

# NEWSLETTER

NHQuang&Associates



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## *Preface*

Passing through 2022, the year of various fluctuations from the market, economy, politics and society, with careful preparation in many aspects and practical development strategy, NHQuang&Associates has well obtained many achievements in professional work, knowledge improvement, experience consolidation, skill development, brought significant values which are highly appreciated by clients; in the meanwhile, contributed further to the society through sharing legal expertise and practical researches drawn from hundreds of hours of research and work of lawyers.

Heading for 2023, NHQuang&Associates will continue well boosting its internal resources, constantly improving and developing its capacity to be ready to meet new requirements, overcome upcoming challenges, and promoting the rule of law in Viet Nam.

# 2022 EMBLEMATIC FIGURES

In the past 12 months, besides consulting activities, NHQuang&Associates (**NHQuang**) also carried out many other professional activities, some of which are recorded with the following data:



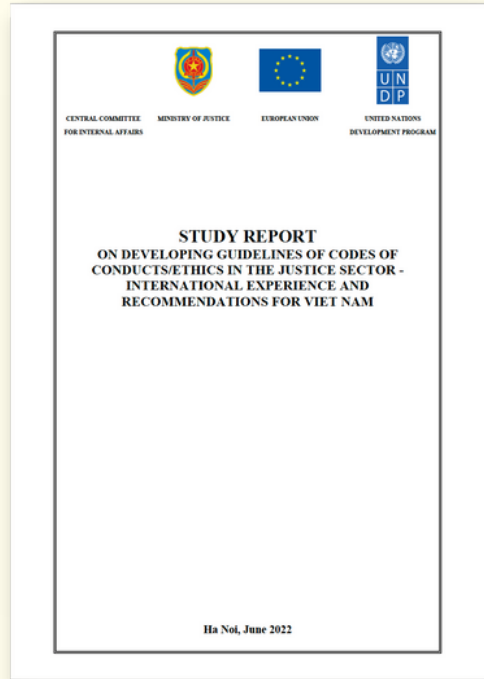
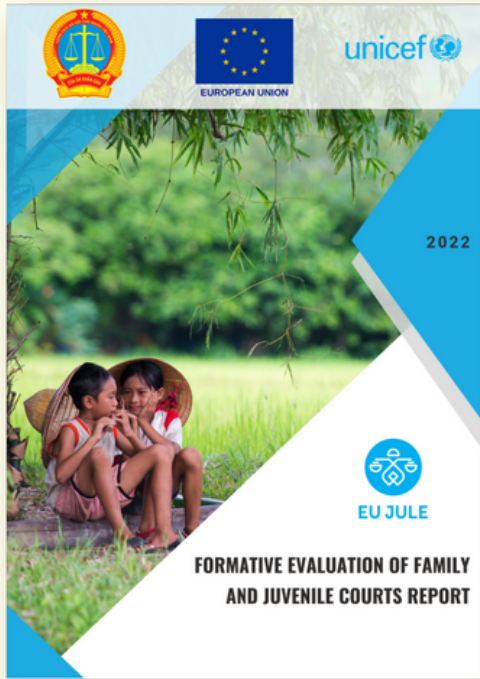
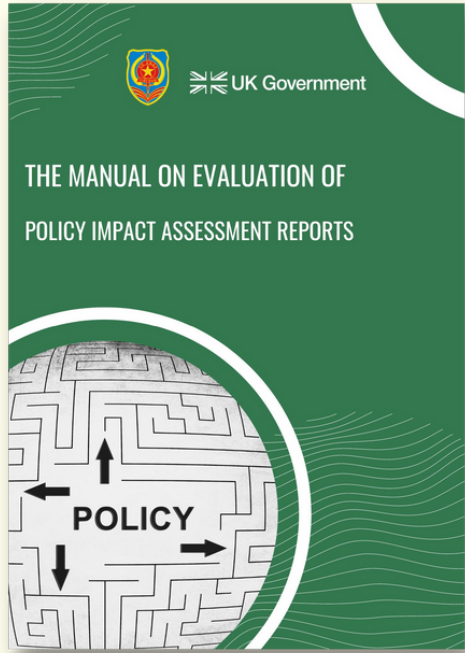
# RESEARCH ACTIVITIES



