

Human Rights Resource Centre (HRRC)
in collaboration with the
Asian International Justice Initiative (AIJI); and
WSD Handa Center for Human Rights and International Justice (Handa Center)

**Judicial Training in ASEAN:
A Comparative Overview of Systems and Programs**

April 2014



COUNTRY FACTSHEET 10: JUDICIAL TRAINING IN VIET NAM

A. Training Organization and Institutionalisation

1. *Relevant Recent Legal and Judicial Reforms*

An important milestone of judicial reform in Viet Nam is the State’s adoption, in 2002, of a judicial reform strategy toward 2020.³³⁰ This judicial reform strategy has called for modernizing the justice regime and improving the professionalism of judges.³³¹ Based on the set blueprint, the Government authorized the Ministry of Justice to establish a Judicial Academy (JA) in 2004, which shall serve as the national judicial institution responsible for both initial and in-service training for all judicial titles in Viet Nam, including judicial training for judges.³³²

Prior to the establishment of the JA, Viet Nam did not have any official training institution responsible for judicial training and education. The court appointed judges without requiring them to take formal courses of professional training. They were selected and appointed by the court based on their working experience as court officers, clerks, tribunal secretaries and prosecutors, and legal experts of governmental bodies.³³³ The establishment of the JA has changed significantly the conditions for appointment and contributed considerably to the development of the quality of judges. Nowadays, all judges in Viet Nam must be trained in the JA’s judicial training programs.³³⁴

2. *Institutions Responsible for Judicial Training*

Institution	Responsibility	Training Oversight and Trainers of the Institution
1. Judicial Academy , a public education institution under the Ministry of Justice.	Responsible for judicial training of judicial titles in Viet Nam, including ³³⁵ <ol style="list-style-type: none"> 1. Judges; 2. Lawyers; 3. Public prosecutors; 4. Public notaries; 5. Bailiffs; 6. Other judicial titles. 	The Ministry of Justice oversees the management of the JA and appoints its Director and Board of Directors. All officers of the JA are civil servants working for the MOJ. ³³⁶ Aside from a group of permanent trainers, the JA also engages a number of legal experts from law research institutes, senior judges and prosecutors, and academics of leading law schools as adjunct lecturers.

330 Decision No. 23/2004/QĐ-TTg of the Prime Minister on establishment of Judicial Academy (Decision 23/2004/QĐ-TTg).

331 Institute of State and Law. *Legal and Judicial Reforms in Viet Nam*. IDE-JETRO, IDE Asian Law Series No. 7, Hanoi (2001). 11-16. See also Le Thi Thu Ba. *Cong tac quan ly toa an nban dan dia phuong va van de nang cao trinh do van hoa xet cu cua cac toa an (Local People’s Court Management and Judging Cultural Enhance of People’s Courts)*. Legal Science Information Review Issue 7 (2001): 18-27.

332 Decision No. 23/2004/QĐ-TTg, Art. 3.

333 Penelope (Pip) Nicholson and Nguyen Hung Quang. “The Vietnamese Judiciary: The Politics of Appointment and Promotion” (hereafter **Penelope (Pip) Nicholson and Nguyen Hung Quang, “The Vietnamese Judiciary”**). *Pacific Rim Law and Policy Journal*, Vol 14 (1) (2005): 1-34. See also Nguyen Hai Ninh. *Reform of Justices in Viet Nam*. ASEAN Law Association, 10th General Assembly. Available at <http://www.aseanlawassociation.org/10GAdocs/Vietnam5-1.pdf> (last assessed 18 Feb 2014).

334 Ordinance on Judges and Jurors of People’s Courts 2002, Art. 37; and Circular 01/2011/TTLT-TANDTC-BQP-BNV of the Peoples Supreme Court on guiding on implementation of some provisions of the Ordinance on Judges and Jurors, Art. 1.

