

Legal Completion on Organizational Structure and Personnel Autonomy in Public Universities of Vietnam

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ABSTRACT

The study is about the current situation of personnel autonomy in public universities, one of the major aspects of university autonomy in Vietnam. Although it has gained significant achievements, its implementation has remained several problems because it is bound by many provisions of other related legal documents. The article also proposes a number of solutions to improve the mechanisms and the policies on human resource autonomy of public universities in Vietnam currently.

Keywords

Legal Completion, Autonomy, Human Resource, Public Universities, Vietnam.

Introduction

University autonomy has been implemented in many countries throughout the world because it is a direct measure to meet the needs of modern education and training. The reality shows that autonomy plays an important role in maximizing the university's internal strengths, creativity and adaptability to the requirements of the social changes. In Vietnam, the reform of the management mechanism towards giving autonomy and self-responsibility to the public higher education institutions is in line with the Party and State's policies of integration. In recent years, the pilot implementation of the autonomy mechanism in public universities in Vietnam has initially gained certain achievements. However, to promote this effectively, it is necessary to continue the innovation with more practical solutions. In the scope of this article, the author mentions the aspect of human resource autonomy in Vietnamese public universities currently, thereby proposes a number of solutions to improve the mechanism and policies of autonomy in those of the country.

Research Methods

In addition to analyzing, synthesizing and systemizing the document to fully understand the

theoretical basis of human resource management, the autonomy in human resources and organizational structure in higher education institutions, the modeling methods, statistical and expert methods are applied to study the basic elements, processes and properties of the research objects, thereby proposes some solutions and legal recommendations to practice in organizational structure and personnel autonomy in current higher education institutions of Vietnam.

Discussion

The Law on Organizational Structure and Personnel Autonomy in Public Universities of Vietnam

In many Western countries, there are four levels of management in universities: Divisions, Faculties, Rectorial Board and University Board. The last one is usually the executive level of non-academic management and tends not to interfere with the academic affairs. Outside the university, the central government is the body that sets the framework for the university decision-making. In Vietnam, university is of the executive level and manages all activities of the institution, under the direction of the Party Committee, the Rectorial Board and the functional units including: departments, faculties, centers. Faculty level is the

one that manages academic activities and scientific research of the major. The division level directly implements academics in training, science and technology activities. Centers are responsible for implementing science and technology applications, technology transfer activities and facilitate training activities. Previously, some universities used to apply the 2-level model (University - Department/Faculty), but after a time of implementation, due to the growing size of universities, the 2-level model revealed some problems for management, especially the academic activities for the faculty of some universities, then they organized the three level model and the fact shows that it works well and is more appropriate. According to Decree No.16/2015/ND-CP dated February 14, 2015 of the Government regulating the autonomy mechanism of public non-business units, they are allowed to make decision on establishing reorganizing, dissolving units that are not in the organizational structure of constituent units under the decision of the competent authority, when they meet the criteria, conditions and standards as prescribed by the Law, they develop a plan to rearrange the constituent units and submit them to the competent authority for decision (Government, 2015). This content also needs to be reviewed and evaluated in order to ensure the true autonomy of universities at present and the necessary legal corridors for the process.

Autonomy of universities in personel management is reflected in the freedom to recruit, manage and use cadres, civil servants and public employees for the necessary working positions. Universities are autonomous in determining the favorable working conditions for their staff and especially for the faculty. Lecturers have the right to do other jobs inside and outside the university to get additional income. The State has the right to set the minimum wage for the staff on a national scale. Many countries are now using a performance-based pay scheme to encourage those working with high performance. The autonomy in personel management facilitates the university to effectively implement its functions and duties. The growth of a unit is reflected in two aspects: good facility condition and staff development. In the knowledge economy, the facility alone is not enough to make an