In 2022, NHQuang involved in many studies in diverse areas such as administrative procedure reform, energy, policy impact assessment, judicial reform. The below are some of the typical research activities done by NHQuang in 2022:

- **"Administrative Compliance Cost Assessment Index Report" (APCI Index Report):** This is the 5th consecutive year that NHQuang is selected to be the expert for APCI Index Report. Within this project, the experts participated in researching legal regulations, surveying businesses that implement administrative procedures in the last 3 months of 2021 and the first 6 months of 2022, focusing on the procedures in the life cycle of a business such as business establishment, licenses, practicing certificates, business conditions, taxes. Thereby we identified outstanding issues in this process, making assessments and comments on the actual implementation of administrative procedures by enterprises in Viet Nam and proposing recommendations to relevant ministries and sectors in reforming administrative procedures. This report is considered an indicator for the central agencies to continue the plan to reform administrative procedures and reduce the compliance cost burden for enterprises.
- **The Manual for Evaluation of Policy Impact Assessment Reports:** The Policy Impact Assessment (PIA) Report is an important document for the appraisal agencies to verify and evaluate whether a policy in question has met the verification and evaluation criteria, especially for agencies in charge of issuing such policy, to ensure thorough recognition of impacts on all economic and social aspects of the policy once it is promulgated and implemented. Supporting the evaluation of the PIA Report, NHQuang engaged in compiling the Manual on Evaluation of Policy Impact Assessment Reports, with the support by the Ministry of Justice, the ASEAN Economic Reform programme of Foreign, Commonwealth & Development Office (FCDO) represented by the British Embassy; and Department for Business, Energy and Industrial Strategy (BEIS). Officials from the Ministry of Justice, legal affair organizations under the ministerial, ministerial-level agencies and Departments of Justice, all-level state management agencies being responsible for drafting the PIA Report as well as researchers and lecturers can also use this Manual.
- **The Study on crowdfunding mechanism** was carried out with the support of the Vietnam National Innovation Center (NIC) to contribute to the development of the innovation system. The Study focuses on analyzing the reality of the crowdfunding mechanism in Viet Nam, identifying the challenges of crowdfunding for innovation activities, the need for recognition of the crowdfunding mechanism in Vietnamese legal system and the appropriateness of setting up sand-box regulations for testing/piloting crowdfunding for innovative activities through innovation hubs.

- Energy transition in Viet Nam in recent years has developed at a rapid rate, bringing many co-benefits to other fields such as improving the environment and health through reducing air pollution, creating new jobs in energy transition. With the above co-benefits of energy transition, it is necessary to supplement provisions related to the co-benefits of energy transition in the Draft Electricity Law (amended), which is one of the important documents on energy transition in Vietnamese legal system. Mr. Nguyen Hung Quang was selected to be the Legal Expert in the project of Research on Evaluation and proposal of solutions to increase the co-benefits of energy transition process, supported by GIZ Vietnam, developing the **Legal Assessment Report on the co-benefits of energy transition in the Vietnamese legal system and recommendations**.
- In 2022, NHQuang was honored to be one of the experts selected to participate in the development of the **Encyclopedia of Asian Law** of the Asian Law Centre - Melbourne Law School, the University of Melbourne (Australia). In this publication, NHQuang developed an introduction to the law related to privacy and personal data protection in Vietnamese legal system including an overview of Vietnamese legal regulations on privacy and personal data protection, outstanding features, current obstacles related to this field. The Encyclopedia of Asian Law is expected to be a comprehensive and valuable reference for scholars, researchers, policy makers, etc. who are interested in and doing research on Asian law.
- The responsible business has been identified very early in Viet Nam's legal and policy documents with the shift of focus from a purely economic development strategy to sustainable development. However, the actual implementation has not yet met the requirements set forth, especially during the outbreak of the Covid-19 pandemic, which also increased the issues of social inequality, exacerbated some issues related to laborers' rights, and the rights of vulnerable groups. In this context, Mr. Nguyen Hung Quang, lawyer, was selected to become the Leader of the Research Team together with experts and associates of NHQuang to conduct the **National Baseline Assessment on Responsible Business Practice of Enterprise in Viet Nam** with the support of the Civil-Economic Legislation Department, Ministry of Justice and UNDP Vietnam. The Report identifies outstanding issues and proposes remedial priorities in 5 priority areas: (i) Selective investment; (ii) Labor; (iii) Right protection of vulnerable groups; (iv) Environmental protection; (v) Protection of consumers' interests. Proposals and recommendations to prioritize remedial action will create a basis for authorities to study when developing and completing the National Action Program on Responsible Business.
- **Formative Evaluation of Family and Juvenile Courts Report** has been conducted by NHQuang with the support of the Supreme People's Court and UNICEF Viet Nam to assess the formation and operation of the Family and Juvenile Courts in Viet Nam through assessments of the relevance, effectiveness, efficiency, and scalability/sustainability of Family and Juvenile Courts. The Report highlights the achievements, existing bottlenecks and barriers and proposes ways to further promote the Family and Juvenile Courts in the context of juvenile justice reform in Viet Nam, provides some useful input for developing this law, especially related to consolidating and improving the institution of the Family and Juvenile Courts.



