



Newsletter

LEGAL FORUM

FDVN LAW FIRM

No 13. 2020

Feel free to go with the truth

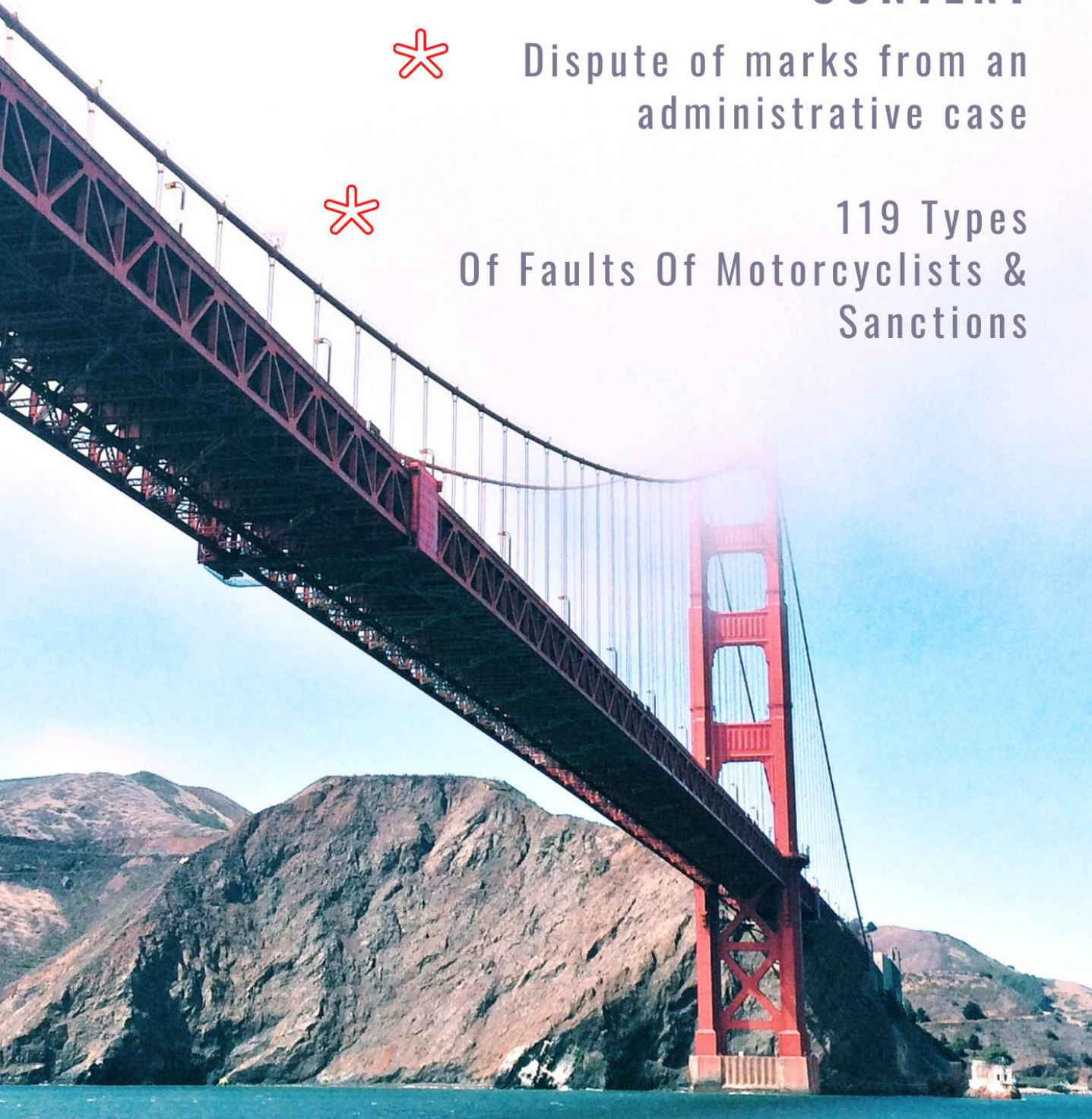
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119 Types Of Faults Of Motorcyclists & Sanctions



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PART I. RESEARCH & EXCHANGE

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"One of the damages is caused by acts of infringement of the IPR to the right holder is business opportunities loss. Unlike tangible assets, damages are caused by acts of infringement of the IPR not only the existing damages but also a "threat" causing the damages in the future"



