committee becomes vacant, delegate authority to the President of the District Level People's Committee;

Article 29, amended and supplemented by the Establishment of Local Government Act, 2015 in 2019, mentions the responsibilities and authority of the Chairman of the District People's Committee. The district is governed by the President of the People's Committee, which has the following responsibilities and authority: "2. Approval of the results of the election, president of the People's Committee, vice-president of the People's Committee at the communal level; sending, suspending or dismissing the President of the People's Committee and the Vice-President of the People's Committee at the communal level; delegate power to the President of the People's Committee at the communal level, if there is any vacancy for the President of the People's Committee at the communal level between the two sessions of the Constituent Assembly at the communal level; According to the law, sending, dismissing, rewarding and approving government employees and government employees who fall under the purview of remittances.. State administrative agencies at the central and local levels shall supervise the implementation and administration and execution of the tasks of state administrative management of state administrative agencies in various fields, such as education, health care, organization, human resource management, finance, religion, security, national defense, domestic and foreign affairs, etc. Administrative supervision is to review and evaluate the performance of duties and powers of state management agencies. These duties and powers are regulated based on the authority of each agency(Dr. Tran Van Long 2022).

Third, internal supervision through the recruitment, use, management, evaluation, reward, discipline and functions and duties of cadres and civil servants working in state administrative agencies

Resolution 26 - NQ/TW of the 12th Party Central Committee dated 19 May 2018 on focusing on developing cadres at all levels, particularly at the strategic level, with sufficient quality, capacity, and prestige, on par with the task, candidly stated: *“The cadre developing still has many limitations and flaws, and the implementation*

of certain contents is still formal... Staff planning lacks overality and connectivity between all levels, branches and localities; is still spread, closed, not yet ensure the motto "dynamic" and "open"... The arrangement, assignment, appointment, introduction of candidates are in the right process but not the right people, the right job". In the coming time, it is necessary to strengthen internal supervision through recruiting, employing, managing, evaluating, rewarding, disciplining and performing the functions and tasks of the public servants working in state administrative agencies in accordance with the provisions of the Law on Cadres and Civil Servants in 2008, amended and supplemented in 2019, the Law on Anti-corruption 2018 ...

Fourth, internal supervision through the use of the nation's financial and public resources

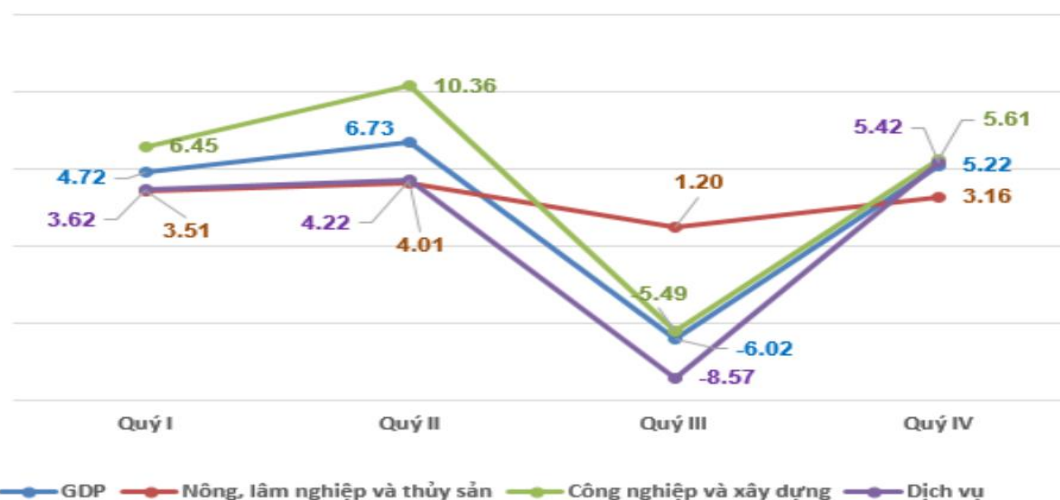
The use of budget and financial resources at state administrative agencies occurs every day and every hour; therefore, although there are strict regulations on the use and management of public assets, it is inevitable that there will be deficiencies and confusion at state administrative agencies due to objective and subjective errors when these regulations are implemented. Utilization of financial and public resources of the nation plays a crucial role in the execution of state administrative agencies' duties and responsibilities. Internal supervision through the use of financial and public resources of the country should be carried out regularly and continuously in order to improve the effectiveness and efficiency of state management. The auditors also perform a form of financial supervision (Cardwell, Harvey 2005). Currently, the regulations are scattered in many specialized laws and we should have comprehensively studied into a separate Code on public property management. However, the legal system is still overlapping, so it has to be done step by step. This is also the reason why the drafting committee had to review more than 50 different laws and documents when developing this draft revised Law (Duy Thai 2022).

