

## IMPROVE THE ROLE OF ASSET AND INCOME CONTROL ACTIVITIES IN LIMITING TAKING BRIBERY CRIMINALS IN VIETNAM

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**Abstract** - Bribery is a painful story ever in every country. It is a piece of the picture of corruption in Vietnam. In recent years, the situation of corruption crimes in general as well as bribery criminals in particular in Vietnam has improved, partly thanks to the control of assets and incomes of functional subjects, but in the process of implementation, there are still some inadequacies. Therefore, this article goes on to learn and analyze property control activities, income as well as the relationship between asset control, income, and bribery criminals. Since then, it has proposed a number of solutions to improve the efficiency of asset and income control in preventing and combatting the crime of bribery criminals in Vietnam today.

**Keywords:** asset and income control; bribery; Vietnam.

### INTRODUCTION

Corruption is a topical problem, a problem that is looking for solutions in many countries around the world as well as Vietnam. Among the types of corruption, bribery can be considered a very 'traditional' and typical form [16]. Because the mindset of 'the first given money is a wise one' has been transformed by the Vietnamese. Previous studies have clearly shown the unpredictable consequences of corruption in general and bribery in particular. Accordingly, corruption and bribery bring negative economic consequences, hinder the economic growth of countries, and cause widespread poverty [10]; and increase socio-economic inequality [4] ... Corruption and bribery are an act of 'standard deviation', receiving corruption, and bribery worsens the image of leaders; reduces people's confidence in the political system [2] ... Therefore, the prevention of corruption is an urgent problem today.

Assessing that situation, the Communist Party of Vietnam has made significant efforts and strides in anti-corruption work. As a result, in recent years, the situation of Transparency International (TI) in 2021, Vietnam has a Corruption perception index (CPI) of 42/100, Vietnam has advanced 10 places from 87 (2021) to 77 (2022), shows that the efforts and strong determination to fight corruption in the country in the past year have been recognized [9]. In particular, property and income control activities of positions have contributed significantly to improving corruption in Vietnam.

For that reason, this article was made to understand and analyze asset control, income as well as the relationship between asset control, income, and bribery. From there, propose several solutions to improve the efficiency of asset and income control in preventing and combatting crimes of bribery in Vietnam today.

#### 1. Provisions of the Vietnam law system regarding asset and income control

Asset and income control is an activity carried out by the Asset and Income Control Agency in accordance with the law to clearly know assets, income fluctuations in assets, the income of origin of assets, and additional income of people who are obliged to declare in order to prevent corruption, service staff work, promptly detect corruption, prevent the spread of corrupt assets, recover corrupt assets [5, Clause 1 - Article 3].

The 2005 Anti-Corruption Law for the first time made provisions on "asset control, income". Then coming to the Law on Anti-Corruption in 2018, this regulation needs to be completed with 4 main pillars: (1) Regulations on assets and income control agencies; (2) Regulations on the declaration of



assets and income; (3) Regulations on asset and income verification; (4) Regulations on building a national database on asset and income control.

About the agency controlling assets, income, including Government Inspectors, inspectors of provinces, ministries and ministerial-level agencies, agencies attached to the Government, agencies assisting The National Assembly Standing Committee on Deputies, Office of the National Assembly, Offices of the President, Supreme People's Court, Supreme People's Procuracy, State Auditor Communist Vietnam, the competent authority of the Communist Party of Vietnam, the central authority of socio-political organizations. The 2018 Law on Anti-Corruption stipulates the tasks and powers of each of the above agencies in a specific direction, assigning responsibility for controlling assets and income of declarants working in agencies and organizations above for those units to directly manage and take responsibility for.

Regarding the declaration of assets and income, Decree 130/2020/ND-CP stipulates that 'Declaration of assets and income means the clear, complete, and accurate recording of types of assets, income, changes in assets, income to be declared, the origin of assets, and additional income according to the original form declaration of assets and income issued together with this Decree' [5, Clause 2 - Article 3]. 04 subjects are obliged to declare assets and income[1, Article 34]includes (i) Officials, public servants; (ii) People's Public Security Officers; People's Army officers, professional soldier; (iii) Persons holding the position of deputy head of a department and equivalent or higher, working in non-business units, state-owned enterprises, and persons appointed to represent the State's capital share in enterprises; (iv) Candidates for the National Assembly and People's Council. These subjects must not only declare changes in their assets and income but also declare all changes in assets and income of spouses and minor children and honestly explain the origin of assets and income increase[1, Article 34]. The contents of the method and time of declaration, as well as the order and procedures for declaration, are specified in the Law on Anti-Corruption 2018 and Decree 130/2020/ND-CP. At the same time, the 2018 Law on Prevention and Control of Corruption continues to stipulate that the declaration is made public at the agency, organization, or unit where the person continually works.

