

MINISTRY OF JUSTICE – MINISTRY OF EDUCATION AND TRAINING
HANOI LAW UNIVERSITY

ABSTRACT
**LEGAL ASSISTANCE FOR ENTERPRISES – LAW AND
PRACTICES**

BY
TRẦN MINH SƠN

The thesis submitted to Hanoi Law University
for the degree of doctor of philosophy

Major: Economic law

Major code: 9.38.01.07

Hanoi - 2020

**The thesis finished in
Hanoi Law University**

Scientific advisors:

- 1. Associate. Doctor. Dương Đăng Huệ**
- 2. Associate. Doctor. Vũ Thị Lan Anh**

Examiner 1:

Examiner 2:

Examiner 3:

The thesis defense would be presented before the college examining committee at Hanoi Law University on ...h..... date

Information referred:

- 1) The national library.
- 2) Hanoi Law University library.

PREFACE

1. The imperative of researching the thesis

There are regulations promulgated to satisfy the increasing demand of enterprises for legal assistance. However, the implementation of those regulations has exposed insufficiency, shortcomings, difficulties, such as: many regulations on legal assistance for enterprises are not clear, specific, fail to ensure synchronous requirement and have low effectiveness; the implementation of legal assistance for enterprises by ministries, branches, localities is far from regularity, synchronization and systematic feature leading to low effectiveness; the manpower and fund dedicated for legal assistance for enterprises have not received adequate concern; the cooperation mechanism among ministries, branches, localities and organizations representing for enterprises in legal assistance is not at high effectiveness; forecasting the demand for legal assistance for enterprises in each period has not matched the real demand of enterprises; legal assistance for enterprises in ministries, branches, localities is formal, ineffective and has not attracted the attention of enterprises who are the beneficiaries of these activities. Besides, as the matter of fact, legal assistance for enterprises in the recent time has not received adequate concern, is implemented mainly on practical experience, has not been basically, theoretically researched. The review of reality of legal assistance is slowly carried out. Synchronous solutions with a view to perfect the law and improve the effectiveness of these activities in Vietnam have not been set out. On the other words, this type of legal assistance has not gained much attention, studies from scientists, whereas, the demand of enterprises, especially small and medium-size ones for legal assistance is imperative.

Given that context, comprehensive and basic research on legal assistance for enterprises is necessary. The achievement of the thesis undoubtedly not only makes contributions to deal with theoretical and practical issues but also favours the perfecting law and regulations on legal assistance in general and legal assistance for enterprises in particular. For the above reasons, the author chose the topic “**Legal assistance for enterprises – Law and practice**” as the doctorate philosophy thesis.

2. Objectives and scale of the thesis

** Objectives:*

State's legal regulations on legal assistance for enterprises; practices in implementing legal assistance for enterprises in the recent time; forms, measures of legal assistance; other countries' experience in legal assistance for enterprises and lessons for Vietnam in perfecting and implementing law on the field.

** Scale of research*

Law, activities, practices in legal assistance for enterprises and improving these issues are complicated not only on theoretical approach but also on practical aspect. Therefore, in the limited scale of the thesis, researching those issues is zoned in scale of content, objective, space and time.

3. Purposes and missions of the thesis

** Purposes of the thesis*

To identify the shortcomings, insufficiency of the current law and difficulties, obstacles in practices, to recommend orientation and solutions to perfect the law system on legal assistance for enterprises, to make contributions to improve quality and effectiveness of legal assistance activities for enterprises in Vietnam at the moment and in the future.

** Missions of the thesis*

In order to reach those goals, the thesis concentrates on dealing with main missions as follows: to study basic theoretical issues on legal assistance for enterprises, such as the necessity, definition, characteristics, role and significance of legal assistance for enterprises; to study regulations and the situation of implementing legal assistance for enterprises in Vietnam; to learn other countries' experience relating to legal assistance for enterprises; to work out solutions to effectively carry out legal assistance for enterprises in Vietnam in the coming time, especially recommendations regarding promulgating law, law enforcement in legal assistance for small and medium-sized enterprises.

4. The methodology and the research methods of the thesis

** The methodology:* The dialectic materialism methodology of Marx-Leninism, Perspective of the Communist party and State on economic growth and country construction in the Renewal period, in which, orientating at establishing "Serving Government", "Government accompanying enterprises"; legal assistance for enterprises is a type of public service of State which is responsible to offer for small and medium-

sized enterprises.

* *The research method:* On the basis of dialectic materialism methodology, the historic materialism, in dealing with issues in missions of the thesis, the author take advantages of specific, suitable research methods like inductive method, analysis, synthetic method, comparison,...

In chapter 1 and chapter 2, the author uses inductive method to study the necessity, build definitions; uses analysis, synthetic method to study issues; apply legal comparison to study the issue in other countries and to contrast to Vietnam law.

The author uses the outstanding method that legally contrasts issues to make out similarities and differences between Vietnam law and other countries on legal assistance for enterprises, referring these results to recommend measures to perfect law on the field.

