

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 7 | Issue 3

2024

© 2024 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Access to Credit Support for Former Prisons in Vietnam

NGUYEN THI THUY TRANG¹ AND LUONG THANH BINH²

ABSTRACT

The former prison is one of the most vulnerable in society. In the past, our state has developed and implemented a comprehensive financial policy, one of the important objectives of which is to provide appropriate and convenient financial services to the vulnerable in society in order to enhance access to finance, contribute to the creation of livelihoods and job search for this group. In particular, on 17 August 2023, the Government issued Decision No. 22/2023/QĐ-TTg on credit for persons serving sentences of imprisonment. This is a new step in implementing comprehensive financial policy to a specific audience. The article focuses on analyzing the state of law and suggesting a number of legal improvements on access to credit for the group of people who have completed their sentences.

Keywords: *execution of prison sentences, capital loans, banking policy.*

I. INTRODUCTION

In Vietnam, the Criminal Code sets out the penalties applicable to individuals who commit crimes, such as fines, rehabilitation without detention, expulsion, term imprisonment, life sentence, death penalty... Among them are prison sentences that are quite commonly applied to individuals who have committed convicted crimes.

According to paragraph 1 of article 3 of the Criminal Enforcement Law, the executor of the sentence is “a person convicted, subject to punishment according to a judgment, a decision of the Court which is legally effective and has a decision enforced”. Pursuant to paragraph 1 of Article 3 of Decision No. 22/2023/QĐ-TTg, “a person who has completed a sentence of imprisonment, including a person who completed the term of the sentence, has been granted a certificate of completion of a prison sentence as provided for in the Criminal Penal Code and a specialized person has been awarded the specialized certificate as specified in the Special Law”. This is the first time that a statutory text in the Vietnamese legal system provides a definition of a person who executes a sentence of imprisonment. From the above provision, there are two

¹ Author is a Lecturer at Faculty of Law, Banking Academy, Vietnam.

² Author is a Lecturer at Faculty of Law, Banking Academy, Vietnam.

cases in which a person is deemed to have completed a sentence of imprisonment:

First, the latter convicted have completed their term of imprisonment and then they are issued a certificate of completion in order to be able to reintegrate into the community.

The second is the one who executes a prison sentence in case of a special sentence. In accordance with the provisions of Section 1 of Article 11 of the Special Penitentiary Law of 2018, a person who is serving a term sentence of imprisonment, who is sentenced to life sentence, but has been reduced to a term of prison to be requested by the special penitent, must meet the following conditions: (1) Having made much progress, having a good sense of reform and being classified as a good or good executor of a sentence in accordance with the provisions of the law on the execution of a criminal sentence; (2) Having served a sentence of imprisonment for a period determined by the President of the State but not less than one-third of the time in the case of a term sentence, if the term of execution of the sentence has been previously reduced, the term shall not be counted to the time of performance of the penalty; having served at least fourteen years in the event of a life sentence reduced to a term, if, after being reduced into a term prison, the period shall be continued to be reduced then the term may not be calculated to the period in which the sentences have been executed.

Whoever executes a sentence is known as a former prisoner. These people also have full human rights as well as citizenship right. After completing their sentences, they return to social life and will surely face many difficulties and obstacles in reintegrating into the community. So these people are classified as vulnerable people in society.

Former prisoners are at high risk of economic insecurity due to the challenges they face in finding employment and to the difficulties of securing and maintaining public assistance while incarcerated. This study examines the processes through which former prisoners attain economic security, examining how they meet basic material needs and achieve upward mobility over time. Findings reveal considerable struggle among our subjects to meet even minimal needs for shelter and food, although economic security and stability could be attained when employment or public benefits were coupled with familial social support. Sustained economic security was rarely achieved absent either strong social support or access to long-term public benefits. However, a select few were able to leverage material support and social networks into trajectories of upward mobility and economic independence. Much of the focus of the scholarship and policies addressing prisoner reentry has understandably focused on recidivism. However, desisting from crime is just one component of successful offender reintegration. Another key determinant of whether returning prisoners are able to establish conventional

lifestyles is meeting basic material needs (Travis, 2004). Barriers returning prisoners face to finding stable sources of employment, public assistance, and social support (Holzer, Raphael, & Stoll, 2004, 2007; Pager, 2003, 2007; Pager, Western, & Bonikowski, 2009), as well as the disadvantages that characterize this population, including low levels of human capital and a high prevalence of mental health problems and substance use (Visher & Travis, 2003), all make economic stability and security a significant challenge. Few prisoners leave prison with jobs, assets, or other resources waiting for them in the community (Travis, 2005), and being unemployed is a risk factor for criminal behavior (Hagan, 1993; Tanner, Davies, & O'Grady, 1999; Uggen, 2000). The economic insecurity of returning prisoners also poses a challenge for social welfare policymakers, as access to and effective use of public and nonprofit social services are potentially critical for this population. In addition, programs and policies at all levels of government already play an important role in their lives, including community supervision, health care, public benefits, public transportation, and social services. As a result, policymakers may have considerable opportunity to intervene in ways that improve their well-being. In particular, community supervision programs such as parole involve frequent contacts with state systems that could be leveraged to improve access to services and supports. Despite the large number of economically vulnerable individuals returning to communities each year, we know surprisingly little about how former prisoners make ends meet after their release from prison, how or why some are able to secure services and supports while others are not, or which services and supports create pathways to long-term stability and economic independence (David J. Harding, Jessica J. B. Wyse, Cheyney Dobson, Jeffrey D. Morenoff, *Making Ends Meet After Prison*, 2014).