organization's reputation, especially for a university. The staff should be sufficient in quantity and qualified in quality. These two will enable the university autonomous. University's target of building staff is to make the most of the qualified lecturers who are working at the universities; at the same time quickly recruiting and developing a contingent of young faculty. Public universities have the right to autonomously build employment positions and public employee structure according to professional titles to submit to competent authorities for approval; the right to recruit, employ, appoint, dismiss, reward, discipline and manage their staff according to the provisions of law; the right to sign labor contracts to perform their duties. Public universities also determine and propose the number of employees of the university on the basis of the average manning rate of the previous 5 years and not higher than the existing number at present, then submit to the competent authority for decision (for newly established universities with the operation period less than 5 years, the average is of the whole operation period) In case universities have not yet built their job positions and public employee structure by professional titles, the number of employees is determined on the basis of the average manning ratio in previous years under the guidance of the Ministry of Home Affairs (Ministry of Education and Training, Ministry of Home Affairs, 2009).

With such regulations on autonomy in the organization, the author thinks that it is not really specific enough. Therefore, he would like to suggest the followings in implementing human resource autonomy in public universities based on the spirit of Joint Circular No. 07/2009/TTLT-BGDĐTBNV (Ministry of Education and Training, Ministry of Home Affairs, 2009):

For recruitment, on the basis of the approved employment plan, the head of the university develops a recruitment plan annually, in which specifying the number and structure of recruitment for each rank, conditions, standards, form and time of recruitment and submitting to the competent authority for approval (for monitoring). The head of the university shall also recruit public employees in the form of a work contract after the examination or admission in accordance with the professional characteristics of

each field and the specific conditions of the university.

The identification and recruitment of public employees in public education and training units must comply with the Government's regulations guiding the implementation of the Law on Cadres and Civil Servants. For signing a work contract, appointing to a rank, promoting or shifting ranks, the head of the unit is entitled to sign a work contract; appoint to a rank for those recruited for the first time on the basis of the criteria of the rank and compliant with the structure of professional titles of the university. For senior specialist public employees and equivalent, he has to submit to the competent agencies for decision with the appointment and rank shift. The head of the unit can only decide on rank shift, rank appointment for the principal specialist and equivalent or lower after training or after rank promotion exams according to the provisions of law.

Regarding the arrangement, appointment, transfer, secondment, reception, rotation, retirement, resignation, termination of work contracts for cadres, civil servants and public employees, the head of the unit is responsible for arranging, assigning tasks to those in accordance with the training qualification and ranks of the public employee, ensuring the regimes, policies and necessary conditions for them to perform their tasks; The head of the unit is entitled to make decision from the rank of principal specialist and equivalent or lower in accordance with the provisions of the law; he is also able to decide on the retirement, resignation, or termination working contracts with those under their management.

Regarding the appointment, reappointment, rotation, resignation, relief or dismissal of the managerial posts of the unit, the head of the unit shall submit to the competent authority for the decision for the deputies and the heads of the affiliated units of the university in accordance with the law and take responsibility for these decisions.

Regarding salary increase, the head of the unit is entitled to decide to raise the salary regularly and early, the seniority allowance exceeding the framework for those from the principal specialists and equivalent or lower according to the provisions of law. In case of senior specialists and

equivalent, the head of the unit shall request the competent state management agencies for decision. Regarding training and retraining, every year, based on the payroll quotas and training needs, the head of the unit develops and implements a plan for training and retraining the contingent of cadres and civil servants and public employees of the unit. The head of the higher education institutions may decide to send and receive those to study, train, visit or survey abroad.

For the issues related to the head of the unit, it is decided by the head of the direct superior management agency. In case of studying and training abroad with scholarships from the state budget and agreement scholarships, Vietnamese Government shall pay for the living expenses and the related regimes shall be decided by the Ministry of Education and Training. The sending and reception of the staff of the units to train domestically shall comply with the provisions of law. Regarding the commendation and discipline, the head of the unit is entitled to decide with the commendation forms in accordance with the law on emulation and commendation reward. That of the head and deputy head of the unit shall be decided by the head of the superior management agency.

Implementation of the Law on Organization and Personnel Autonomy at Public Universities in Vietnam

According to the Decree No.16/2015/ND-CP dated February 14, 2015 of the Prime Minister regulating the autonomy mechanism of public non-business units, these may decide to establish and organize, reorganize, dissolve units that are not in the organizational structure of constituent units under the decisions of competent agencies when meeting criteria, conditions and standards according to provisions of law; they work out plans to rearrange constituent units and submit them to the competent authority for decision.