Regarding asset and income verification, when there are clear signs of asset declaration, dishonest income or an increase in assets, income of 300,000,000 VND or more compared to assets, income has been declared for the previous time but the person who is obligated to make the declaration makes an unreasonable explanation about the origin; there are denunciations about the dishonest declaration of assets and income and are eligible for handling according to the provisions of the Law on Denunciations; or when there is a plan to verify assets and annual income for the declarant selected at random or at the request or recommendation of a competent agency, organization, unit or individual, the controlling agency Assets and income will be verified by the 2018 Law on Anti-corruption[1, Article 41] and Decree 130/2020/ND-CP. The order and procedures for verification are specified in Article 44 of the Law on Anti-corruption 2018.

According to the 2018 Anti-Corruption Law, the National Database on Asset and Income Control includes information on declarations, verification conclusions of assets, income, and other relevant data related to the control of assets and income according to the provisions of the Law on Anti-corruption and centrally managed at the Government Inspectorate. The Government Inspectorate coordinates other asset and income control agencies and is responsible for building and managing the national database on asset and income control.

## **2. CONTROL OF ASSETS, INCOME, AND THE CRIME OF TAKING BRIBES**

The crime of accepting bribes is an act of a person with a position of power, abusing that position or power, directly or through an intermediary, to receive or will receive money, property, or benefits (material or other immaterial) in any way allowing himself or another person or entity to do or not do something for the benefit of or at the request of the person giving the bribe [12].

According to the law of Vietnam, the crime of accepting bribes is typical in the group of corrupt criminals with the typical behavior of this type of crime being the act of accepting bribes. This behavior has characteristics that only those with positions and powers can perform it. In the criminal composition of the crime of accepting bribes, the subject of the act is highly valued because not everyone but only a certain group of subjects with special abilities can commit the crime of taking bribery. A person with a position of authority is a special individual who must



undergo a process of learning, training efforts, and persistent efforts to perform and complete assigned tasks or through a recruitment exam or election can become. However, when they achieve the position they want, they do not strictly comply with the regulations in professional activities but take advantage of their positions and powers to perform acts in the pursuit of benefits. The receipt of benefits in the crime of taking bribery includes receiving material benefits (money, wealth ...) or non-material benefits (caring for and arranging for children and grandchildren of people with positions and powers to send them to school, go abroad; help the descendants of people with positions and powers go to work in a certain agency or unit... or other purely spiritual benefits such as being praised in the press, praised, rated a good price in review session ... or even a sexual bribe). The receipt of these benefits does not necessarily take place directly but can be indirectly through an intermediary such as a wife/husband, children, parents, or relatives.

Some major corruption and bribery cases in recent times such as the flight to save Vietnamese people from Taiwan (China) in March 2020; Mobifone buying 95% of shares of AVG and most recently the case of Receiving bribes related to Viet A company, there are many other cases being investigated and tried, which have exposed the reality of those with positions of authority, authority, even a great position. competent authorities in the state apparatus accept bribes to commit acts contrary to law. This leaves many consequences, and serious damage not only to material wealth but also to the prestige of the State.

