

THE APPLICATION OF COMPARATIVE LAW IN DEVELOPING THEORIES AND LAWMAKING ON NON-PUNITIVE CRIMINAL MEASURES

Đỗ Thị Ánh Hồng *

Abstract: *Comparative law plays a crucial role in the development of the Vietnamese legal system in general and of laws on non-punitive criminal measures in particular. This article aims to clarify that role and to address existing gaps in Vietnamese legal development. The lack of comprehensive comparative law research in Vietnam has led to recent criminal legislation where, in some instances, the improvement of legal provisions relied on mechanical imitation rather than selectively learning from other countries' regulations. In other cases, this results in amending laws by referring to other countries' experience only in formal aspects and failing to fully understand or accurately reflect the underlying issues within national law. To address these gaps, this article utilises a variety of methods, including analysis, synthesis, systematic and logical analysis, and jurisprudence comparison, to examine the role of comparative law in the development of theories on non-punitive criminal measures. The research results include a detailed discussion on the use of comparative law research and the involvement of international legal experts, as well as identifying the challenges and obstacles encountered in the process. The article also clarifies the need to use comparative law for further development of non-punitive criminal measures in Vietnam by highlighting its potential to foster more effective improvement of law that is aligned with Vietnam's unique legal landscape and socio-cultural context.*

Keywords: *Comparative law; criminal law; non-punitive criminal measures*

Received: 28 October 2024

Editing completed: 30 June 2025

Accepted for publication: 30 June 2025

Introduction

Non-punitive criminal measures are state coercive criminal measures prescribed in criminal law; applied by the competent judicial authorities based on the specific stage of criminal proceedings, to offenders and persons who committed dangerous acts to society but are not subject to criminal liability and/or legal entities subject to criminal liability; applied independently of

* PhD in Law, Hanoi Law University. E-mail: doanhhong@hlu.edu.vn