For public non-business units that partially cover their own recurrent expenditures and the ones totally covered by the state budget: Develop a plan to arrange and consolidate the organizational structure of the unit and submit it to the competent agency for decision. As for the autonomy in

personnel, the public non-business unit builds the job position and the structure of public employees according to professional titles to submit to competent authorities for approval; these recruit, employ, appoint, dismiss, reward, discipline and manage their public employees and according to the provisions of law and hire labor contracts to perform their duties. Decree No.16/2015/ND-CP is considered to have many new and more positive features compared to Decree No.43/2006/ND-CP, however, higher education institutions still do not have much autonomy because they still have to depend a lot on the administrative decisions of the governing bodies. In order to continue solving the above difficulties, Resolution 77/2014/NQ-CP has new points to create a favorable mechanism for public higher education institutions to best exercise their personel autonomy. According to that, public higher education institutions are allowed to establish, reorganize themselves, define the functions and duties of their affiliated departments, and sign contracts with employees even foreigners to perform their management and academic activities. Currently, 23 public universities have registered for a pilot autonomy mechanism under Resolution 77/2014/NQ-CP and initially have had significant results.

*Upgrading, establishing, merging, dividing, separating, and dissolving affiliated units of the university.

Implementing the pilot project to renovate the operating mechanism, universities have initially reorganized their apparatus towards the more efficient orientation (establishing new units to meet the requirements of the reality, merging, dissolving, renaming the units that no longer suitable for the autonomy mechanism), attracting a contingent of good lecturers and experts to participate in teaching and doing scientific research, improving the quality of training. According to the reported data, 6 universities have an increase in the number of the affiliated units

and 2 with a decrease. The institutions with the most changes in their organizational apparatus are the University of Economics, Ho Chi Minh City (+8), Ton Duc Thang University (+8), Vietnam National Academy of Agriculture (+3). The above figures show the change in the number of units in autonomous universities. However, that change is not clear enough because it is not easy to delete a certain unit. They are very cautious when establishing new ones. The main reason for the increase in the number of affiliated units is the requirement to establish new ones (for example, National Economics University and University of Economics Ho Chi Minh City established Department of Communication) or upgrade units to suit the development of the university and to meet the requirement of autonomy. The upgrade /renaming of some units such as faculties and centers helps these institutions to be more autonomous in their performance, especially in connection and cooperation with organizations and enterprises outside the universities. On the other hand, the number of units dissolved in the direction of streamlining and compactness is not much. In practice, the unit reduction takes more time and is much more difficult than the establishment of the new ones because it involves personnel and job arrangement. This is also a big challenge for universities to be autonomous in organizational apparatus and personnel.

*Human resource

- Human resource according to target groups. Since the time of being assigned to pilot autonomy, universities have gradually formed a suitable human resource structure with direct workforce (lecturers), and a decrease in the indirect (specialists and employees) by the emphasis on using information technology or outsourcing to increase the operational efficiency of the apparatus.

Year 2017	Year 2020
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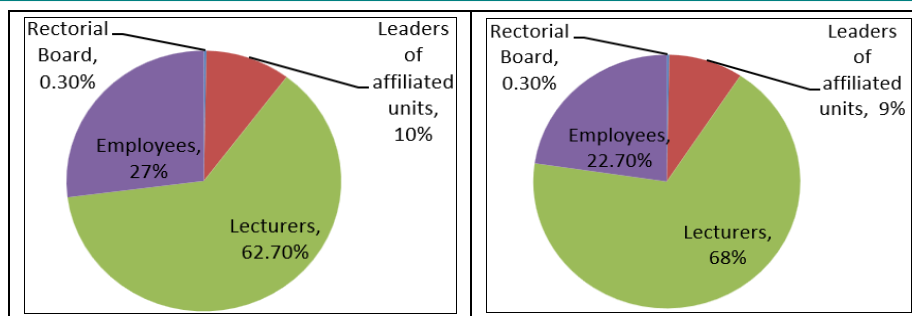