Fifth, internal supervision through the activities of the inspection agency

State administrative management is a broad management activity across all sectors and fields, therefore, supervision through the inspection agency plays a very important role. Inspection refers to the examination, evaluation, and conduct by the appropriate state agency to implement the powers of the organization, organization, and people in accordance with the orders and procedures laid down by policy, law, work and law. Inspectors include administrative inspectors and special inspectors who operate monitoring systems within state administrative bodies. Help agencies, organizations and individuals to comply with the provisions of the law. Evaluate the implementation of policies and laws by state administrative agencies, officials and civil servants in state administrative agencies. Recommend improving policies and laws and handle law violations during the process of implementing policies and laws of state administrative agencies (Dr. Tran Van Long 2022).

2. Some issues raised in the internal supervision of the administration for the performance of public duties by state administrative agencies in Vietnam today

According to statistics,



Quarterly growth/decline rate of the GDP in 2021 (%) (Statistics Office's report 2021).

It is expected that the GDP will grow by 5.22 percent in the fourth quarter compared to the same time last year. Although it is higher than the 2020 growth rate of 4.61 percent, it is lower than the fourth quarter growth rate of 2011-2019. This is the lowest growth rate of the past decade and is lower than the projected growth for 2020 (2.91%). Vietnam's GDP will increase by 2.58% for the entire year of 2021 (by 4.72% in the first quarter, 6.73 % in the second quarter, 6.02% in the third quarter, and 5.22% in the fourth quarter). Culture, society, and health... have attained encouraging development outcomes. In parallel with the development of the economy - society, it also poses a number of challenges and risks in modern state governance, thereby creating pressures for administrative agencies. The government itself must pay more attention to internal control issues in order to limit incidents and damage and increase the operational efficiency of Vietnam's state administrative agencies.

President Ho Chi Minh affirmed the role of supervision within state administrative agencies over the performance of official duties of state officials and civil servants: "What are situations, how many advantages and disadvantages, how many officers, we can see clearly"(Ho Chi Minh's 2011). The policies, regulations, control procedures, and operational steps put in place by the top management of a state administrative agency to ensure the timely prevention, detection, and treatment of risks and compliance with established requirements constitute the agency's internal control. The content of internal control in state administrative agencies focuses on controlling the compliance with laws and regulations of agencies and units, ensuring operational efficiency and management efficiency of administrative agencies and people's trust in state administrative agencies.

In recent years, state administrative agencies have actively implemented the state administrative reform program according to the guidelines and leadership of the Party, and the close management of state agencies. The one-stop-shop, one-stop-shop mechanism has tremendous benefits for state administrative agencies and specialized agencies. Administrative reform in the spirit of streamlining the organizational apparatus, reducing focal points, through the promulgation of legal documents to concretize guidelines and policies of the Party and State. Specialized agencies at the provincial and district levels have had their mandated functions, tasks, powers, and organizational structure promulgated in a timely manner. Constructing a software system to oversee and guide the work of state administrative agencies... increasing public trust in those agencies.

Besides the advantages, the operation of state administrative agencies still has some shortcomings.

In 2018, the Department of Examination of Legal Documents under the Ministry of Justice discovered 5,639 illegal documents. Of these, 1,236 legal documents are contrary to the law on promulgation authority and content; 3,829 legal documents errors in terms of the legal basis, format, and technique of presentation of documents; 574 documents are not legal documents but contain legal norms(Ministry of Justice 2018). The cadres and civil servants directly engaged in lawmaking work in ministries, branches, and localities are still unstable; people working in other units of ministries, ministerial-level agencies, and provincial specialized agencies are primarily in other majors; the law sector accounts for only 27% of the total number of cadres and civil servants involved in policy formulation, drafting, and appraising legal documents in ministries, ministerial-level agencies, and 15% in specialized agencies (Ministry 2015). Corruption and waste are still serious with increasingly sophisticated and complex manifestations, occurring in many fields, at many levels, and in many branches, hindering socio-economic development, causing public frustration, which is a serious challenge to the Party's leadership role and the State's management effectiveness, threatening the regime's existence(Hanoi, 2016).

Regarding the inspection and violations in the public and transparent implementation of agencies and units, in 2019 and 2020, the competent authorities have inspected 12,002 agencies, organizations and units on publicity and transparency, thereby detecting that a number of agencies have not fully implemented the regulations on publicity and transparency, thereby promptly correcting these violations. In terms of violations in the formulation and implementation of norms, standards, and regimes, the competent authorities conducted 5061 inspections in 2019 and 2020, discovered 546 cases and 639 violators, disciplined 91 individuals, criminally prosecuted 64 individuals, and filed claims for recovery and compensation totaling 312.2 billion VND. Violations in the implementation of regulations on transparency of assets and income, in 2019, through verification, 10 violations were found; 08 cases were disciplined. In terms of errors in returning gifts, in 2019 and 2020 there were 09 individuals who returned gifts with a total value of 213.8 million VND; detected and handled 04 cases of receiving gifts in contravention of regulations. In terms of mistakes in the implementation of the code of conduct and control of conflicts of interest, in 2020, the competent authorities inspected the implementation of the code of conduct by officials and civil servants at 4,646 agencies and organizations, detected and rectified violations and handled 192 Officers, public servants and public servants violate the

Code of Conduct and Professional Ethics. There were 08 cases of suspension or temporary suspension of the performance of assigned tasks or public duties due to conflicts of interest (Government on anti-corruption work in 2019).