In some cases, the investigation and collection of evidence related to the receipt of bribes still face many difficulties, especially activities related to the inspection and verification of the assets and income of the accused. high risk of corruption and accepting bribes. During the investigation and clarification of bribery cases, many individuals did not admit to "receiving gifts" from other subjects. Typically in the bribery case involving Phan Van Anh Vu (Vu Aluminum), Mr. Nguyen Duy Linh from the beginning did not admit his act of accepting bribes. Until the investigating agency had provided sufficient evidence, Mr. Linh still only admitted to having an acquaintance relationship, many times received gifts from Phan Van Anh Vu but did not acknowledge the money and was in the process of collecting it. Collect and search for evidence. Regarding the assets that Mr. Linh received bribes, the authorities encountered many difficulties and limitations[7]. In addition, in the case of gambling trillions in Phu Tho, defendant Nguyen Van Duong testified that he gave General Phan Van Vinh a Rolex watch worth \$7,000, VND27 billion and \$1.75 million; spent on C50 exactly 850 million VND and an anti-virus software worth 30,000 USD; for General Nguyen Thanh Hoa 22 billion dongs; spent about 10 billion dongs on alcohol and beer for the parties of the General Department of Police. However, through the investigation process, defendant Phan Van Vinh only admitted to holding Duong's shirt, liver tonic, alcohol, etc., but did not accept money. On the side of the investigating agency, it was only determined that Duong gave C50 the software suite and 700 million VND. In addition, there is no basis to clarify that General Vinh and General Hoa received money from Nguyen Van Duong, so far no object has been handled for taking bribes[13]. There are many other cases of bribery also encountered. . difficulties and obstacles in the investigation and collection of evidence. Bringing the bribery case to trial is one of the great successes of the prosecution agencies across the country. Because, before the corruption case is clarified, it is very difficult to prove and arrest the suspects. Individuals who directly work in the Court industry must also admit that investigating a bribery case is extremely difficult and strenuous. Finding and collecting relevant evidence to prove a suspect's crime is not an easy task. The cases of accepting bribes will involve individuals with positions and powers in state agencies. Therefore, the case's ability to conceal and destroy evidence is extremely sophisticated and cunning. Not only that, it is very difficult to prove the purpose and subjective consciousness of the offenders receiving bribes. Combining the above two things, we find that the process of investigating and bringing the bribery case to light is extremely difficult and strenuous. According to the 2019 survey on people's understanding of corruption conducted by Towards Transparency[14], when asked about those who are at risk of committing corrupt acts and accepting bribes, people mentioned the following: object group. The following subjects: traffic police (30%), police (20%), tax officials (17%), business leaders (15%), civil servants and public employees (13%),...

It can be seen that the subjects named in the bribery cases are all subject to declaration, subject to control of assets and income. Over the past time, Vietnam has also implemented the declaration



and control of income assets of officials and civil servants. However, agencies have not yet implemented it thoroughly and effectively. The evidence is that bribery and corruption cases can still go smoothly, only when there are consequences will they be discovered and investigated. Not only that, the scale and nature of these cases are increasingly serious and complex, involving many economic, political, and social relationships of individuals and organizations. The ability of the authorities to clarify the case is not too high if you don't want to speak low.

*\* Reason:*

The reason for this situation, in addition to the inherent cause, is the control of assets, income only controls the receipt and exchange of material benefits, but not non-material benefits. It is also possible to indicate some limitations in the control of assets and income such as:

(1) The scope of subjects declaring annual income assets is still limited. Although the current regulations have fully listed the subjects with the potential for corruption by breadth, it is not possible to absolute the asset declaration by depth. Expressly, individuals obliged to declare assets and income must declare the assets of themselves, their spouses, and minor children. But, while it is possible that most of the benefits from accepting bribes may be transferred through such individuals, it is not excluded that other individuals involved may also receive funds on their behalf. benefits for persons with positions and powers such as parents (including natural parents or parents-in-law), adult children, brothers, sisters, and younger siblings... Particularly, adult children are capable subjects. receive benefits on behalf of adults. must declare assets and incomes but are not required to declare assets and incomes together with the subjects prescribed by the Law. Therefore, the new regulation that only spouses and minor children must divide assets with those who have to declare assets, income will still leave loopholes for those who want to receive bribes. take advantage.

(2) Current law stipulates that in addition to assets, people with positions and powers must declare income. This is a limitation in verifying the origin, when verifying the origin of assets can be looked up easily, especially property that must be registered for ownership, but income verification is more difficult. So much so, whether it's actual income or an impersonated benefit is a matter of great difficulty. At the same time, the property itself also has its diversity, a lot of assets have great value such as gold, precious metals, gems, and jewelry ... but the ownership has not yet been registered, so the verification of the presence appearance, or origin is very difficult.