Figure 1. Structure of employment positions in public higher education institutions in Vietnam

Source: Final report of the Ministry of Education and Training

- Human resources structure according to academic titles and degrees

According to the survey, the proportion of lecturers with the title of professor and associate professor accounts for 9.2% of the total number of lecturers in universities with over two years of autonomy. This figure is about 6% of the entire Higher Education system. At present, the unit with the most professors is Ton Duc Thang University (33 professors), National Economics University

has the most associate professors (133 people) and University of Economics, Ho Chi Minh City has the most principal lecturers (107 people). Regarding the degrees, more than 72% of staff /lecturers have a master's degree or higher. This is an important basis for universities to autonomously increase enrollment quotas at all training levels, especially quotas for master and doctorate students.

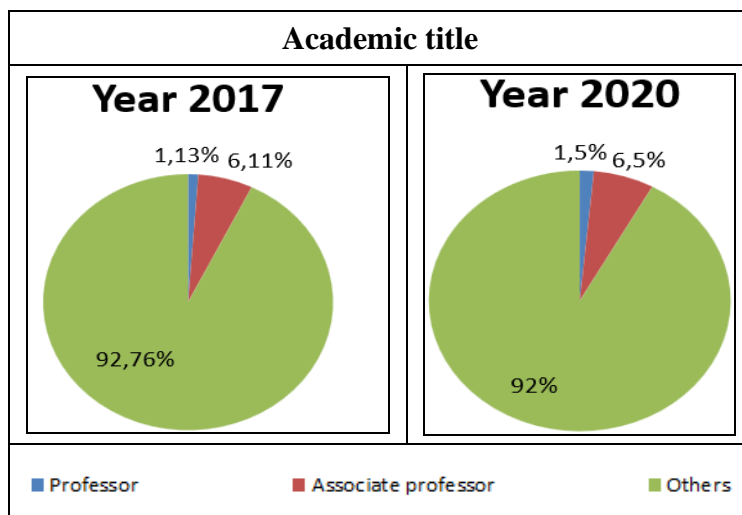


Figure 2. Human resource according to academic title 2017-2020

Source: Final report of the Ministry of Education and Training

Academic degree

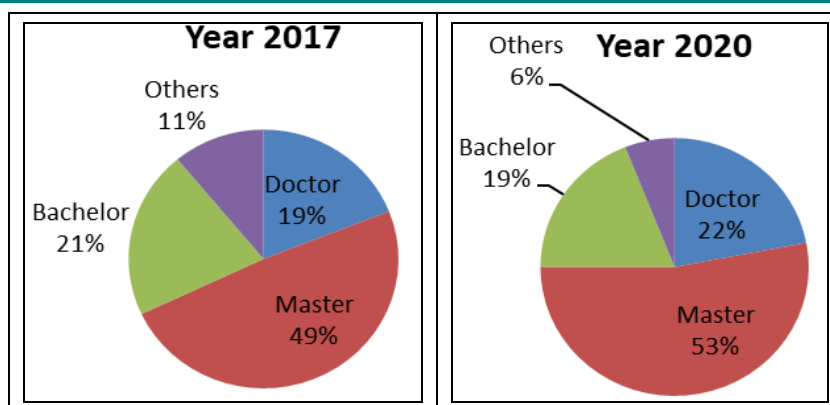


Figure 3. Human resource according to academic degree 2017-2020

Source: Final report of the Ministry of Education and Training

According to the report of universities, the number of staff/lecturers with professors, associate professors and master degrees or higher in autonomous institutions has increased significantly; the number of bachelor's degrees has decreased compared to that of pre-autonomy stage. This positive result comes from the fact that the units focus on improving the qualifications of lecturers, recruiting ones with doctorate degrees or higher, extending working time for lecturers with

high academic titles and degrees. Some universities have spent enormous funds to invest in human resource development such as sending lecturers to train abroad, recruiting lecturers, managers or foreign specialists to work in the international cooperation department or international education training (Ton Duc Thang University, University of Economics Ho Chi Minh City, Open University of Ho Chi Minh City, etc.).