According to the regulations on the policy of downsizing the staff, the organizational apparatus in state administrative agencies has reduced the focal points of the provincial and district levels, but the organizational structure within some agencies of the Committee, departments, and branches have not really been streamlined. The non-business unit system is still relatively cumbersome; the determination of payroll according to the right job position still has many shortcomings, has not been implemented drastically and has not paid due attention to the implementation of the policy of downsizing the payroll, there are no regulations on decentralization, delegation of rights and responsibilities, and attach the leader's responsibility to the assessment and classification. The statute of limitations for disciplining cadres, civil servants, and public employees is still in effect.

Regarding the number of deputies, *the Hanoi Public Security Department has 8 deputy directors, including three with the rank of Major General (Hanoi Public Security 2022), and the Hanoi Department of Home Affairs has 8 deputy directors (Hanoi Department 2022)*. Therefore, compared with the provisions of law, the number of deputy directors of the department exceeds the ceiling. In practice, the implementation of the law on handling of violations in cadre work encounters many difficulties for those who have retired, changed jobs, quit, or because the statute of limitations has expired. The reason for this is that numerous regulations are "inconsistent, and there are numerous gaps in their practical application, reducing the efficiency of cadres and civil servants' management (Ministry of Home Affairs 2018),.

In terms of state management in the field of education, it is still loose and not very effective, such as the problem of achievement diseases in education, school violence, sexual abuse of children, or the case of a contractual teacher in Soc Son burst into tears at the risk of losing his job¹. In the field of information and communication, what role does the Hanoi Department of Information and Communications play when Nhat Cuong continuously wins the contract?. Is there a backyard of officials in the matter of state management? Responsible commitments, with increased inspection and supervision and no mechanism strong enough to strictly control power. There are no effective measures to promptly prevent and reverse the situation of running for office, running for power and negative aspects in cadre work. Insufficient rigor and effectiveness in monitoring, inspection, supervision, and violation resolution². Improvements to internal control in state administrative agencies are also necessary in other fields, including health, culture, society, civil service ethics, civil service culture, and resolution of complaints and denunciations in state administrative agencies.

Internal supervision in state administrative agencies includes many different subjects such as supervision, inspection, examination..of functions, tasks and activities of state administrative agencies; the role and responsibility of the head in the state administrative agencies in the occurrence of law violations, especially the anti-corruption law - a burning problem in the administrative management of Vietnamese administrative agencies; mutual control between state administrative agencies.

3. Some solutions to enhance the effectiveness of internal administrative supervision in the performance of official duties by state administrative agencies in Vietnam today

First, appropriate state agencies continue to perfect the law of supervisory activity between state administrative bodies at the central and local levels, which, in terms of actual, actual power and increasing authority, is the responsibility of the appropriate state administrative body before, during and after supervision.

Second, delineating responsibilities of state administrative agencies in the process of internal supervision. In the process of monitoring agencies, the unit must clearly define the responsibilities of each party when participating in the supervision, if the relevant agencies do not clearly define their responsibilities, the parties will not be active in performing common tasks, or pushing responsibilities in supervision or failing to comply with set requirements. Therefore, in the current situation, the division of specific internal supervision

¹ Contract teacher in Soc Son burst into tears at the risk of losing his job, <https://baomoi.com> , accessed January 22, 2022.

² Resolution No. 26-NQ/TW of the Communist Party of Vietnam's 7th Conference, 12th Central Committee, dated May 19, 2018, on emphasizing the development of cadres at all levels, particularly at the strategic level, who are fully qualified, competent, and prestigious, and who are equal to the task

responsibilities between state administrative agencies at the central level (Government, ministries, ministerial-level agencies) and state administrative agencies at the local level (People's Committees at all levels and specialized agencies) is extremely practical, contributing to improving the efficiency and operation of competent state agencies.

Third, to ensure transparency in the supervision process, the internal supervision of the state administration for the performance of official duties in state administrative agencies ensures transparency before supervision, during supervision, and after supervision to make sure the state administration is effective and efficient.

Implement, inspect, closely monitor, and strictly control the requirements for accountability, asset declaration, and income disclosure for cadres and civil servants appointed to senior positions. Also, closely monitor the cadres and civil servants' group's decision-making. In fact, at present, internal monitoring subjects in state administrative agencies only pay attention to supervision before and during internal supervision, and there are still many holes in the post-monitoring period which need to be further improved in the near future.

Fourth, agencies, groups, and people who violate the law or discipline administratively or criminally must be dealt with strictly. Subjects who commit acts of violating the law will be handled according to the law, not allowing the abuse of provisions of the law to commit acts of embezzlement, waste, and smuggling in their duty performance.

Conclusion

Reform of public service and civil servants are at the heart of the reform of the state sector which is an important task of any government of any country. In recent times, the world and the region have experienced many unpredictable changes such as the covid pandemic, trade competition, climate change, etc., which have affected the socio-economic development of the country and public administration in the immediate as well as in the long term. Activities of state administrative agencies need to be supervised within the state administration for the performance of official duties by state administrative agencies in order to increase the efficiency and quality of Vietnam today./.

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