*Cover of some Research conducted in 2022*

# ACADEMIC COLLOQUIUMS AND ACTIVITIES

2022 is again a busy year with many professional activities of NHQuang's lawyers, reflected in research results, discussions and legal opinions shared at dedicated seminars organized online or offline. Some typical activities by month can be mentioned as follows:



- Presentation on "*Evaluating the policy framework on bidding for power generation projects from renewable energy sources*" at the Online policy dialogue on "Auction Mechanism for Sustainable Development of the Renewable Energy Market" held by independent think-tank Vietnam Initiative for Energy Transition (VIETSE).



- Introduction on an overview of "*Manual on Evaluation of Policy Impact Assessment Reports*" at the Consultation Workshop on the Draft Manual for Evaluation of Policy Impact Assessment Reports organized by the Ministry of Justice and the Foreign, Commonwealth & Development Office (FCDO), represented by the British Embassy.



- Presentation on the Draft Report "*Assessment of responsible business practices in Viet Nam*" at the Workshop "Recommendations to develop the National action plan for improving laws and policies to advance responsible business practices of business enterprises in Viet Nam" organized by UNDP Vietnam and the Ministry of Justice.



- Presentation on An overview of research results at the Consultation Workshop for "Study Report on developing guidelines for the Code of conducts/ethics in justice - International experience and recommendations for Viet Nam" organized by the Central Committee for Internal Affairs in cooperation with UNDP.
- Presentation on "*Current situation and proposed legal infrastructure to ensure the operation of e-Courts*" at the Scientific Workshop to comment the Draft Project "Building e-Courts in Viet Nam to meet judicial reform requirements to 2030, with orientation to 2045" organized by the Supreme People's Court in Ha Noi.



- Speech at the Event "Promoting Responsible Business Practices in Japanese Companies and their Supply Chains in Viet Nam" organized by UNDP and the Embassy of Japan in Viet Nam.
- Presentation on "*Removing barriers of legal regulations on investment under the public-private partnership method in urban investment projects under Transit Oriented Development (TOD)*" at the Workshop "Removing policy barriers for good implementation of the PPP Law" organized by Vietnam Chamber of Commerce and Industry (VCCI) in collaboration with the United States Agency for International Development (USAID).
- Speech at the Workshop "Comments on the Draft Law on E-Transactions (amended)" organized by Vietnam Chamber of Commerce and Industry (VCCI) in collaboration with the Ministry of Information and Communications.



- Presentation on "*Research methodology and legal assessment for emission reduction/transition scenarios for coal power plants*" at the Conference on implementing cooperation activities to support State-owned enterprises in the field of energy to develop a road map towards net zero emissions organized by the Commission for the Management of State Capital at Enterprises (CMSC) in collaboration with the Energy Transition Partnership (ETP).
- Introduction on the Roadmap for the development of the National Action Plan Project for enhancing Responsible Business Practices in Viet Nam at the Workshop "German Act on Due Diligence in Supply Chains - Impacts on Viet Nam" organized by German Embassy in Ha Noi, the International Labor Organization (ILO) and the German Agency for International Cooperation (GIZ).



- Presentation on "*Statutory and bar requirements of Vietnamese lawyers to participate in legal aid activities and mandatory criminal cases*" at the International Legal Ethics Conference 2022: Lawyers in a World of Crisis organized by UCLA School of Law, Program on Legal Ethics and the Profession, University of California.