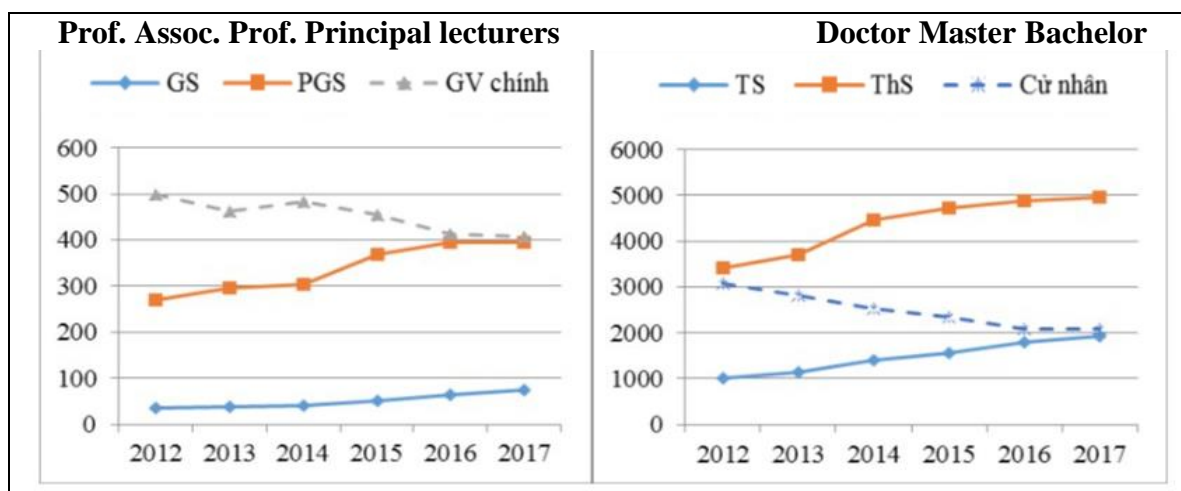


Figure 4. Changes in Personnel Quality of Autonomous Schools (2012-2017)

Source: Final report of the Ministry of Education and Training (Ministry of Education and Training 2017)

It can be said that the autonomous mechanism allows universities to promote their recruitment and human resources in the direction of improving their quality. Some universities actively develop job position projects, recruit and sign working contracts with highly qualified lecturers. Ton Duc Thang University has issued the Project of Job position for the period of 2016-2019 as a basis for

recruitment and has recruited 126 lecturers, researchers and fulltime employees; 22 experts are domestic and foreign scientists, associate professors and professors. Especially, the recruitment of foreign personnel of Ton Duc Thang University is regularly implemented with many good policies and has attracted 200 foreign scientists. This is one of the key factors to

increase the university's international publications. Open University of Ho Chi Minh City has signed 55 working contracts and labor contracts with highly qualified lecturers and scientists, including 01 associate professor, 36 doctors, 18 masters. Vietnam Academy of Agriculture has also actively developed a project of job position, staffed in streamline with payroll, allocated additional income funds, and contracted jobs for a number of departments, and at the same time attracting domestic and foreign experts to work at the specialist center of the Academy.

- Remuneration policy for cadres, lecturers and employees.

Since the autonomous implement, the income of cadres, lecturers and employees of universities has tended to increase:

+ According to the data provided by 12 universities with autonomy time from 2 years or more, spending on people and professional skills accounts for a large proportion in the expenditure structure and tends to increase during the autonomous time (69.57% before autonomy compared to 70.96% after autonomy).

+ Salary and additional income, the welfare of employees in autonomous universities increased by 20.33% compared to that before autonomy on the basis of job position and the criteria to evaluate the effectiveness at work. The salary and income in some universities have increased significantly. For example, Hanoi University of Textile Industry increased by 70%; Hanoi University doubled their income; Ton Duc Thang University 15%; National Economics University 60%; University of Economics, Ho Chi Minh City 75%; and Vietnam Academy of Agriculture 49%....

