

LEGAL PROBLEMS AND MULTI-DIMENSIONAL IMPACTS ON THE ECONOMY - SOCIETY IN HO CHI MINH CITY AFTER THE IMPLEMENTATION OF RESOLUTION NO.54/2017/QH14

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Ho Chi Minh City (hereinafter referred to as City) is a special urban area, occupying only 0.6% of the country's area, the population accounts for more than 9% of the country's population, but contributing nearly 22% of GDP and about 28% of the total national budget revenue. However, due to mechanisms and policies, it is not possible to maximize the resources for economic and social development of the City. Resolution No. 54/2017/QH14 dated November 24th, 2017 of the 14th National Assembly on piloting specific mechanisms and policies for the development of Ho Chi Minh City (referred to as Resolution No. 54) has created a legal corridor wide enough for the largest megacities in the country, removing the “binding mechanisms”, “sharing oversized clothes” with other localities. Within the scope of this article, we refer to the legal problems when implementing Resolution No. 54 and the multidimensional impacts of this document on the city's socio-economic development in the coming time.

Keywords: *Resolution No.54; City; Practical impact; Impact forecast; Challenge and take action.*

1. Introduction

Resolution 54 with 18 contents in 5 fields (land management, investment management, financial - budgetary management, mechanism of decentralization of authorization and regimes and policies for cadres, civil servants and employees) has created a new impetus for the City to break through with the true role of “the locomotive”, removing bottlenecks and solving challenges that have made the City grow slowly in the past time compared to other localities about economic and social issues.

After more than 4 years of implementing Resolution No. 54, with the new mechanism of the current urban government organization under Resolution No. 131/2020/QH14 dated 16th, November, 2020 of the National Assembly on urban government organization, City Council of Ho Chi Minh City (referred to as Resolution No. 131/2020/QH14), Resolution No. 1111/NQ-UBTVQH14 dated 9th, December, 2020 of the National Assembly Standing Committee (referred to as Resolution No. 1111/ NQ-UBTVQH14) on the establishment of Thu Duc city and Decree No. 33/2021/ND-CP dated 29th, March 2021 of the Government detailing and implementing measures of Resolution No. 131/2020/QH14 dated 16th, November, 2020 of the National Assembly on the organization of urban government in Ho Chi Minh City (referred to as

Decree No. 33/2021/ND-CP), it is necessary to have an assessment of the results achieved, the problems posed, there are timely recommendations to continue effective implementation in the coming time.

2. Research overview

Regarding the issue of legal problems and multi-dimensional impacts on the economy - society of Ho Chi Minh City after the implementation of Resolution No. 54/2017/QH14, one can mention some typical researches such as: Nguyen Thien Nhan, “Resolution of the National Assembly on piloting specific mechanisms and policies for the development of Ho Chi Minh City - New development driving force and great responsibility of the city for the whole country”, Electronic Information Portal from the Government, November 25th, 2017; Nguyen Thi Kim Ngan, “Resolution No. 54/2017/QH14 on piloting specific mechanisms and policies for the development of Ho Chi Minh City”, Saigon Liberation Online Newspaper, December 12th, 2017; “Ho Chi Minh City: Improving Construction Quality of Urban Government”, Electronic Information Portal of the Government's Administrative Reform Steering Committee”, dated January 26th, 2022; Thanh Vu, “Ho Chi Minh City: Linking the emulation movement with the pilot implementation of specific mechanisms and policies”, Ethnic and Mountainous Photojournalism, out on March 27th, 2018; Mr.

Tuan, “Specific mechanisms and policies for the development of Ho Chi Minh City: From Resolution to Practice”, Electronic Photo Journal of Ethnic Minorities and Mountains, issued on March 31st, 2018... It can be said, some above research works are valuable documents for the author to inherit, supplement and perfect the research problem in the content of this article.

3. Research method

In this article, the author uses some main methods such as the method of collecting secondary documents; Method of synthesizing and analyzing documents related to the implementation of Resolution No. 54/2017/QH14 to further clarify the research issues of the author.