In chapter 3, basically, the author uses analysis and synthetic methods to map out orientations and solutions basing on scientific research.

5. New contributions of the thesis

Through systematically studying issues regarding subjects of the research of legal assistance for enterprises, reviewing other authors' released works, the thesis has the following new contributions: (1) To clarify the objective imperative of the existence and development process of the jurisdictions of the legal assistance for enterprises in Vietnam; (2) To make clear that legal assistance for enterprises is not simply temporary policy, but the long term career, reflects the economic function of the State; simultaneously displays the nature of one out of types of public services provided by State for the small and medium-sized enterprises; (3) To provide full meaning, content of scientific definitions relating to law and activities on the field of legal assistance for enterprises; (4) To access and systematically study law on legal assistance for enterprises and experience in developed countries in the contrast with Vietnam law; upon that platform, work out lessons to perfect law as well as improve effectiveness of legal assistance for enterprises; (5) To research, work out the reasons of shortcomings, insufficiency of law in general as well as of the legal assistance for enterprises in Vietnam over the last periods; (6) To recommend orientations and solutions with a view to perfect law jurisdictions on legal assistance for enterprises, law enforcement in legal assistance for enterprises in the synchronous and feasible way in order to enhance the

effectiveness of legal assistance activities in line with current practices and in the coming time.

6. The structure of the thesis

Apart from the table of content, preface, conclusion, appendix proving the result of research, reference document list, the thesis consists of three chapters as follow:

Besides the preface, the overview on the research situation and theoretical basis of the thesis.

Chapter 1: Theoretical issues on legal assistance for enterprises and law stipulating this field.

Chapter 2: The situation and practice of implementing law on legal assistance for enterprises.

Chapter 3: Orientation and solutions to perfect law and enhance effectiveness of legal assistance for enterprises in Vietnam in the current time.

THE OVERVIEW OF THE RESEARCH SITUATION

1. The research situation relating to the thesis

The assistance for small and medium-sized enterprises (including legal assistance for enterprises, providing legal information for enterprises...) in the world has existed for long time, since 1979 in South Korea. United Kingdom since 1980s has concentrated on building policies of supporting small and medium-size enterprises, including providing legal information for those enterprises in order to settle the unemployment. In France, providing information is the responsibility of the authority, for example: APEC (Agence Pour la Creation d'Entreprise) is responsible agency to provide information about market, social insurance, tax and legal system in France. Therefore, many studies in Vietnam and oversea have subjects of legal assistance for enterprises, especially studying policies of supporting small and medium-sized enterprises. In Vietnam, since 2001 (when Decree 90/2001/NĐ-CP dated January 23rd 2001 by the Government on supporting the development of small and medium-sized enterprises), many studies have researched the situation of assistance for small and medium-sized enterprises, especially since 2008 (when Decree 66/2008/NĐ-CP promulgated) many studies have peered into legal assistance for enterprises, one of seven forms of supporting small and medium-sized enterprises stimulated in Law on assistance for small and medium-sized enterprises 2017.

1.1. Studies on theoretical issues relating to legal assistance for enterprises

1.1.1. Studies about definitions, characteristics, role of legal assistance for enterprises

In the world, many studies have peered into legal assistance for start-up and small and medium-sized enterprises. Intensively researching the field of legal assistance for enterprises, to the best knowledge of the author, a number of typical studies in Vietnam and oversea is mentioned and reviewed in the thesis.

1.1.2. Studies about forms of legal assistance for enterprises

Scientific dissertations, handbooks, master theses released on the field are mentioned in the thesis.

1.2. Studies about the situation of law and practice in legal assistance for enterprises

To date in the world, according to the author's knowledge, no study on the situation of Vietnam law and legal assistance for enterprises has been carried out. In the world scale, some typical studies have been named in the thesis.

2. Overview assessment about the situation of research relating to the thesis

2.1. Some issues relating to the thesis are studied

Reviewing the situation of scientific research relating to the topic of thesis, the author raises initial assessment about results of research as follows: **Firstly**, the result of studying necessity, definitions, characteristics, role of legal assistance for enterprises is in the first steps of building basic, primitive arguments; **Secondly**, the study about forms of legal assistance for enterprises in the studying period of theses is in accordance with the social economic level at the researching time; **Thirdly**, other authors have researched the situation of law and legal assistance for enterprises in researching periods by other authors; **Fourthly**, other authors recommend solutions to perfect law and effectively implement legal assistance for enterprises in Vietnam relating to amendment of Decree 66/2008/NĐ-CP and specific solutions, nevertheless, have not taken in account synchronous and integrated features and longterm route.