335 Decision No. 23/2004/QĐ-TTg, Art. 3.

336 Ibid., Arts. 2 & 4.

2. School of Tribunal Servants , Supreme Court.	Organizes some short-training courses for judges to improve and strengthen judicial qualities.	This is an educational institution operating under the Supreme Court
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3. *Participants of Judicial Training*

a.) *Judicial Academy (JA)*

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
<p>A judge candidate must³³⁷</p> <ul style="list-style-type: none"> - Have a legal background (<i>e.g.</i> graduation from licensed national law schools or foreign law schools recognized by the MOJ); - Be recommended by the judiciary; - Have a Vietnamese nationality; - Have no criminal record; - Have good morality. 	<p>There are no entrance exams, and candidates are usually former court officers, tribunal secretaries, and judicial clerks with at least four years of work experience.</p> <p>Thus, candidates must first pass the public examination for civil servants to qualify to work as judicial clerk/tribunal secretary.³³⁸ During their service at the court, they undergo in-service training courses provided by the School of Tribunal Servants.³³⁹</p> <p>Only those with satisfactory results and good performance during their services can be selected for appointment as judge and attend the JA training course.³⁴⁰</p> <p>The court system comprises three levels: District People’s Courts, Provincial People’s Courts and Supreme People’s Court. The Chief Justice of the Supreme Court exercises the power to appoint lower level judges from the list of preferred appointees submitted by the Judicial Selection Council of district or provincial levels.³⁴¹</p>	<p>Judge candidates must accomplish the JA’s judicial training program. Each year, the Chief Justice of the Supreme People’s Court will decide the quota for appointment of judges depending on the needs of the respective administrative units. The Chief Justice of the relevant provincial court would select and send the qualified court clerks and tribunal secretaries of its jurisdiction to participate in the JA’s training.³⁴²</p> <p>On average, the JA accepts about 500 students per year in its judicial training program and graduation rate is around 90%, <i>i.e.</i> being awarded a certificate of accomplishment of the program issued by the JA (JA Certificate).³⁴³</p>

337 Law on Organization of the Peoples’ Court (2002), Art. 37; Ordinance on Judges and Jurors of People’s Courts (2002), Art. 20.

338 Ordinance on Judges and Jurors of People’s Courts 2002, Art. 5. *See also* commentary in Penelope (Pip) Nicholson and Nguyen Hung Quang. “The Vietnamese Judiciary.”

339 The School of Tribunal Servants was established under Resolution No. IX 210/UBTVQH of the Standing Committee of the National Assembly dated 20/5/1994 and Decision 100/TCCB dated 23/8/1994 of Chief Justice of The Supreme People’s Court. For further information, visit its website. *School of Tribunal Servants*. Website. Last accessed 7 April 2014. <http://tcba.toaan.gov.vn/portal/page/portal/tcba/27676661>

340 Direction 152/2003/TCCB of The People’s Supreme Court of Viet Nam guiding recruitment, selection and promotion of civil servant ranks within the court, dated 1/8/2003 (Direction 152/2003/TCCB).

341 Direction 152/2003/TCCB. *See also* Penelope (Pip) Nicholson and Nguyen Hung Quang. “The Vietnamese Judiciary.”

342 Law on Organization of the Peoples’ Court, Art. 40.

343 Judicial Academy. *Bao cao thanh tuu 15 nam hoat dong cua Hoc vien tu phap (Report on Achievement of Judicial Academy in 15 years of operation)*. 2014.

4. Necessity of Undergoing Pre-Judicature Training

In the past, judges in Viet Nam could be appointed without any formal judicial training as long as they had experience working as judicial officers, judicial clerk or prosecutors or legal experts of governmental bodies (with “judging experience”).³⁴⁴ Since 2004, possessing a JA Certificate, signifying successful completion of the JA’s course, has been a mandatory requirement for appointment as a judge. In practice, however, in some very exceptional cases (*i.e.* the court has a special demand for a judge with a certain expertise or where the candidate is a proven legal expert), the Supreme Court may consider waiving the requirement of a JA certificate.³⁴⁵