Findings and Discussion

The followings are solutions to ensure the autonomy of public higher education institutions in Vietnam at present:

Firstly, the National Assembly should amend the Law on Higher Education and complete the system of legal documents guiding the implementation after its amendment. In the process of revising this Law, a number of issues

about autonomy in public universities should be clarified such as: the concept of university autonomy, the rights of autonomous universities, the content and the conditions for university autonomy; their accountability; completing, supplementing and clearly defining the university governance mechanism in general and the position and the role of the University Council in particular; clarify and delineate the roles and functions of the University Council, the Rectorial Board and the Party Committee. Proposing to consider amendments to other relevant laws such as the Law on Public Investment, Law on Public Employees, etc. so that universities can be fully autonomous.

Secondly, it is necessary to change the thinking of state management in the direction that the State only regulates the national qualification framework, the national professional skill standards so that higher education institutions will build their training objectives and outcome learning for the learners to meet the standards, from which they have complete autonomy in performing their activities.

Thirdly, it is necessary to renew the methods of state management of higher education in the direction of shifting from a centralized management mechanism to decentralization and expanding autonomy for universities. The state should change from a "driver" role to a development-oriented role, and shift from control to supervision through quality accreditation and budget allocation policies. If so, the State will ensure both the efficiency and the effectiveness in the implementation of its managerial role.

Fourth, give thorough autonomy in the enrollment work. The Ministry of Education and Training should give universities the right to decide on the enrolment quota based on the labor market signals and a quality assurance system with general criteria set by the Ministry of Education and Training. The enrollment forms and methods should be suitable to the capacity of each institution.

Fifth, the Ministry of Education and Training should remove the regulations on the program framework and mandatory time in training as soon as possible. Universities need to be autonomous in building their training programs that suitable for the entrance capacity of their students. The State

should only have a plan to support them in training political subjects; it is necessary to determine that these are political science subjects, not pure politics.

Sixth, develop specific guidelines on state budget fund spending on science and technology according to Decree No.99/2014/ND-CP and Decree No.73/2015/ND-CP (for example, salary for researchers, the leading scientists, young potential scientists, facility investment...). It is necessary to improve the management of expenditure in the direction of enhancing the autonomy and self-responsibility of the researchers, encouraging the application of the contracting mechanism based on the outputs of the scientific research. Encourage universities to set up science and technology enterprises to bridge scientific research and reality; increase the university's capacity of commercializing the results of their scientific research.

Seventh, amend and supplement Decision No. 67/2004/QĐ-BTC dated August 13, 2004 of the Ministry of Finance promulgating the regulations on financial and accounting self-inspection at their own agencies that use state budget funds in order to suit non-business units with autonomous recurrent expenditure and investment by establishing the Financial Control Board under the University Council, in which the personnel is appointed by the University Council. This enhances the University Council's monitoring role while ensuring the Rector's publicizing, transparency, and financial accountability to the University Council, the employees and the learners.

Eighth, review, amend and supplement documents on recruitment, using, training, retraining, rewarding, and management of carders and employees in higher education institutions in accordance with the university autonomy model such as considering the establishment of the civil servant status in autonomous universities. Consider the expansion/deregulating the age requirement for managerial positions. Allowing autonomous universities to choose the application of the Labor Law instead of the Law on Public Employees, let them decide their own policies and regimes to attract and remuneration for their civil servants, public employees and workers.

Simplifying procedures for issuing work permits for foreign professionals.

Ninth, develop a procedure and conditions to gradually abolish the mechanism of "governing body" and of demanding for the licensing professional work, human resources and finance of autonomous universities. The concept of "governing body" also needs to be redefined. Autonomous universities are subject to the state management of the Ministry of Education and Training for educational activities only, and at the same time subject to its examination, inspection and supervision. Pilot the elimination of the "governing body" mechanism for a number of universities that are successfully piloting autonomy based on the registration and development of projects and conditions for quality accreditation, accountability, publicizing and transparently information about the conditions to ensure the quality insurance and the outcome quality of the training, scientific research and community service process.