4. Research result

4.1. Results of implementing the Resolution, a number of piloted areas and issues posed

Resolution No.54 has assigned authority to Ho Chi Minh City through a number of specific areas as follows:

* *Regarding land management:* The City People’s Council (hereinafter referred to as the City People’s Council) decides to change the purpose of using rice land from 10 hectares or more in accordance with the master plan on rice land use already approved by the competent authority’s decision. The order and procedures are carried out like changing the purpose of using land for rice cultivation under 10 hectares according to the provisions of the law on land.

* *Regarding investment management:* The City People’s Council shall decide on investment policies for group A projects using the city budget in accordance with the provisions of the Law on Public Investment 2014, except for projects specified at Points a, b, c and d, Clause 1, Article 8. Accordingly, the order and procedures for deciding on investment policies for Group A projects funded with the City budget are implemented such as: construction, appraisal, and adjustment. Pre-feasibility study report as prescribed at Points a, b and c, Clause 2, Article 23, Law on Public Investment 2014; The City People’s Committee (hereinafter referred to as the City People’s Committee for short) submits to the City People’s Council for decision on investment policies according to the provisions of Point b, Clause 2, Article 29 of the Law on Public Investment 2014.

* *Regarding financial management - state budget:* The City Council decided to apply in the City: fees and charges not yet specified in the List of fees and charges promulgated together with the Law on Fees and Charges; increasing the rate or rate of charge and fee collection already decided by the competent authority for charges and fees specified in the List of fees and charges.

* *Regarding the income mechanism of cadres, civil servants and public employees under the management of the City:* The People’s Council of Ho Chi Minh City has the right to decide on allocating the budget to spend the increased average income for cadres, civil servants and public employees belonging to the state management sector, political organizations, socio-political organizations and public non-business units managed by the City according to work performance in addition to paying additional income as prescribed of the current law on financial autonomy for administrative agencies and public non-business units, with a level not exceeding 1.8 times the salary level, rank and position.

* *Regarding organizational structure and management of cadres, civil servants and public employees:* The City People’s Committee has the right to adjust the names, functions and duties of departments of specialized agencies under the City People’s Committee to suit the characteristics of the City; has the right to decentralize the organization of the annual civil service exam, to decide on the number of staff on the basis of the decision of the Ministry of Home Affairs; deciding on the promotion of ranks for cadres, civil servants and public employees according to the provisions of law...

4.2. Implementation evaluation

Firstly, the proactive implementation of the City government

- The city has issued many documents: Resolution No. 25/NQ-HDND dated December 7th, 2017 of the City People’s Council on implementing the National Assembly’s Resolution on piloting specific mechanisms and policies to develop the City Ho Chi Minh; Resolution No. 03/NQ-HDND dated March 16th, 2018 of the City People’s Council on promulgating regulations on spending extra income for cadres, civil servants and public employees in the state management sector, political organizations and organizations socio-political and non-business units managed by the city; Decision No. 18/2018/QĐ-UBND dated May 25th, 2018 of the City People’s Committee promulgating regulations on the management and implementation of programs and projects using the City’s public investment capital.

- The city has met with experts and members of the Prime Minister’s Advisory Group; working with departments to complete and issue Plan No. 8127/KH-UBND dated December 27th, 2017 to implement Resolution 54 with 21 specific contents and projects; in which there are 8 projects that need to be conducted in-depth research and 13 contents and projects to be implemented according to regular tasks; established 2 working groups, worked with departments and branches weekly to orientate the development of plans, research contents, and

propose mechanisms and policies in the spirit of Resolution 54.

- The city has taken the initiative in internal decentralization and authorization: issued Decision No. 4712/QĐ-UBND dated October 20th, 2018 on authorization for departments, branches and People's Committees of districts. perform a number of tasks and powers of the City People's Committee. This authorization decision will take effect from January 20th, 2019 until the end of December 31st, 2022. The City People's Committee authorizes departments and branches to perform 55 groups of tasks and powers, focusing on the areas of urban - environment, economy - budget - project, culture - society - science... Along with that, The Chairman of the City People's Committee also authorizes the heads of departments and branches, the Chairman of the People's Committees of districts to 31 groups of tasks and powers.

Secondly, the correctness and effectiveness of piloting specific mechanisms and policies

- Show the correct line of the Party and State: the central government makes policies and laws on a macro scale, "the government drives the boat", taking the initiative when implementing policies according to the local autonomy mechanism. within the framework of the law, in accordance with the reality of the City.