B. Structure and Content of Training Programme for Judges

1. Structure of Training Curriculum

The JA training course is conducted full-time and is 12 months in length. The training course is entirely financed by the government; students participating in the course shall not pay any tuition fee and also receive their salaries in full during the study. The training curriculum is focused mainly on the future judges’ skills to hear specific cases rather than teaching the content of law. The JA’s judicial training curriculum for judges comprises the following parts:³⁴⁶

- 1) *Fundamental knowledge*, including the following modules: (i) judge’s moral; (ii) the relationship between judge, lawyer and prosecutor; (iii) communication skill at trials; (iv) psychologies of judge; (v) human rights in judiciary; (vi) new content of administrative law 2010; (vii) new content of civil procedure law 2004; (viii) introduction to arbitration law; (ix) international integration and judiciary; and (x) international cooperation on criminal procedure;
- 2) *Specialized professional knowledge*, including the following modules: (i) skills on judging civil, business, trade and labour cases; (ii) skills on criminal cases; and (iii) skills on administrative cases (all units including matters such as collecting, considering and using evidences, drafting of documents and judgments, and moot courts);
- 3) *Professional knowledge for practices at local courts*;
- 4) *Specialized skills*.

2. Content of Training Curriculum: Specific Topics

a.) Judicial Ethics

In Viet Nam, although a Code of Ethics has not been introduced, all judges are required to observe “judge morals” and good ethics.³⁴⁷ Hence, principles of legal ethics and judge morals are taught in the curriculum as part of fundamental knowledge of the professional training program. In particular, the core course is organized to distinguish the differences between common social morals and ethics from those of a judge.

344 Penelope (Pip) Nicholson and Nguyen Hung Quang. “The Vietnamese Judiciary.” See also Hanoi Institute of State and Law. *Legal training*. Institute of Developing Economies, Japan External Trade Organization, Available at http://d-arch.ide.go.jp/idedp/IAL/IAL000700_007.pdf (last visited 10 February 2014).

345 Chapter I (section 1), Circular 01/2011/TTLT-TANDTC-BQP-BNV of the Peoples Supreme Court on guiding on implementation of some provisions of the Ordinance on Judges and Jurors.

346 The contents of JA course is publically available at its website. *Judicial Academy*. Website. Last accessed 7 April 2014. http://hocvientuphap.edu.vn/Tai_lieu.aspx?id=2

347 Law on Organization of the Peoples’ Court (2002), Art. 37; Ordinance on Judges and Jurors of People’s Courts (2002), Art. 20.

b.) *Human Rights and/or Fair Trial Rights*

The training program has a module named “human rights in judiciary” which is compulsory for participants. The module covers the basic rights of the accused before and after the punishment, and the humanitarian aspect of each judgment.

c.) *ASEAN Instruments*

The JA training curriculum includes one module on “international integration and judiciary.” This module focuses on international legal and practical issues that judges must be aware of and understand to resolve disputes with foreign elements and disputes arising from the economic integration of Viet Nam. The content gives an introduction to arising issues caused by economic integration, such as foreign crimes and international trade disputes, which judges may face in their practice. The module also explains the most important treaties and legal documents of ASEAN.

d.) *International/Comparative Law and Conflict of Laws*

The curriculum does not include any particular module on international law and/or comparative law, although there are modules on (i) international integration and judiciary and (ii) international cooperation on criminal procedure. It should be noted that international law and comparative law are taught in the bachelor of laws program at law schools in Viet Nam. Conflict of laws, in the sense that one national law might be in conflict with another national law, or with an international legal instrument, is not taught as a separate module in the JA judicial training program. Certain aspects or issues of conflict of laws could, however, be included in some modules in the curriculum.

3. *Continuing Judicial Education*

Judges in Viet Nam are not mandated to take any other course as they have qualified through the appointment procedure. However, each year, they may be required to attend short-term in service training courses by the School of Tribunal Servants, an educational institution operating under the Supreme Court, as part of continuous legal education. Content of the courses change from year to year to accommodate newly enacted laws or regulations and new developments in juridical practice.