2.2. Issues relating to the topic of the thesis have not been objects of research

Analyzing researchs relating to topic of the thesis, the following assessments are concluded: (1) Identifying goals of legal assistance for enterprises in general and small and medium-sized ones in particular is still faint, unclear, unsystematic; (2) the definition of legal assistance for enterprises is not clearly defined; (3) Defining the subject of legal assistance by State is not really suitable and scientific; (4) Missions, rights of agencies, organizations, individuals implementing legal assistance for enterprises are not studied to adequately, reasonably, scientifically define the content; (5) Issues relating to fund for legal assistance for enterprises have not received adequate concern to clearly define the sources for those activities, merely from the state budget or other agencies, organizations; (6) The forms of legal assistance for enterprises though are stimulated in law, are not seriously, adequately, clearly studied so as to improve the effectiveness of legal assistance for enterprises in Vietnam; (7) Steps in legal assistance for enterprises are not fully reviewed; result and activities of legal assistance for enterprises assessment and

review are not concerned; (8) The content and principles of legal assistance for enterprises are not made clear.

3. Research theory, questionnaires and hypothesis

3.1. Research theory: The theory about economic function of State, especially the Socialist Republic; the theory about legal assistance for enterprises (especially small and medium-sized ones) which is a type of public service as State's responsibility; the theory about the assistance towards the weak sides in the market economy; the requirement of equality in business in the market economy.

3.2. A number of research questions

The thesis is carried out with the following research questions: (1) The necessity of legal assistance for enterprises in the current time and in the future? The definition of legal assistance for enterprises? The target of legal assistance for enterprises? The principles of legal assistance for enterprises? The subject of legal assistance for enterprises? The beneficiary of legal assistance for enterprises? The forms of legal assistance for enterprises? The content of legal assistance for enterprises? (2) Are theoretical issues about legal assistance for enterprises in general and for small and medium-sized ones in particular in line with the general trend of the world? (3) How is the mechanism of legal assistance for enterprises in Vietnam? Which experience does Vietnam learn from other countries in legal assistance for enterprises in general and small and medium-sized ones in particular? (4) With the gained results and existing insufficiency, shortcomings as the thesis mentioned, what are the orientation and solutions to improve the legal assistance for enterprises?

3.3. The hypothesis

The existence of the mechanism of legal assistance for the enterprises is not scientifically interpreted in the relations with the responsibility of State towards enterprises. Given the perspective that law enforcement is the responsibility of the enterprises and State has no responsibility in creating favorable conditions for enterprises to fulfill their responsibility, thus leading to difficulties, obstacles and low effectiveness of legal assistance for enterprises the recent time. Therefore, it should be well aware of that legal assistance for enterprises, especially small and medium-sized ones (especially legal information) is the responsibility of State's agencies, organizations representing for

enterprises. Law stimulating legal assistance for enterprises as well as activities on this field are adequate; however, have not really matched the requirement of the reality. Therefore, it is vital to study, make clear content of current law and regulations, identify insufficiencies, obstacles, and shortcomings as the ground to perfect law on legal assistance for enterprises and enhance effectiveness of this activity in practice. Point of view, directions to perfect law and regulations stimulating legal assistance for enterprises orientating to make favourable conditions for subjects implementing legal assistance for enterprises, satisfy the demand of enterprises; to facilitate enterprises, organizations representing for enterprises to benefit from legal assistance for enterprises by State, raise the effectiveness of legal assistance for enterprises, to make contributions to national social economic development.

Chapter 1

THEORETICAL ISSUES ON LEGAL ASSISTANCE FOR ENTERPRISES AND LAW STIMULATING LEGAL ASSISTANCE FOR ENTERPRISES

1.1. Theoretical issues on legal assistance for enterprises

1.1.1. Definitions, characteristics of legal assistance for enterprises

1.1.1.1. Definition of legal assistance for enterprises

Legal assistance for enterprises in this period is necessary. However, through researching, due to the lack of official definition of legal assistance for enterprises and many insufficiencies, obstacles, difficulties in legal assistance for enterprises, there are different perspectives of this field.

According to current law, legal assistance for enterprises is one aspect of activities of State agencies and localities, in which basic content is building schedule, plans; implementing schedule, plans to provide legal assistance for enterprises with various forms, activities; guiding, supervising, speeding up, summing up, summarizing the implementing the schedule, plans of legal assistance for enterprises¹.

In other words, legal assistance for enterprises is understood as that the state's authorized agencies (ministries, branches, the provincial people's committee and departments, boards, branches at provincial level...) carry out activities stimulated by law on purpose to raise the knowledge of enterprises about law, to shape their awareness of respecting and executing law, taking apart into preventing, minimizing conflicts, law violation so as to enhance effectiveness of production, business of enterprises.

1.1.1.2. Characteristics of legal assistance for enterprises

Characteristics of legal assistance for enterprises consist of: (1) legal assistance for enterprises (especially small and medium-sized, start-up, initiative ones) is activities reflecting the economic function of State; (2) legal assistance for enterprises (especially small and medium-sized ones) is a type of public service in State's responsibility; (3) the beneficiary of legal assistance for enterprises is small and medium-sized enterprises in all economic sections, regardless of forms of possession and organizing model; (4) the legal assistance for enterprises is carried out through out forms and contents stimulated in law in line with social-economic situation of the country in each period; (5) legal assistance

for enterprises is implemented on the basis of cooperation between State's agencies and organizations representing for enterprises.