- Show the practicality and science of state management in the locality: the stronger the decentralization for the locality, the more proactive and innovative the local government is in the way the local government apparatus is run; demonstrating autonomy and self-responsibility for assigned tasks and functions.

- Create a decentralized mechanism, internal authorization of the City in accordance with the reality of the past time.

- Help to timely identify problems, difficulties, areas that need to continue to propose to the central government to continue decentralizing and authorizing the City, for example: The city is reporting to the Central Government about the advance so that it can advance payment of ground clearance for ring traffic route 3; 167/2017/ND-CP of Decree No. 167/2017/ND-CP stipulating the rearrangement and handling of public property for the City to source funds to use for the City's traffic projects.

- Create a specific mechanism on the authority of the City government on the decentralized fields, in line with the City's practice, specifically:

+ The City People's Council shall decide to change the land use purpose for rice cultivation from 10 hectares or more in accordance with the master plan on use of rice land already decided by a competent authority. This regulation is completely consistent with the current practice of

the City, creating favorable conditions for the city government to quickly change the purpose of land use so that the land can be allocated to the investor or implemented projects with clean land to hold auctions according to regulations in order to quickly and effectively exploit the City's land fund.

+ For Group A investment projects, the City currently has thousands of investment projects in this group, it is necessary to implement quickly to ensure the timeliness and efficiency of the project's investment. This is also the right policy on piloting specific mechanisms and policies of the central government for the City because in the past, group A projects had to comply with the provisions of Clause 3, Article 17 of the Law on Public Investment – the authority to decide belonging to the Prime Minister. Accordingly, if the City wants to implement it, it must go through many steps from documents, procedures and processes, which should reduce the City's investment attraction and take a lot of time to complete an investment project for the City.

- Help the City promote human resources, land resources, finance, and creative and proactive abilities of the city's cadres, civil servants and public employees, thereby developing into an urban area. especially, proceed to build urban government in the direction desired by the Party and State.

Thirdly, practical results from the pilot areas

- In 2018, City cadres, civil servants and public employees will get a salary increase of 0.8 times, a salary increase of 0.8 times in 2019 and a salary increase of 0.8 times in 2020. Therefore, the income of the contingent of cadres, civil servants and public employees has partly stabilized the difficult life due to the additional income, the spirit of dedication working.

- By issuing Decision No. 4712/QĐ-UBND dated October 20th, 2018, the City People's Committee has authorized departments, branches, People's Committees of districts to carry out tasks previously under the authority of the City. Accordingly, the work load of the City People's Committee and the Chairman of the City People's Committee has been reduced when authorizing the heads of specialized agencies and the People's Committees of districts and the Chairman of the People's Committees of the districts. Therefore, the settlement of work is faster and more effective because there is no longer the situation of transferring work to the City level.

- Programs and projects of group A have been prioritized for development into implementation programs; specialized agencies and districts have a lot of power and carry out their work in a proactive manner, there is no longer a mechanism of "suggestion and consultation" from the City level. After 3 years of implementation, the implementation progress of Group A projects and projects with changing the

purpose of using rice land over 10 hectares is faster than before, which had to be submitted to the Central Government for appraisal.

- By authorizing departments - branches and People's Committees of districts - to perform a number of tasks and powers of the City People's Committee in the field of economy - budget - projects, the City has actively The financial system is decentralized, authorized, and implements better budget collection and spending, ensuring proactive sources of revenue and spending for the budget, as a result, the City's financial activities can be approximated the targets assigned by the Central Government, active districts.

- Through the authorization of departments and branches to implement economic, cultural and social policies, especially Decision No. 4712/QĐ-UBND authorized the Department of Labor, Invalids and Social Affairs implement the decision on detailed allocation of public investment capital on the basis of the total allocated medium-term capital and annually implement 08 public investment programs, including: Program on major repair of the system of traffic works; Program for urgent implementation of traffic works and technical infrastructure; The program to prevent and prevent erosion of riverbanks, canals and canals; Green space development program; The program of undergrounding the public lighting system... These are authorized decisions showing that the city-level government and agencies and localities have made appropriate, close and close decisions to the people. show more responsibility; at the same time, through the implementation results, the Chairman of the People's Committee of the People's Committee of the city assesses the operating capacity of the heads of agencies, units, districts.