Tenth, implement thoroughly with a high sense of responsibility of the state management functions for higher education institutions that have been and will be autonomous, especially the inspection, examination and sanctioning in providing higher education service. Conduct quality accreditation of higher education institutions and training programs; encourage them to participate in the ratings of appropriate higher education ranking organizations, with priority given to international rating ones; Publicly announcing the ranking results to create trust for the society and encourage fair competitions to improve the quality of training among institutions in the Higher Education system in general and autonomous universities in particular.

Eleventh, continue to renovate the university governance mechanism. This is an essential breakthrough, a key measure to overcome difficulties in order to strongly develop the higher education system of Vietnam in the current context of industrial revolution 4.0. The institutions need to renovate their governance mechanism to improve their autonomy in general and in the field of human resource management in particular, to meet the requirements of university autonomy policies that the government and the Ministry of Education and Training have issued

and will issue. Highly autonomous universities should prioritize investment in financial and human resource management to keep up with the need to change from a "non-business model" to a "business model", from "administrative staff management" to "human resource governance model". Universities are fully autonomous in their organization and personnel, and are responsible to state agencies for their decisions on organization and personnel. They need to develop, publish and implement standards for managers and lecturers, regulations on recruitment, employment, and promotion of managers and lecturers to improve the quality of their staff with the aim of building a contingent of lecturers and managers with sufficient in quantity and qualified in quality, progressing to exceed the standard requirements to be able to exercise autonomy and self-responsibility in the field of training. Universities need to strengthen the decentralization of recruitment to their affiliated units; build standards for recruiting a contingent of lecturers; build a rational personnel recruitment process; use and arrange the right people for the right job position in accordance with each person's ability and strength. Accordingly, it is possible to empower the University Council and the Rector to determine the payroll, the enrollment, the use and management of their own staff; the appointment and election of managerial positions (including presidents of University Council and the Rector); review and accredit the eligibility and appoint the academic titles (Prof., Assoc. Professor) based on the criteria approved by the University Council; decide the salary and income of lecturers, scientists, managers according to the agreement between the university and the employees on the basis of their quality and performance at work.

Conclusion

The autonomy of public higher education institutions in our country today attracts the concern of the society and competent agencies. Autonomy must be given in order to improve the performance of higher education institutions, so as to improve the effectiveness of state management of education and training. The key issue is to improve the quality of human resource training to meet the requirements of regional and

international integration. The study of the organizational structure and personnel autonomy in public higher education institutions in the current context is absolutely necessary and timely; it will be the basis for proposing solutions to enhance autonomy for educational public higher education, contributing to the renovation of the state management of higher education. The article has clarified theoretical issues related to university autonomy, the rights of autonomous university, the conditions for autonomy as well as the governance mechanisms in giving autonomy to public higher educational institutions.

In addition, the study has also analyzed the current situation of autonomy in public higher education institutions, including the current situation of promulgating laws related to autonomy, the realization of autonomous rights as well as the university governance mechanism, the quality accreditation implementation and the rating of university, thereby pointing out the achievements as well as certain limitations in autonomy at these institutions. Through that, the research has proposed solutions to enhance autonomy to strengthen university governance mechanisms so as to ensure the effectiveness and efficiency of the state management over higher education. In short, the study has clarified the most basic and fundamental points about the autonomy and the realization of autonomy of the current public higher education institutions. It is hoped that the solutions given will be a reference for state management agencies to use in the process of adjusting legal policies in the coming period.

University autonomy is essential to implement advanced university governance methods in order to improve the training quality. Autonomy in general and autonomy of personnel in particular in public universities should be further innovated to promote the development and improve the quality of the higher education to catch up with the international standards. Along with the legalization of the personnel autonomy, the thinking of universities is the most decisive factor. Although university autonomy is necessary, it does not mean that the State will loosen its management, it needs to be closely linked with the accountability and transparent accountability mechanism. Thereby, it motivates universities to continue improving their training quality,

successfully implement education and training innovation in general and higher education in particular.

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