1.1.2. The necessity of legal assistance for enterprises

As common knowledge, enterprises have many insufficiencies, including law enforcement¹. The awareness of law and consciousness of law enforcement in a number of owners and managers are at low level; a number of enterprises have fraudulent business, intentionally violate law, have weak internal management, shortage of transparency;... Low effectiveness in law enforcement of enterprises comes from both sides that are enterprises and State.

As for enterprises, there are following main reasons: Firstly, the awareness of many owners, managers about the role, significance of law is inadequate¹. *Secondly*, many enterprises face difficulties in executing law because of rare opportunities using free legal advisor and insufficiencies in legal assistance for enterprises². *Thirdly*, enterprises have difficulties in accessing legal information.

As for State, difficulties in law enforcement of enterprises partly come from State, in which there are two core reasons as follows: *Firstly*, many governance agencies have not paid adequate attention to information, guidance, and law enforcement relating to enterprises. *Secondly*, enterprises' questions about regulations and law execution are not timely responded by authorized State that brings hardship to law execution of enterprises¹.

Those mentioned and analyzed reasons from both sides have lowered the effectiveness of absorption and enforcement of law. The low effectiveness of the enforcement of regulations of law promulgated has negative impact on creating favorable environment for business, investment, failed to meet demands of national social economic development requirements. Therefore, legal assistance for enterprises, especially small and medium-sized ones is imperative in the current period.

1.1.3. The role of legal assistance for enterprises

Legal assistance for enterprises attaches to great significance as follows: (1) legal assistance for enterprises takes part in improving awareness of role, importance of law, thus founds habit of enterprises to respect and observe law; (2) legal assistance for enterprises creates necessary conditions for law enforcement to support enterprises in

business; (3) legal assistance for enterprises helps prevent and control legal risk and accelerate competitiveness of enterprises; (4) legal assistance for enterprises takes part in enhancing effectiveness of state management by law towards enterprises.

Law on legal assistance is an important part in law system on assistance for small and medium-sized enterprises.

1.1.4. The principles of legal assistance for enterprises

The principles of legal assistance for enterprises includes: (1) measures of legal assistance for enterprises should keep the rule that State does not do all work for enterprises, on the other hand, State assistance should not deter the development of legal consultation market in general and legal consultation market for small and medium-sized enterprises in particular; (2) content of measures of legal assistance for enterprises stimulated on the account of social economic condition of each branch, locality in each period; guaranteeing the harmony between the responsibility of assistance and the real source on finance, labour force of State management agencies at central and local level; (3) schedules of legal assistance for enterprises should focus on small and medium-sized enterprises as the central objective. This principle comes from reality that small and medium-size is major number in the registered enterprises and also is facing the most difficulties, shortcomings in access to law in general and law on business in particular; (4) to harmoniously combine the responsibility of State with the mobilization resources of non-State forces, especially organizations representing for enterprises in legal assistance for enterprises.

1.1.5. The features have influence on content, forms of legal assistance for enterprises

The demand of enterprises for legal assistance; qualification capacity, financial capacity of State agencies; and the pressure of regional and international economic integration.

1.1.6. Distinguish legal assistance for enterprises and legal assistance and legal consultation:

This section of the thesis represent the nature and characteristics of legal assistance; legal assistance and legal consultation.

1.2. Theoretical issues on law on legal assistance for enterprises

This section clarifies definitions, structure and content of legal assistance for enterprises in Vietnam now, such as: the system of law and regulations in legal documents stimulating the beneficiary of State legal assistance; the subject responsible for carrying out legal assistance for enterprises; stimulating forms of legal assistance for enterprises; the source of fund to implement legal assistance for enterprises and regulations on checking and supervising, assessment on legal assistance for enterprises.

1.3. Law on legal assistance for enterprises in some countries and lessons for Vietnam

Upon researching experience of legal assistance for small and medium-sized enterprises in other countries relating to the thesis, some lessons for Vietnam are as follow: (1) The target of legal assistance for enterprises in general and small and medium-sized ones in particular should be clearly stimulated in law; (2) The definition of legal assistance for small and medium-sized enterprises should be clearly identified in Law (Law or Decree); (3) To identify objectives of the State assistance in general and legal assistance in particular should be deliberately, carefully considered on the basis of the social economic development level of each country, each period avoiding casual, voluntarist way; (4) To fully, reasonably define missions, rights of agencies, organizations, individuals in charge of legal assistance for enterprises; (5) Pay more attention about State fund for legal assistance for enterprises.

