



Further Discussion On Applying Case Study Method In Investment Law Course – A Case Of Education Investment In Vietnam

Nguyen Thi Hong Diep¹

Dinh Tran Ngoc Huy²

Nguyen Trong Diep³

Pham Hung Nhan⁴

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¹Master. Faculty of Foreign Languages, Quang Trung University, Vietnam.

²Master of Business Administration. Postgraduate department, Banking University HCMC Ho Chi Minh city Vietnam – International University of Japan, 777, Kokusaicho, Minamiuonuma, Niigata, 949-7248, Japan.

³PhD, University of Law, Vietnam National University, Hanoi.

⁴Master, Human resource department, Political School of Ca Mau Province, Vietnam.



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Nguyen Thi Hong Diep¹, Dinh Tran Ngoc Huy², Nguyen Trong Diep³, Pham Hung Nhan⁴

¹Master. Faculty of Foreign Languages, Quang Trung University, Vietnam.

²Master of Business Administration. Postgraduate department, Banking University HCMC Ho Chi Minh city Vietnam – International University of Japan, 777, Kokusaicho, Minamiuonuma, Niigata, 949-7248, Japan.

³PhD, University of Law, Vietnam National University, Hanoi.

⁴Master, Human resource department, Political School of Ca Mau Province, Vietnam.

Email: nthdiep@qtu.edu.vn¹, dieptrongnguyenvnu@gmail.com³, hungnhantct@gmail.com⁴

ABSTRACT

Purpose: The aim of this study is to focus on clarifying using case study method to improve teaching law course. Currently, many universities around the world are applying a new teaching method. It can help students absorb knowledge more efficiently and faster. That is the case study. Using a Case Study allows a deeper understanding of cases as a unit, through comparing the similarities and differences of individual cases.

Design/methodology/approach: The study uses qualitative analysis, synthesis and inductive methods, together with studies and references from CPTPP, FTA Agreement, as well as Regulations on assurance of business investment activities.

Findings: The application of this method to teaching helps learners to approach very applicable situations. The situations or problems close to the theory will also help them to systematize all the knowledge they have learned to apply to solve the assigned problem. Not only use the knowledge learned, but also learn related knowledge outside the program to solve the problem. Case Study is an extremely interesting and interesting learning method, helping us to associate reality and apply it to solve problems and help us remember longer. If you really understand what a case study is, then apply it to your life and work. The results show the regulations on guaranteeing ownership rights as well as ensuring investors' business investment activities have been clearly stipulated in the 2020 Labor Law of Vietnam. These regulations have concretized the constitutional principle of investors' freedom to invest and do business in industries that are not prohibited by law.

Keywords: Case study method, law investment, education. Teaching quality.

INTRODUCTION

First, Judging from the educational perspective, case studies are placed between theory and practice. It has been summed up in the most optimal way. It is possible to help learners understand and remember theoretical knowledge in the easiest way.

Case study is now used by multinational corporations to recruit. Along with that is the use of certifications such as ACCA or CFA. The application of this method to recruitment shows that candidates must study problems and solve them. On the other hand, businesses use research to test the problem-solving ability of candidates and find the right solution.

However, case studies also have limitations. Volumes of data are difficult to organize, and data integration and analysis strategies need to be thought out carefully. Reporting results from multi-case studies is sometimes challenging, especially with regard to word limits for some articles.

Next, we discuss Principles of investment in education

The educational objective is to develop comprehensively Vietnamese people with ethics, knowledge, culture, health, aesthetics and profession; have the qualities, capacity and sense of citizenship; have patriotism, national spirit, loyalty to the ideal of national independence and socialism; promote the potential and creative ability of each individual; raise people's intellectual level, develop human resources, foster talents, meet the requirements of the cause of national construction and defense and international integration. In order to achieve that goal, it is indispensable for the investment contribution of investors.

Therefore, "currently, countries rarely apply this measure" because they do not want to. making its investment environment risky, unattractive and unfriendly to investors. On the other hand, Le Van Tran (2022) mentioned in order to build investor confidence, countries "must first commit to guaranteeing investors' legal property

ownership" and "what belongs to the investor must belong to the investor".

Rights and responsibilities of investors

Rights are legal scientific concepts used to refer to things that the law recognizes and guarantees to perform for individuals and organizations so that individuals can enjoy, do, and claim without anyone being prevented. This work aims to present further discussion on applying case study method in investment law course – a case of education investment in Vietnam.

2. MATERIAL AND METHODOLOGY

Authors mainly use qualitative analysis, synthesis and inductive methods, together with studies and references from CPTPP, FTA Agreement, as well as Regulations on assurance of business investment activities.