- Presentation on "*Conciliator's Code of Conduct and consequences of violating these codes under the Singapore Convention on Mediation*" at the Workshop "Singapore Convention on Mediation and Viet Nam's possibility to accede" organized by the International Trade and Business Law Faculty, Ha Noi Law University.
- Presentation on "*The Manual for Evaluation of Policy Impact Assessment Reports*" at the Training Workshop on MOJ's Manual for Evaluation of Policy Impact Assessment Reports organized by the Ministry of Justice in collaboration with the ASEAN Economic Reform programme of Foreign, Commonwealth & Development Office (FCDO), and Department for Business, Energy and Industrial Strategy (BEIS).



- Speech on "*Transit-oriented development (TOD) model under the Land Law and related laws*" at the Workshop "Ensuring the consistency of the Draft Law on Land (Amendment) with relevant laws" organized by the National Assembly (NA) Office in collaboration with the NA Legal Committee, NA Economic Committee and the Hanns Seidel in Viet Nam.



- Presentation on an overview of "*Formative Evaluation of Family and Juvenile Courts Report*" at the Seminar to comment on Formative Evaluation of Family and Juvenile Courts Report organized by the Supreme People's Court in collaboration with the European Union (EU) and the United Nations Children's Fund (UNICEF).



- Presentation on "*Some difficulties in commercial mediation*" at the seminar on Commercial Arbitration and Mediation in Viet Nam held by the Ministry of Justice.
- Guest speaker in Session 1 "Access to economic recovery incentive packages and legal risk management" - Business and Law Forum 2022 held by the Ministry of Justice.

# CORPORATE & SOCIAL IMPROVEMENT

## 1. Corporate improvement

- Marking the 18-year journey of growth and development, in 2022, NHQuang contingent widened unprecedentedly. We recruited 10 more members for both Ha Noi Head office and the Branch in Ho Chi Minh City this year. This is an affirmation for the success of the NHQuang&Associates brand.
- As a learning organization constantly, NHQuang regularly organizes internal training and academic exchange activities weekly. The training content of the year continued the series of contracts partially implemented in 2021, with specific topics on Construction contracts and Electronic contracts under Vietnamese and international laws. Furthermore, taking the advantage brought about by 4 lawyers being CEDR/VICMC accredited mediators, NHQuang effectively deployed the training sessions on litigation skills, dispute resolution skills in arbitration, and commercial dispute skills in mediation. In addition, other training contents are also interwoven, such as Guidance for policy impact assessment, an activity associated with NHQuang's particular strength in Viet Nam's legal consulting market, or Discussion on blockchain and management policies of Australian government shared by Dr. Toan Le, Director of Tax Law Research Group, Department of Business Law and Taxation, Monash University, Australia.

## 2. Support for students and graduates

- 2022 is the second year that NHQuang accompanied the Mock Trial No. 13 organized by the Young Jurist Club of Ha Noi Law University as the professional sponsor and examiner in March and April of 2022. Mr. Phung Quang Cuong, partner, presided the online training on litigation skills for 2 excellent teams that entered the final round, and Ms. Tran Thi Thanh Huyen, partner was one of the 5 examiners "having decision-making power" to choose the winner of the contest.
- In Soul of Law 2022 - a playground founded by the Law Consultant Club of Foreign Trade University to create an exchange, learning environment as well as motivate career development for students interested in law study nationwide, taking place from mid-May to the end of June 2022, NHQuang also made many impressions at the capacity of professional sponsor and examiner in a number of contest rounds.