CHAPTER 1 CONCLUSION

Upon content of theoretical basic issues on legal assistance for enterprises and law on legal assistance for enterprises, conclusions would be summed up as follows:

By nature, the assistance in general and legal assistance in particular is one type of public service by State towards a number of defined enterprises (commonly small and medium-sized ones) in order to create equal business environment among enterprises in different scale; the assistance for enterprises, including legal assistance does not contradict with the equal principle among enterprises, on the contrary side, takes part in building the equal state among enterprises with different capital scales; legal assistance has many differences with other assistance (support) existing in the society, especially legal support and legal consultation; legal assistance is activity that civilized State should implement for small and medium-sized enterprises in national economy; to timely,

effectively stipulate social relations arising in the process of legal assistance for enterprises, our State has respectively promulgated and perfected legal documents on the field.

Besides, upon researching law on legal assistance for enterprises in some countries in the world to have more profound view into legal assistance for enterprises, especially small and medium-sized ones stressing that most European Community countries consider providing information and legal assistance for enterprises as State's responsibility.

Chapter 2

THE SITUATION OF LAW AND PRACTICE IN LAW ENFORCEMENT ON LEGAL ASSISTANCE FOR ENTERPRISES

2.1. The formation and development of law on legal assistance for enterprises in Vietnam

2.1.1. The period before 2008¹

Throughout researching the history of formation and development of legal regulations on legal assistance for enterprises in the period before 2008, some assessment could be mentioned as: Legal assistance for enterprises was not considered as an important policy, career in State economic function; the activities, forms of legal assistance for enterprises were “simple, plain” mainly throughout dissemination, propaganda, legal education for enterprises, therefore, gained little effectiveness, failed to attract enterprises' concern and to match the demand of enterprises about legal assistance; failed to promote the role, the significance of legal assistance for enterprises.

2.1.2. The period from 2008 to 2017

Upon researching the history of the formation and development of regulations on legal assistance for enterprises in the stage from the time Decree 66/2008/NĐ-CP promulgated to the time Law on assistance for small and medium-sized enterprises, some comments could be worked out as: the legal assistance for enterprises was firstly recorded in a State legal document with legal validity, that is Decree 66/2008/NĐ-CP; this Decree systematically and fully stipulated issues relating to legal assistance for

enterprises; forms of legal assistance for enterprises was implemented in more integrated, various way nationwide.

2.1.3. The period from 2017 up to now

Studying regulations on legal assistance for enterprises after Law on assistance for small and medium-sized enterprises 2017 enacted could sum up some remarks as follows: For the first time, the jurisdiction on legal assistance for enterprises was recorded in Law as the highest valid legal document (only under the Constitution) in Vietnam law system; legal assistance for enterprises in this stage has focused on small and medium-sized enterprises, however, Decree 55/2019/NĐ-CP allows the expansion of objectives enjoying legal assistance in accordance with regulations; the mechanism of legal consultation for enterprises on the network of legal consultation established in ministries, branches firstly pilot applied to support small and medium-sized enterprises (Article 9 Decree 55/2019/NĐ-CP).

2.2 The situation of law on legal assistance for enterprises

2.2.1. Basic content of law on legal assistance for enterprises

This section consists of contents as follow: analyzing legal regulations on objectives receiving State's legal assistance; forms of legal assistance for enterprises; the responsibility of ministries, branches and localities in legal assistance for enterprises; funding legal assistance; checking and supervising legal assistance.

2.2.2.1. Strong points, weak points of legal assistance for enterprises

2.2.2.2. Strong points: Law on legal assistance for enterprises has relatively fully, synchronously stimulated basic issues relating to legal assistance for enterprises; law on legal assistance for enterprises in basic has reached synchronous and integrated feature at a certain level; law on legal assistance for enterprises basically is in line with social economic development of the country; law on legal assistance for enterprises carried out in reality has made contributions to effectively protect legal rights and interests of small and medium-sized enterprises.

2.2.2.3. Weak points, insufficiencies: law on legal assistance for enterprises has unclear regulations resulting in difficult implementation in reality; a number of current regulations are not in line with reality, therefore fail to urge subjects to participate in legal

assistance for enterprises; sanctions on violation are not strict enough that decrease the effectiveness of legal assistance for enterprises.

2.2.3. The causes for strong points, weak points of legal assistance for enterprises

2.2.3.1. The causes for strong points: the increasing awareness of the Party and State about the role of legal assistance for enterprises on effectiveness of enterprises' business; the attentive and specific concern from State agencies in carrying out law regulations on legal assistance for enterprises; enterprises' concern in law enforcement on legal assistance for enterprises has put pressure on State agencies (policy maker who draft law) not to neglect the demand of enterprises for legal assistance, but pay much attention to building law. Once concerned, they manage to find measures, conditions to fulfill their missions more effectively. That is exactly the important cause which has raised the attention to building law on legal assistance for enterprises.