3. RESULTS AND DISCUSSION

3.1 Benefits of case study in teaching

Using a Case Study allows a deeper understanding of cases as a unit, through comparing the similarities and differences of individual cases. Evidence arising from multiple case studies is often stronger and more reliable than single case studies. Multiple case studies allow for a more comprehensive exploration of research questions and theoretical developments.

However, case studies also have limitations. Volumes of data are difficult to organize, and data integration and analysis strategies need to be thought out carefully. Reporting results from multi-case studies is sometimes challenging, especially with regard to word limits for some articles.

3.2 Example of case study in Law: Ensuring Business Investment Activities

Step 1: Case title

"Education Investment In Vietnam From Approach Of Law On Investment"

Step 2: Case contents

Articles on Law of Investment

According to the CPTPP, investment "is any asset owned or controlled directly or indirectly by an investor, having investment characteristics, including such characteristics as a commitment to investment capital or other resources, period expect profits, or take on risks".

As the basic law of the Vietnamese state and has the highest legal force, the 2013 Constitution stipulates: "Everyone has the right to own lawful income, savings, housing, and private property. living materials, means of production, capital contributions in enterprises or in other economic organizations; Private property rights... are protected by law". The Law on Investment (LDT) 2020 as a law regulating business investment activities in Vietnam in this document clearly states: "The investor's legal assets must not be nationalized or confiscated. confiscation by administrative measures". (Article 10 Law of Investment in 2020)

Guaranteed investment by foreign investors is reflected in the following provisions:

- Ensuring property ownership for investors as prescribed in Article 10 of the Law on Investment 2020:

"Article 10. Property ownership guarantee

1. Lawful assets of investors shall not be nationalized or confiscated by administrative measures.

2. In case the State requisitions or requisitions property for reasons of national defense and security or in the national interest, in a state of emergency, and for natural disaster prevention and control, the investor shall be paid and compensated in accordance with regulations. provisions of law on requisition and requisition of property and other relevant provisions of law."

- Ensuring investment and business activities for investors specified in Article 11 of the Law on Investment 2020.

Regulations on Assurance of Business Investment Activities

Firstly, Rights and responsibilities of investors

Rights are legal scientific concepts used to refer to things that the law recognizes and guarantees to perform for individuals and organizations so that individuals can enjoy, do, and claim without anyone being prevented. , limit.

Responsibility is something that each person must do and must be aware of.

Clause 2, Article 54 of the Education Law 2019 stipulates that the rights and responsibilities of investors are specified as follows:

- a) Approve the school development plan in accordance with the law proposed by the school board;
- b) Decide the total capital contributed by the investor, the school development investment project, the mobilization of investment capital (if any); the plan for using the difference between annual revenue and expenditure or the school's plan for dealing with losses; approve annual financial statements;
- c) Elect or elect, dismiss or remove members of the school council;

- d) Organize the monitoring and evaluation of the school council's activities;
- đ) Decide to promulgate, amend and supplement financial regulations; approve contents related to finance and property in the regulations on organization and operation of the school;
- e) Contribute capital fully and on time, supervise the capital contribution to the school according to the establishment scheme;
- g) Consider and handle damage-causing violations of the school council in accordance with the law and the regulations on organization and operation of the school;
- h) Decide to reorganize or dissolve the school in accordance with law;
- i) Publicize the list of organizations and individuals contributing capital on the school's website;
- k) Investors who establish private schools operating not for profit shall be honored for their contributions to investment capital in the establishment, construction and development of the school.

Investors establish private educational institutions

Private educational institutions are invested by domestic investors or foreign investors and ensure operating conditions. A private school operating not for profit is a school in which the investor commits and makes a commitment to operate not for profit, which is stated in the decision on establishment or the decision on conversion of the type of school; operating not for profit, not withdrawing capital, not enjoying profit; the accumulated annual profits are jointly owned and undivided to continue investing in the development of the school.

Clause 3, Article 54 of the Education Law 2019 stipulates that investors establishing private educational institutions may choose one of the following methods:

- + Invest in the establishment of an economic organization in accordance with the Investment Law and the Enterprise Law so that the economic organization can establish a private educational institution in accordance with this Law;
- + Directly invest in the establishment of private educational institutions in accordance with the provisions of the Education Law 2019.

Next, the State does not require investors to “Achieving the localization rate for domestically produced goods; Achieve a certain level or value in research and development in the country” (Clause 1, Article 11 of the Labor Law, 2020).

In this regard, with the advantage of being a leading large market in the world, China, when promulgating the Foreign Investment Law in 2019, also had regulations prohibiting acts of forcing foreign companies to transfer technology to foreign companies. Chinese company. Specifically, Article 22 stipulates: “The government protects the intellectual property rights of investors and foreign companies. Chinese organizations must not use administrative measures to force technology transfer” (Nguyen Mai, 2021).