(3) In Decree No. 130/2020/ND-CP, there are regulations on the agency asset control, income randomly selects who must declare assets, annual income to perform income verification has proven to be a human resource system for current asset and income control still quite thin and not enough to meet the verification of assets and income of all individuals who have to declare assets and income in the unit as well as Vietnam currently lacks a system capable of controlling, verifying assets and income automatically, but still having to go through the actual inspection, verification, and review.

### **3. SOLUTIONS TO IMPROVE THE EFFICIENCY OF ASSET AND INCOME CONTROL IN PREVENTING AND COMBATING THE CRIME OF TAKING BRIBES**

Firstly, it is necessary to consider expanding the scope of subjects who must declare assets and income. The subjects that can be considered for expansion include adult children of people who have to declare assets and income. In fact, it is impossible to define too broad subjects who must declare assets and income together with those who are obliged to declare assets and incomes due to the difficulty in requiring related entities. That agency provides all information about their assets and income as well as easily leading to prolongation of the declaration time. Therefore, on the basis of analyzing and balancing behaviors and risks, the research team only proposes to consider adding adult children to expand the range of related subjects who must declare their financial assets. property together with the person who must declare assets and income according to the provisions of the law. Children in general of people who have to declare assets and income (including minor children and adult children) have a close and close relationship with the declarant. The minor child also has the thinking ability and the behavioral capacity to recognize and support the person with the position and authority to conduct the act of accepting bribes. Therefore, it is found that if this subject is not included in the scope of asset declaration, income will create a



huge loophole for those who accept bribes to take advantage of them to successfully perform their acts. commit his crime.

Second, focus on building and perfecting the National Database on asset and income control. The national database system on asset control will greatly support the automatic verification of assets, the income of individuals must declare assets, and the annual income decreases in real-time. implementing verification, inspection, and supervision of asset and income declaration activities as well as minimizing pressure on human resources in controlling assets and income of declarers. Since then, speeding up the verification and inspection of declared objects, quickly finding out abnormalities in the origin of illegal assets, and quickly overcoming, limiting, and preventing those who have the risk of taking bribes.


Thirdly, perfecting and synchronizing relevant legal provisions to help the State easily control the income and income flow of the population, thereby creating more favorable conditions for verification. income of each individual, assess and control the source of the legitimate income. In particular, consideration should be given to the regulation of adding assets of great value such as gold, precious metals, gems, and jewelry to the list subject to registration of ownership to facilitate asset verification. The legal system is not uniform, especially the law on property ownership registration still leaves many high-value assets that are easily converted into money, so the work of perfecting the law, bringing valuable great value to the State's management will contribute significantly to limiting and creating barriers to roads, and closing loopholes for those who take advantage of them to carry out acts of giving and receiving bribes. This also makes the inventory, control, and verification of assets and income of those subject to the provisions of the asset declaration easier, faster, and more accurate.

### CONCLUSION

Corruption, taking bribes has become a "national problem"; degrades the moral qualities of a part of cadres and party members; causes people to lose trust in the contingent of cadres, civil servants, and public employees in agencies and organizations; delays the development of our country. Therefore, the Party and State have resolutely implemented the prevention and fight against corruption, accepting bribes, and will not tolerate the criminal acts of these subjects. In this article, the research team presented the issue of improving the role of asset and income control activities in limiting the crime of taking bribes. Firstly, we give an overview of the current situation of asset and income control in our country as well as the provisions of the law on this issue. Second, the group has found a link between control of assets and income and the crime of accepting bribes. Subjects of the crime of accepting bribes are people with positions and powers in agencies and organizations, and these are also individuals who need to declare assets and income in our country. In addition, the research team also analyzes the practice of investigating and adjudicating bribery criminals in recent years in Vietnam. This issue is still facing many problems and difficulties because the process of searching for and collecting evidence is not simple. Especially proving the purpose and subjective consciousness of the offender in bribery cases. Since then, the research team has come up with three reasons why the control of assets and income of the subjects has not been implemented effectively. Third, propose solutions to improve the efficiency of asset and income control in preventing and fighting the crime of bribery. Accordingly, we have proposed three main groups of solutions: consider expanding the scope of subjects who must declare assets and income; focus on building and perfecting the national database on asset and income control; perfecting and synchronizing relevant legal provisions.

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