2.2.3.2. The causes for weak points

The causes for weak points in legal assistance for enterprises are as follows: (1) the awareness of some State agencies at central and local level about the role of legal assistance for enterprises does not meet requirement, thus underestimates the law building and perfection on this legal field; (2) the situation of social economic development, especially the poverty, weakness, undevelopment on some economic aspects in the country also has countable impact on stimulating content of law on legal assistance for enterprises, especially regulations on policies of assistance on finance, banking (lending); (3) the summarization legal assistance for enterprises as well as summarizing, assessment about the effectiveness of law enforcement of legal assistance for enterprises is not adequate and comprehensive; (4) in researching theoretical issues of law on legal assistance for enterprises, reasonable appreciation and proper investment have not yet found.

2.3. The practice of law enforcement on legal assistance for enterprises

2.3.1. The practice of carrying out legal assistance for enterprises

This section analyzes the practice of implementation of legal assistance for enterprises such as: providing legal information in favor of enterprises' business; completing documents to introduce, disseminate the legal document; cultivating legal

knowledge for enterprises; interpreting law for enterprises; absorbing recommendations from enterprises to perfect law.

2.3.2. Building and implementing schedule of legal assistance for enterprises

This section analyze issues relating to the necessity of the schedule of legal assistance for enterprises; kinds of schedules of legal assistance for enterprises; the differences between the schedule of legal assistance for enterprises and plans of legal assistance for enterprises; basic contents of the schedule of legal assistance for enterprises; the result of the implementation of legal assistance for enterprises.

CONCLUSION OF CHAPTER 2

The result of research in chapter 2 displays the history of formation and development of regulations of legal assistance for enterprises in Vietnam through periods. Periods of formation and development of regulations on legal assistance for enterprises show the importance of legal regulations in the existence and the conduct of forms of legal assistance for enterprises in each period, each stage, in line with the country social economic development and satisfying the demand of enterprises for legal assistance in each period.

Upon analyzing the situation of current law and practice on legal assistance for enterprises in Vietnam, it is obvious that regulations on legal assistance for enterprises are stimulated in many different legal documents from Law on assistance for small and medium-sized enterprises, Decree of government, Circular... to steering Resolutions by Government on supporting and developing enterprises. The result of this chapter clarifies basic strong points, insufficiencies of regulations and legal documents and practice in implementation of legal assistance for enterprises in the recent time and current period. Besides, the chapter also studies and assesses the practice of building and implementing schedules of legal assistance for enterprises (from inter-branch legal assistance schedule to the schedule of ministries, branches and localities...).

Chapter 3

DIRECTIONS AND SOLUTIONS TO PERFECT LAW, IMPROVE THE EFFECTIVENESS OF LAW ENFORCEMENT ON LEGAL ASSISTANCE FOR ENTERPRISES IN VIETNAM IN CURRENT TIME

3.1. Directions to perfect law and improve the effectiveness of law enforcement on legal assistance on enterprises in Vietnam

Perfecting law and improving law enforcement on legal assistance for enterprises in Vietnam now and in the coming time should attach to basic directions as follows: (1) Perfecting law on legal assistance for enterprises should be in accordance with the innovation guide, policy of the Party and State on legal assistance for enterprises; (2) Perfecting law on legal assistance for enterprises aims to deploy active participation of agencies, organizations, individuals in legal assistance for enterprises; (3) Perfecting law on legal assistance for enterprises should guarantee synchronous and feasible features.

3.2. Solutions to perfect law on legal assistance for enterprises

With the perspective on perfecting law on legal assistance for enterprises mentioned above, this career should focus on basic solutions as follows:

3.2.1. Perfecting legal regulations on legal assistance for enterprises

Although the current law has recorded contents and forms of legal assistance for enterprises, these regulations have not satisfied the expectation of enterprises in reality, therefore, State should continue to pay attention to dealing with enterprises' rights (right of legal information access, right of being legal explanation, right of attending regular dialogues with relating State agencies...) that must be not in theory but really implemented in reality. Therefore, perfecting forms of providing legal information for enterprises is stimulated in Law and Decree with specific, clear recommendations in order to enhance effectiveness and responsibility of State agencies (including complete and disseminating the official website of legal assistance for enterprises); legal explanation for enterprises; building up and operating legal consultation network for small and medium-sized enterprises; effectively conducting regular dialogues with enterprises in settling down obstacles and perfecting law on business for enterprises.

3.2.2. Perfecting law with the direction of ensuring necessary fund for legal assistance for enterprises.

The source for funding legal assistance for enterprises is from the State budget; ministries, ministry-level agencies, the provincial and municipal people's committee secure necessary funding for these activities according to annual plans approved of legal assistance for enterprises. Besides, completing the frame of funding quota, activities funded in legal documents should be soon carried out, for example, raising funding quota for legal assistance for enterprises; supplementing types of activities funded; importantly, simplifying administrative procedures in cost estimation, management, usage and liquidation and accounting fund for legal assistance for enterprises.