II. ACCESS TO CREDIT FOR FORMER PRISON IN VIETNAM

In Vietnam, the Government has issued Decree No. 49/2020/ND-CP which specifies the preparatory measures for the reintegration of prisoners; the measures to ensure the rehabilitation of persons who have completed their prison sentences; the responsibilities of ministries, people's committees at all levels and the agencies, organizations and individuals involved in the implementation of the safeguarding measures. The organization of community reintegration activities for this group of people must be based on certain principles. First, the reintegration of the community must comply with the provisions of the law, ensuring the participation of institutions, organizations, individuals and families in the implementation of measures to guarantee the integration. Secondly, facilitating the reintegration of prisoners, stabilizing their lives, preventing recidivism and violations of the law. Thirdly, it is strictly prohibited to discriminate, discriminate or violate the legitimate rights and interests of perpetrators and

executors of prison sentences.

One aspect of community reintegration is that people who have completed their prison sentences need to find jobs to make a living for themselves. However, when there is a need for credit capital in order to implement business plans or serve the needs of life, this group of people is difficult to access credit capital. Meanwhile, this is a very practical and appropriate wish for them. That is why, in order to ensure the implementation of access to credit for this group of people, on 17 August 2023, the Government issued Decision No. 22/2023/QĐ-TTg to establish a separate legal framework for this particular credit relationship. Accordingly, this decision regulates the credit policy for persons who have completed imprisonment sentences, the manufacturing business facility which employs the prison sentence workers who have borrowed funds from the Social Policy Bank for vocational training and production, business, job creation. Under this regulation, borrowers include:

One is the person who has completed a sentence of imprisonment, including a person who completed the term of the sentence, who has been granted a certificate of completion of sentences provided for in the Criminal Penal Code, and a person specialized in the specialized certificate specified in the Special Sector Law.

The second is the production base of business, which includes small and medium-sized enterprises, cooperatives, cooperative groups, business houses, which employ workers who are executing sentences of imprisonment.

Thus, it can be seen that not only sentenced persons are given the opportunity to access this credit, but the borrower is also extended to the group of persons who are producing business establishments that satisfy certain conditions where the employee is the executor of the sentence. This shows that this credit policy is built with a profound humanity, not only for individuals who want to reintegrate into the community after completing their prison sentences, but also provides a huge incentive to encourage small or establishments to actively recruit prisoners to engage in employment relationships.

Current legislation also specifies the purpose of borrowing. Accordingly, for loans for vocational training: Costs for the study and living of persons who have completed their sentences of imprisonment during their studies at universities (or equivalent universities), colleges, secondary professional and vocational education institutions established and operating in accordance with the provisions of Vietnamese law. This cost includes: tuition fees; purchase of books, study facilities; food, accommodation, travel costs. For capital loans for production, business, job creation: The cost of production, business, job creation includes the cost of

carrying out the activities of manufacturing, business and jobs creation.

Regarding the level of the loan, the decision provides for the loan of capital for vocational training: The maximum level of loan is VND 4 million per month per person who has completed a prison sentence. Meanwhile, borrowing capital for production, business, job creation, the maximum loan capital is VND 100 million per person who has completed a prison sentence. With business production facilities: The maximum loan level is VND 02 billion per project and not more than VND 100 million per worker at the business manufacturing facilities. Decision to specify the interest rate on loans to the poor households as per period. The overdue interest rate is 130% of the interest rate on the loan.

For borrowers who are executing prison sentences, now the law stipulates that executors who have completed the sentence have to borrow training capital and borrow capital for production, business, job creation and do not have to make loan guarantees. On the contrary, for the production base of the business employing labour, the person who executes a penalty of imprisonment for a loan of more than Rs. 100 million must make the guarantee of the loan in accordance with the provisions of the law and the Social Policy Bank on guaranteeing the fulfilment of the obligation of loan of capital. Loan guarantees are credit organizations that take measures to prevent risks and create the economic and legal basis for recovering debts borrowed from customers. Loan security measures other than debt deduction is also risk prevention measures.

III. CONCLUSION

One of the fundamental and important axes of the comprehensive financial concept is the credit policy for vulnerable or so-called vulnerable groups in society. With an open, convenient, incentive credit policy, you can change your life in a more qualitative way. The Government of Vietnam's Decision No. 22/2023/QĐ-TTg on credit for executions is a remarkable step towards promoting comprehensive financial support for specific groups of vulnerable persons.

IV. REFERENCES

- Government (2002), Decree No. 78/2002/ND-CP on Credit to the Poor and Other Policy Subjects
- Government (2023), Decree No. 49/2020/ND-CP detailing the enforcement of the Criminal Enforcement Law on Community Reintegration
- Prime Minister, Decision No. 22/2023/QD-TTg on credit for executing sentences of imprisonment
- Congress (2018), Specialty Law 2018
- Congress (2015), Criminal Code 2015 7. Parliament (2017), Act amending some articles of the 2015 Criminal Code
- Travis, J. (2004). Reentry and reintegration: New perspectives on the challenges of mass incarceration. In M. Patillo, D. F. Weiman, & B. Western (Eds.), *Imprisoning America: The social effects of mass incarceration* (pp. 247–268). New York, NY: Russell Sage Foundation.
- Holzer, Raphael, & Stoll, 2004, 2007; Pager, 2003, 2007; Pager, Western, & Bonikowski, 2009
- David J. Harding, Jessica J. B. Wyse, Cheyney Dobson, Jeffrey D. Morenoff, *Making Ends Meet After Prison*, 2014