- In August 2022, Vietnam Mediation Moot 2022 (V-Med) was successfully held for the first time in Viet Nam with 52 teams from different universities across the country. This is a competition on commercial mediation with the aim of promoting the propaganda and dissemination of knowledge and skills on dispute resolution methods through commercial mediation. NHQuang took part in the program as a companion sponsor, examiner and test designer for round 1 - stage 2 of the competition.
- And with FDI Mediation Moot, the first investor-state mediation moot contest held online on a global scale in March 2022, NHQuang acted as one of the sponsors for the Vietnamese representative team to participate the contest.
- This year is the 12th year that NHQuang acts as a sponsor of the Globalized Era Scholarship (GES) for final year students from law schools. This annual activity is maintained by a number of businesses, organizations and individuals engaged in law-related activities to support the young generation of law profession with respect to professional matters, career orientation, skill development, etc. in Ha Noi and Ho Chi Minh City.
- And last but not the least, a very important mission in NHQuang's social responsibility, is the internship program. We always opens the door for interns who are law students and graduates, with the desire to bring opportunities for them to get acquainted with the actual working environment, apply their learned knowledge in practice, and at the same time help them identify the orientation for the next step in life. In 2022, 11 law students took part in the internship program in both offices in Ha Noi and Ho Chi Minh City.

# PUBLICATIONS AND LEGAL RESEARCH



In 2022, 11 Legal Newsletters were prepared and delivered to Clients by NHQuang. With the objective to maintain and enhance the quality of every Newsletter, the Editorial Team and authors always put much effort and time into researching and writing so that our Clients can benefit from up-to-date legal information, as well as practical legal analysis. The consideration for such hardworking are positive feedback from Clients and the interest of several journals as writings of lawyers of NHQuang are selected to be published and cited in legal journals for enterprises and policy advocacy.

Besides, several articles by NHQuang lawyers on legal issues attracted attention, initiated discussion, and were published in academic journals. The following is a review of some distinguished interviews and journals articles in 2022:

- In the context of increasing trend of responsible business practices in enterprises in Viet Nam, Mr. Nguyen Hung Quang wrote "**ESG and the National Action Plans for Responsible Business Practices in Viet Nam (NAP)**" to introduce, analyze and evaluate a number of standards besides the legal provisions that should be noticed when doing business in accordance with ESG (Environment - Society - Corporate Governance) or CSR (Corporate Social Responsibility). The article is part of the ESGPath volume 4/2022, edited and published by Richard Moore Associates. Also relative to the issue of responsible business of enterprises, Mr. Quang also raised his views on the current situation of forced labor in Viet Nam, especially in the context of the Covid-19 pandemic in the article "**Forced labor still exists in recruitment process**" in Vietnam Business Journal. Accordingly, he emphasized the requirements related to the inspection mechanism over labor, social insurance, and the complaint mechanism at the enterprises to contribute to limiting the above situation.
- During the stage of developing and collecting comments on the draft Law on Land (amended), Mr. Nguyen Tien Lap provided his comments and assessments on a number of related issues, such as ensuring the compatibility, harmonization with applicable dedicated laws, ensuring the harmonization of interests in land acquisition, in some articles including "**Amendment to the Law on Land in association with thinking innovation**", "**Amending the Law on Land - benefits is the hardest issue**". Besides, in the article "**How to prevent real estate from becoming a danger to the economy**", through the real estate market issue, he gave some recommendations so that the Law on Land becomes the firm foundation to support the healthy development of the real estate market.

- Regarding the draft Law on Electronic Transactions (amended), NHQuang lawyers have written many analytical articles. For example, the article **"Facilitating businesses to transact in the electronic environment"** by Nguyen Hung Quang was published in Online Customs Journal, predicting the positive effects of the new regulations. These effects include ensuring safe, reliable, legally valid electronic transactions; hence, the article advised businesses to be well-prepared before the Law officially takes effect. New highlights of the draft Law on Electronic Transactions (amended) related to electronic signatures, trusted services, and support for electronic transactions, etc., were analyzed by Nguyen Hung Quang and Tu Thi Phuong Uyen, lawyers of NHQuang&Associates in the article **"An e-transaction law for the digital age"** published in Investment Newspaper - Vietnam Investment Review (VIR).
- In the article **"What are the consequences of the plans made by private funders?"** published in Saigon Times Online, Mr. Nguyen Tien Lap discussed the planning sponsored by individual investors or businesses in the socialization context as well as some potential consequences of this situation.
- Regarding the proposal to reduce criminal penalties and replace them with civil lawsuits and create favorable conditions for corruption and economic criminals to remedy the consequences of their crime, Mr. Nguyen Tien Lap shared his opinion in the article **"Criminals of corruption: Paying for exemption from the death penalty, whether paying for exemption from prison?"**. His perspectives were given on the basis of legal science as well as the fact of several huge corruption cases appearing in recent times.
- In the article **"Administrative procedures shall be handled by the "one-entrance" method"** published in the Customs Journal, Mr. Nguyen Hung Quang assessed the changes and convenience that businesses benefit from business law in Viet Nam during the Covid-19 pandemic crisis, along with problems of businesses; and proposed solutions to review the law and reform administrative procedures. Concerning administrative procedure reform, in the interview with the Customs Journal **"Policy dialogue: The situation of "implanting" self-interests in business regulation"**, he also pointed out the phenomenon of self-interests in business regulations, creating a burden for businesses with more business conditions or administrative procedures.
- The legal team of NHQuang&Associates carried out a quick review on the effective use of national resources, especially in the fields of land and mineral exploitation, in terms of legal basis and problems in implementation practice. The review results were presented in **"Bidding for project implementation: The number of provinces with the set of criteria for investor selection is still modest"** published in the Vietnam Business Journal.
- In the program "Following the economic flow" of NhandanTV, Mr. Nguyen Hung Quang discussed the reality, causes, and potential risks associated to land auction stakes in the topic **"Consequences from land auctions: High-priced auction but later giving up the stake!"**.