3.2.3. Perfecting law aiming at improving role, responsibility of State agencies and organizations representing for enterprises in legal assistance for enterprises

To timely, effectively implement legal assistance for enterprises, it is necessary to clear assignment of rights, responsibility and tight cooperation among State agencies in forms of legal assistance for enterprises. Among State agencies, the ministry of Justice has leading role in legal assistance for enterprises. Therefore, the thesis recommends solutions to more improve the role of the ministry of Justice in the field. Besides, the importance are the participation of ministries, branches, localities as the subjects of legal assistance for enterprises in synchronous, integrated way to avoid overlapping and duplication in the field, as well as prompting the proactive participation of organizations representing for enterprises, lawyers, legal service organizations in legal assistance for enterprises, especially with small and medium-sized ones, start-up, initiative ones.

3.3. Solutions to improve effectiveness of law enforcement on legal assistance for enterprises

Solutions to improve effectiveness of law enforcement on legal assistance for enterprises now and in the coming time should be synchronously, integratedly conducted as specific: (1) to accelerate propaganda, dissemination the law on legal assistance for enterprises to State cadres, personnel and enterprises; (2) to enhance cooperation between State agencies with organizations representing for enterprises; between State agencies at central and local level in legal assistance for enterprises; (3) to promote information technology application in legal assistance for enterprises; (4) to research, recommend the inter-branch schedule of legal assistance for enterprises post 2020; to reform building and implementation of the schedule; (5) to ensure necessary conditions for legal assistance for

enterprises; (6) to enlarge checking, supervising, summarizing and sharing experience in legal assistance for enterprises; (7) To perfect regulations on praising, resolving violation in legal assistance for enterprises.

CONCLUSION CHAPTER 3

The result of research in Chapter 3 to handle directions of perfecting law and solutions to improve effectiveness of legal assistance for enterprises in Vietnam in the current time.

Solutions have been synchronously recommended from direction to build and perfect law to law enforcement, propaganda, improving effectiveness of legal assistance for enterprises, to promoting active participation of agencies, organizations representing for enterprises and enterprises in State legal assistance. Solutions to improve effectiveness of legal assistance for enterprises in Vietnam now and in the coming time are researched in taking account to the long term route as well as specific recommendations in order to settle down difficulties, obstacles in practice of legal assistance for enterprises in Vietnam. Furthermore, to improve the effectiveness of legal assistance for enterprises, this chapter also studies, analyzes and recommends solutions to enhance propaganda, dissemination of law on legal assistance for enterprises; to promote cooperation among State agencies and organizations for enterprises, between central and local level in legal assistance for enterprises; to speed up information technology application in legal assistance for enterprises and recommendation of building up inter-branch schedule of legal assistance for small and medium-sized enterprises post 2020.

CONCLUSION

Legal assistance for enterprises, especially small and medium-sized ones plays an important role in Vietnam social economic development now and in the coming time in order to synchronously implement legal assistance for enterprises, make basic breakthrough in legal awareness, law responsibility and habit of observing law of enterprises; to create necessary conditions in favor of law enforcement to support

enterprises' business; to prevent legal risk and raise competitive qualification of enterprises; to make contributions to State management by law towards enterprises.

Upon researching the issue, the thesis has clarified theoretical issues such as: the necessity, definition, characteristics, the role of legal assistance for enterprises, especially small and medium-sized ones; definitions, roles, content and sources of law on legal assistance for enterprises; advantages of these activities in contrast with other forms of assistance by State..., that asserts the suitability of the mechanism of assistance with the demand of enterprises now. However, as the matter of fact, this mechanism bears some insufficient stipulation from current regulations of law, thus fails to take all effects in reality in Vietnam and to meet the demand of the enterprises.

In order to improve the effectiveness of legal assistance for enterprises, the thesis recommends perspectives of perfecting law on legal assistance for enterprises and basic solutions to effectively perfect and implement legal assistance for enterprises as follows:

- Perspectives mentioned of perfecting law on legal assistance for enterprises are in line with renovation policy, guideline of the Party and State on legal assistance for enterprises; deploys the active participation of agencies, organizations, individuals in legal assistance for enterprises; ensures synchronous and feasible features in legal assistance for enterprises.

- Solutions to perfect law on legal assistance for enterprises are:

Firstly, to perfect law and regulations on forms of legal assistance for enterprises to satisfy the demand of legal assistance and the various demand in forms of State legal assistance for enterprises on purpose of effectively providing legal information, knowledge of law on business for not only enterprises but also for State cadres, peronnels to well conduct legal assistance for enterprises.

Secondly, perfecting law and regulations to ensure neccessary fund for legal assistance for enterprises with suitable rules of quota, types of activities funded for legal assistance for enterprises.

Thirdly, perfecting law to enhance the role, responsibility of State agencies and organizations representing for enterprises in legal assistance for enterprises.

Solutions to improve effectiveness in legal assistance for enterprises mentioned in the thesis are synchronous, systematic and take in account the longterm route, improve the effectiveness of legal assistance for enterprises.