4.3. Legal issues and pilot mechanism

Firstly, the pilot implementation of specific central mechanisms and policies for the City is a new, difficult and unprecedented issue. Therefore, the implementation of the content must be done carefully, carefully researched, ensuring the process and authority, so the implementation process takes a lot of time and effort, many problems are not guaranteed on schedule. The efficiency is not high, it has not met the requirements of the people of the city.

Secondly, the institutional system is not yet complete because this is a pilot mechanism, so when implementing it, there are many difficulties and obstacles (application and application of laws - including substantive laws and formal laws); Ministries, sectors and Government have not timely issued guiding documents for implementation, have not had a unified direction or have not built a mechanism to coordinate with each other or with the City for effective implementation.

Thirdly, the inspection and supervision work is still mainly in accordance with the general legal provisions, so there are no specific instructions or regulations on the control mechanism according to the decentralized and decentralized mechanism, causing many difficulties for the implementation in the City.

Fourthly, the city's peculiarity is the massive workload and the great pressure on officials and civil servants. The implementation of more tasks under the central authority that currently departments, district and district People's Committees have to do, posing high requirements for expertise and responsibility, are being considered as challenges for the city government because the level, state policies are not commensurate with work (only additional income).

5. Discussion

In order to improve the effectiveness of the implementation of Resolution No. 54/2017/QH14, we need to pay attention to the following issues:

** About perfecting the institution*

In order to continue effectively implementing Resolution No. 54 of the National Assembly, it is recommended that the Government direct ministries and branches to actively coordinate with the City in the implementation of relevant projects under its authority; based on the City's specific proposals on each content and field, the Government and the Prime Minister consider and soon adjust the decrees in the direction of strong decentralization for the City to proactively implement the processes, procedures suitable to the City's ability and practical situation...

** Regarding the authority to organize and operation of the apparatus and personnel*

- Regarding the organization and operation of the local government:

+ In addition to the specific provisions in Decree No. 33/2021/ND-CP, in the course of operation, depending on the efficiency and needs, the Central Government should allow the City to decide on its own the assisting apparatus; defining functions and tasks within the assisting departments or assigning and authorizing lower-level authorities to perform a number of tasks and powers within the City's jurisdiction and have close supervision during the implementation process.

+ Implement a synchronous decentralization mechanism from the Central to the City with a number of specific mechanisms on sanctioning administrative violations, specifically: The city is regulated on acts of infringing upon order and safety, urban civilization (not yet defined as administrative violations); prescribe the sanctioning level, order and procedures for sanctioning a number of administrative violations according to specific

policies of the urban administration; regulations on the organization and force to execute administrative decisions to ensure the effectiveness and efficiency of these decisions.

- About personnel:

+ The central government should have a policy to allow localities and cities to apply the self-elimination mechanism in the administrative apparatus when administrative units and staffs do not meet administrative requirements...

+ Currently, Resolution No. 131/2020/QH14, Resolution No. 1111/NQ-UBTVQH14 and Decree No. 33/2021/ND-CP stipulate a number of personnel issues for urban governments in general and Thu Duc city in particular. However, in addition to the provisions in the above documents, the Central Government should give the City authority to approve the project; list of job positions; deciding on the structure of public employees according to professional titles; selection of personnel under competence; taking the initiative in all matters of organization of recruitment examinations, appointment, rank promotion, and rank promotion; deciding on treatment and reward regime for public employees; developing policies to attract human resources to remote and underdeveloped areas of each local government...

+ Amending and supplementing the Law on Organization of Local Government (2015, 2019) and sub-law documents in the direction: allowing local government to follow the administrative model of “radical makeover”, which means That is, when changing the leadership of the local government, the head under the “mayor” mechanism has the right to decide on the entire administrative human resources, especially the “direct help” department. The new system ensures transparency when leading, the “complete team” in a positive direction when implementing public strategies, plans and public policies.

** On authority in the field of public finance*

- Issues of revenue and expenditure: As for the City, in addition to financial and budgetary issues according to Resolution No. 54 and Decree No. 33/2021/ND-CP, the Central Government should have orientations to encourage the City’s government. City increases revenue sources to increase spending to meet development requirements. Create a mechanism for the City to generate revenue and nurture newly created revenue streams. New revenue sources are not regulated to the Central Government for a certain period of time. In addition to regular expenditures as prescribed, the City government has the right to decide on its spending standards and norms.