Furthermore, in 2022, NHQuang also maintained the cooperation with a number of legal programs on television and radio channels, such as VTV2 Law and Business Program, providing electronic lectures under the Inter-sectoral Legal Assistance Program for businesses of the Ministry of Justice. The topics delivered by our lawyers were relatively diverse, covering various fields such as investment, business, tax, contract, consumer protection, with some of them mentioned herein:

*Firstly*, within the program "Business and Law" broadcasted on Channel VTV2 - Vietnam Television:

- In the topic "**Reducing legal compliance costs in the context of Covid-19**", Mr. Nguyen Hung Quang analyzed the current problems of legal compliance costs for businesses and proposed recommendations to reduce legal compliance costs for businesses in the coming time.
- During the discussion on "**Dispute about capital contribution and profit sharing, what should parties take into consideration?**", Mr. Phung Quang Cuong presented an overview of the capital contribution contract and advised key issues to be noted by businesses when signing capital contribution contracts.
- Ms. Tran Thi Thanh Huyen provided some remarks for corporates in determining the legality of transferred shares and ensuring the validity of share transfer contracts in the discussion on "**Practice of share transfer contract and notes for businesses**".
- Also related to joint stock companies, at the discussion "**Annulling the resolution of the general meeting of shareholders and some points to be noted**", Mr. Nguyen Hung Quang discussed the legal framework as well as the practice of requesting for annulment of the general meeting of shareholders' resolutions - a potentially controversial issue and some notes for joint stock companies.
- In the discussion and analysis of the topic "**Product warranty and manufacturer's responsibility to consumers**", Mr. Phung Quang Cuong discussed the manufacturers' warranty liability for defective goods to ensure the inherent interests of consumers.

*Secondly*, in the Inter-sectoral Legal Assistance Program for businesses of the Ministry of Justice:

- Nguyen Hung Quang delivered the lecture "**Improving the quality of legal support to meet the needs of businesses**" with the aim and some solutions to improve the quality of legal support for enterprises.
- Pham Thi Thu Ha, Auditor – Tax Consultant, participated in the lecture "**Notes for enterprises when complying tax inspection and examination decisions**", which presented (i) Rights and obligations of enterprises to comply with inspection and examination decisions from tax authorities; and (ii) Some documents that enterprises need to prepare for the inspection and examination process.
- Nguyen Hung Quang conducted the lecture "**Skills and procedures in handling customer complaints**". The lecture referred to (i) The reception of customer complaints, (ii) The process of handling customer complaints, (iii) Some complaint handling skills, and (iv) Notes and some complaint settlement options.
- Tran Thi Thanh Huyen delivered the lecture "**Dispute resolution skills related to capital contribution in enterprises**". The content of the lecture contains (i) Identifying disputes related to contributed capital, (ii) Dispute resolution skills, and (iii) Experience and notes for enterprises.
- A lecture was delivered by Tran Thi Thanh Huyen on "**Skills for tax registration, tax declaration and notes for newly established enterprises**" with three main contents including (i) Tax registration skills, (ii) Tax preparation skills, and (iii) Some tax notes for enterprises.

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