In brief, solutions worked out in the thesis are analyzed and recommended on the scientific arguments and law research, the practice of law enforcement on legal assistance for enterprises in the recent time in order to brain out synchronous, feasible solutions in line with the practice in legal assistance for enterprises now and orientation in the coming time aiming to synchronously conduct legal assistance for enterprises, make basic breakthrough in legal awareness, legal responsibility and habit of observing law for enterprises; to create necessary conditions for law enforcement to support enterprises' business; to prevent legal risks and enhance competitive qualification of enterprises; to make contributions to promote State management by law towards enterprises and to accelerate the country social economic development.

THE AUTHOR'S PAPER WORKS PUBLISHED ON LEGAL ASSISTANCE FOR ENTERPRISES

The author has **13** studies on mechanism of legal assistance for enterprises released in the Democratic and Law Magazine, Legislative Magazine... Specific as follows:

1. “Building inter-branch schedule of legal assistance for small and medium-sized enterprises period 2021-2026” by co-author MA. Trần Minh Sơn and PhD Trần Thị Thu Hà, the Democratic and Law Magazine, Ministry of Justice, special edition April 2020.

2. “The career of legal assistance for enterprises in the world and experience for Vietnam” by author Trần Minh Sơn, the Democratic and Law Magazine, Ministry of Justice, special edition June 2019.

3. “The situation of legal assistance for enterprises in ministries, branches, localities and organizations representing for enterprises” by author Trần Minh Sơn, the Democratic and Law Magazine, Ministry of Justice – Special edition, November 2018.

4. “The accomplishment of 10 year implementing legal assistance for enterprises in Vietnam” by author Trần Minh Sơn, the Democratic and Law Magazine, Ministry of Justice, special edition, July 2018.

5. “Operate legal consultation network for enterprises according to Law on assistance for small and medium-sized enterprises 2017” by author Trần Minh Sơn, the Democratic and Law Magazine, special edition November 2017.

6. “Legal assistance for enterprises – an important part in Law on assistance for small and medium-sized enterprises 2017” by co-author PhD Nguyễn Thanh Tú and MA. Trần Minh Sơn, The law profession magazine, special edition 2017.

7. “Make new progress in legal assistance for enterprises in provinces, cities under Centre period 2015-2020” by author Trần Minh Sơn, news page in the Democratic and Law Magazine (Law enforcement) – Ministry of Justice, December 20th 2015 edition.

8. “Nationwide result of 5 years implementing legal assistance for enterprises according to Decree 66/2008/NĐ-CP” by author Trần Minh Sơn, the Democratic and Law Magazine, Ministry of Justice, legal assistance specialized edition November 2014.

9. “Improve the effectiveness of legal assistance for enterprises in the coming time” by author Trần Minh Sơn, the Democratic and Law Magazine, Ministry of Justice, special edition February 2014.

10. “The new breakthrough making contributions to assistance for enterprises in staggering period” by author Trần Minh Sơn, the Democratic and Law Magazine , Ministry of Justice, special edition, May 2013.

11. “The role of the club of legal enterprises in legal assistance for enterprises” by author Trần Minh Sơn, the Democratic and Law Magazine, Ministry of Justice, special edition December 2010.

12. “Legal assistance for enterprises in the current time – some insufficiencies, cause and recommendations” author Trần Minh Sơn, the Democratic and Law Magazine, edition January (214)/2010;

13. “New mechanism of legal assistance for enterprises changes enterprises lives” by author Trần Minh Sơn, the Democratic and Law Magazine, Ministry of Justice, edition 8 2008.

1. Footer page 11:

Ass Professor. PhD. Dương Đăng Huệ, speech on “Define role, responsibility and mechanism of cooperation between State agencies and organizations representing for enterprises in legal assistance for enterprises” at workshop on September 14th 2017 in Hanoi co-hosted by Vietnam ministry of Justice and JICA (Japan international cooperation agency).

2. Footer page 12:

² *The report of ministry of Justice on legal assistance for enterprises 2014*

³ *The result of survey by Vinhphuc department of planning and investment 2014 showed: out of 1237 enterprises surveyed, about 70-80% do not understand or not fully understand basic regulations on business; have demand to be trained about law. The report numbered 319/BC-BTP ngày 28/12/2018 by ministry of Justice summarizing 10 years of implementing Decree 66/2008/NĐ-CP dated May 28th 2008 by government on legal assistance for enterprises.*

⁴ *Only 30% organizations representing for enterprises are well operated, the rest manage to exist (Report 2018 by ministry of internal affairs on association)*

3. Footer page 13:

⁵ *Article 8 Decree 55/2019/NĐ-CP dated June 24th 2019 by government on legal assistance for small and medium-sized enterprises stipulates the responsibility of State agencies to interpret law for enterprises.*

4. Footer page 16:

⁶ *The period before Decree 66/2008/NĐ-CP dated May 28th 2008 by government on legal assistance for enterprises promulgated.*