Fourth, the State does not force investors to “Provide goods and services at a specific location in the country or abroad; Set up the head office at the location required by the competent state agency. This regulation is completely consistent with the rights of enterprises as stipulated in the law on investment and competition when investors establish business models to enter the market. Also according to the enterprise law, enterprises have the full right to “actively choose their industries, professions and geographical areas” and no entity has the right to infringe or illegally impose deal with them (Article 7 of the Enterprise Law, 2020).

As we all know, all countries have policies to regulate business investment activities for investors. Policies have different content and levels of protection and advantages, but it depends on economic policies, business culture, and historical context of the country receiving the investment. In many cases, “these policies can hinder and distort trade in goods and services, affecting the WTO's grand goal of trade liberalization”.

Around the world, in several lawsuits, investors have argued that the investee country has violated a provision prohibiting the setting of operational requirements as in the case of Myers v. Government of Canada: “Myers company asserts that, under Canada's ban on exporting PCB waste from Canada to the United States of America, Myers was required to conduct the majority of PCB waste disposal within Canada as a condition of operating in Canada. As such, Myers is required to consume goods and services in Canada, in violation of Article 1106 of NAFTA, which prohibits the operation requirement.

As a result of the enactment of this Act, “Australia has been sued by many tobacco companies because they believe that Australia has failed to protect their interests as investors” (E Latifah et al, 2020).

Although we can see, one of the main reasons for the Australian government to enact this regulation is to protect the environment, prevent or limit the impact of tobacco smoke on public health, not is “arbitrary” in the treatment of investors. But in fact, in order to ensure the interests of the community related to health and the environment, this regulation indirectly affects the economic interests of investors in this field. Therefore, balancing the interests or ensuring the interests of investors in some cases shows that this is a difficult problem in the relationship between the state and investors. Last but not least, Shakatreh et al (2023) mentioned It is identified that the risk management is one of the major parts of business companies, which

creating specific policies. The usage of hedging can lead to an effective risk management process. And Yulianto & Wijaya (2023) analyze the role of training program to develop novice investors confidence.

Step 3: Case questions

Question 1: Present current Law articles on Investment in education in the country?

Question 2: Discussion on Limitations and benefits of the Investment Law

CONCLUSION

Case study in Law courses not only improve teaching quality but also has several benefits such as:

The application of this method to teaching helps learners to approach very applicable situations. The situations or problems close to the theory will also help them to systematize all the knowledge they have learned to apply to solve the assigned problem. Not only use the knowledge learned, but also learn related knowledge outside the program to solve the problem.

According to the analysis in the August 2022 report, thematic "Education for growth", the World Bank (WB) concluded that a more developed post-secondary education system will be the "key" to promote increase Vietnam's productivity and thus contribute to the successful realization of the goal of becoming a high middle income country by 2035 and a high income country by 2045.

Previously, Ms. Carolyn Turk, Director of the World Bank in Vietnam, warned that Vietnam needs to increase productivity at 2-3% per year to be able to become a high-income country by 2045. Want to increase labor productivity can only be achieved by investing in the education system.

Domestically, education experts forecast, Vietnam's education technology (edtech) market could reach a value of US\$3 billion by 2023. Not to mention, Vietnamese education has great potential with about approx. 41% of the population is classified as "golden generation" (under 24 years old), willing to pay more for education.

With a potential market, but this is not an impromptu or trend-following investment, but needs to be calculated specifically, because the investment costs are very large.

In fact, for many years, the Party, State and Government of Vietnam have always identified education and training as a national policy, and investment in education and training as an investment in development. Therefore, in the overall investment of state financial resources for the development of the country, priority has been given to the field of education - training, one of the fields with the largest investment.

(Source: baodautu.vn)

In general, Private educational institutions are invested by domestic investors or foreign investors and ensure operating conditions. A private school operating not for profit is a school in which the investor commits and makes a commitment to operate not for profit, which is stated in the decision on establishment or the decision on conversion of the type of school; operating not for profit, not withdrawing capital, not enjoying profit; the accumulated annual profits are jointly owned and undivided to continue investing in the development of the school.

Limitations of the research and suggestions for future work

Authors may expand study model for similar situation in developing countries as well. Also authors can conduct quantitative analysis for factors influencing investment in Vietnam.

Moreover, the paper can analyze more on some aspects (so it will be a direction for future research work) such as: Vietnam is also one of the weak countries in the protection of intellectual property rights, the efficiency of administrative services, infrastructure, tax system and legal framework for investment activities. In foreign countries, some investors are psychologically waiting for documents to guide the implementation of new laws. In addition, strikes have not been prevented in time; Prolonged disputes and slow project implementation that have not been completely resolved also adversely affect the investment environment.

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