- Clearly delineating the national budget and the local budget: In the field of budget, there are

two contents: (1) the budget part is identified as the local revenue source; (2) part of the budget is funded by the central government. With the model of local government being autonomous in local revenue according to the 2015 State Budget Law, it is necessary to expand budget issues beyond the scope of Resolution No. 54. This budget source is proposed to be stable. for about 10 years and decided by the City Council. The implementation of the budget expenditure of the city government must comply with the general financial regulations of the country; The Central Government should have recalculations of the revenues assigned to the City but exceed the practical requirements of the City.

- Debt borrowing authority of the local government: allows the City Council to decide on borrowing for investment on the basis of self-balancing the debt repayment capacity. The Government stipulates a number of conditions on borrowing in order to limit risks, insolvency of the budget or affect the performance of spending tasks for state management in the locality.

- The Central Government should have a policy for the City to exercise financial autonomy outside the scope of Resolution 54 because there is still no mechanism to pay salaries and other incomes (Decree No. 33/2021/ND-CP still exists general provisions – according to the provisions of law); implementing the retention of spending on development investment that is 18% larger than the current level; the recruitment, training and appointment of administrative personnel; implementing appropriate financial regimes in the City.

6. Conclusion

Resolution 54 of the National Assembly is the fastest institutionalization at the highest level of a Party directive at Conclusion No. 21-KL/TW dated October 24th, 2017 of the Politburo. With the serious, scientific and responsible preparation, the breakthrough determination of the Standing Board of the Ho Chi Minh City Party Committee, the special attention and direction of the Politburo, support of the Committees and Offices of the Party Central Committee, together with the effective direction and support of the Government and relevant ministries; the direction, support and very expeditious implementation of the Standing Committee of the National Assembly and Committees of the National Assembly; with the sharing and sympathy of localities across the country, after only one month, Resolution No. 54/2017/QH14 was issued, fully meeting the procedures for approving the Resolution at a National meeting. association in accordance with the Law on Promulgation of Legal Documents. The Resolution took effect on January 15th, 2018, creating conditions for the City and ministries, the Government and the National Assembly to implement in the last 3 years of the

2016-2020 term. However, after the implementation of Resolution No. 54/2017/QH14, there are still some legal problems and multi-dimensional impacts on the economy - society Ho Chi Minh City needs to

continue to research and evaluate. , summarizing to have basic solutions, suitable to the actual situation in Ho Chi Minh City, is a necessary issue in the current context.

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VƯỞNG MẮC PHÁP LÝ VÀ SỰ TÁC ĐỘNG ĐA CHIỀU ĐỐI VỚI NỀN KINH TẾ - XÃ HỘI THÀNH PHỐ HỒ CHÍ MINH SAU THỜI GIAN TRIỂN KHAI THỰC HIỆN NGHỊ QUYẾT SỐ 54/2017/QH14

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Thành phố Hồ Chí Minh (gọi tắt là Thành phố) là đô thị đặc biệt, diện tích chỉ chiếm 0,6% diện tích cả nước, dân số chiếm hơn 9% dân số cả nước, song đóng góp gần 22% GDP và khoảng 28% tổng thu ngân sách cả nước. Tuy nhiên, do cơ chế, chính sách nên không phát huy được tối đa các nguồn lực để phát triển kinh tế, xã hội Thành phố. Nghị quyết số 54/2017/QH14 ngày 24/11/2017 của Quốc hội khóa 14 về thí điểm cơ chế, chính sách đặc thù phát triển Thành phố Hồ Chí Minh (gọi tắt là Nghị quyết số 54) đã tạo hành lang pháp lý đủ rộng cho siêu đô thị lớn nhất nước, giải tỏa những “cơ chế bó buộc”, “chung áo quá khổ” với các địa phương khác. Trong phạm vi bài viết này, chúng tôi đề cập đến những vướng mắc pháp lý khi triển khai Nghị quyết số 54 và những tác động đa chiều của văn bản này đến sự phát triển kinh tế, xã hội Thành phố trong thời gian tới.

Từ khóa: Nghị quyết 54; Thành phố; Tác động thực tiễn; Dự báo ảnh hưởng; Thách thức và hành động.