LEGAL NEWSLETTER NO. 13
SEPTEMBER, 2020

THE DISPUTE OF MARKS FROM AN ADMINISTRATIVE CASE

Nguyễn Thị Lan Anh –FDVN Law firm

In the context of economic integration and global competition, the subject matter of the intellectual property right (IPR) plays an important role in creating competitive advantages, which increases the benefits for owners as well as supports the creation of prestige and reputation for business owners¹. Businesses use intellectual assets as their essential tools for business activities. However, they have difficulties in facing with the acts of infringement of the IPR. One of the damages is caused by acts of infringement of the IPR to the right holder is business opportunities loss. Unlike tangible assets, damages are caused by acts of infringement of the IPR not only the existing damages but also a "threat" causing the damages in the future. Currently, The Law on intellectual property has general provisions to solve this problem, but when applying it in practice, a lot of problem is given. This article refers to important legal issues in the process of resolving the disputes of marks which are studied from administrative cases.



1. SUMMARY THE DISPUTES OF MARKS

The current legal documents in Vietnam haven't prescribed the concept of a mark dispute. The determination of the concept of the mark dispute depends on two basic factors: (1) the legal nature of marks; (2) the nature of the Law adjusting marks.

In legal nature, marks are absolutely intangible assets. However, marks still have the most important of the rights over tangible property- that is the right of exclusion. An act of infringement of marks is the same as a violation of the property

rights, but actually, it violates the right of exclusion. This means that no one can reach the subject matter of property rights without the owner's permission. And to protect this right of exclusion, Law allows the owners of marks to apply penalties to acts of infringement.

Disputes over the industrial property right to marks have the nature of commercial disputes. Mark disputes have the nature of disputes in the private Law (a legal field that regulates private relationships). Therefore, mark disputes can

¹ University of Social Sciences and Humanities, Inspection - Legal - Intellectual Property Department, "The need to establish a specialized court on intellectual property of Vietnam", see at: <http://tptc.hcmussh.edu.vn/?ArticleId=eb7762ab-3003-44cf-a5e3-86b21710022a>

be resolved by dispute resolution methods of the private Law.

Deriving from the legal nature of marks and the nature of the Law adjusting marks, there is an idea that: *“Mark disputes are commercial property disputes (1) between the owner of the mark and the person infringing the mark owner's right to exclusion, (2) between the owner of the mark and a person allowed to use by the owner of the mark, and (3) between a person creating the mark and the owner of the mark.”*²

With the goal for building an appropriate resolution method, classification of the mark disputes is based on: (1) the subject matter of IPR which is disputed; (2) the period when the disputes occurred.

- Based on the subject matter of the IPR which is disputed, there can be classified into between marks and marks, marks - copyrights, marks - mark industrial designs - trade names, marks – domain names.

- Based on the period when the disputes occurred, mark disputes are divided into: disputes in the process of establishing rights to marks and disputes during the use of marks.

2. DIFFICULTIES WHEN APPLYING THE LAW IN PRACTICE

In fact, the application of legal provisions on intellectual property to resolve mark disputes still has many problems, especially related to intellectual property assessment conclusions of the competent authorities or the intervention of the State agencies that the enterprises “borrow to handle” with competitors. This resolves intellectual property disputes in general and mark disputes in particular are exceeded, every single Court has their private way to solve this problem.

For example, in a mark dispute between Ich Nhan Pharmaceutical Co., Ltd and Ngan Anh facility, the content is as follows:

Since 2010, Ich Nhan Pharmaceutical Co., Ltd (plot A18/D7 Cau Giay New Urban Area - Dich Vong - Cau Giay - Hanoi) has released Bao Xuan products in the form of functional foods for health and beauty of women. The company has also registered the IPR of this product and has been approved by the National Office of Intellectual Property (The NOIP) under the Ministry of Science and Technology to grant the certificate No. 172843 under Decision No. 37785/QĐ-SHTT on October 3, 2011. Meanwhile, Ngan Anh facility (Dong Thuan hamlet - Dong Thanh - Chau Thanh - Hau Giang) launched a variety of products that also beautify for women like Ich Nhan, but are very "lazy" to think for naming their products. So, they choose the

² Doctoral thesis - Bui Thi Hai Nhu, “Settlement of mark disputes under Vietnamese law”, see at

label "Bao Xuan" of Ich Nhan company on the packaging of the product. With this, Ich Nhan Company realized that their mark was infringed, then immediately complained to the competent authorities.

On October 8, 2012, the Institute of Intellectual Property Science, the Ministry of Science and Technology conducted an inspection and gave a conclusion No. HN 294-12 YC/KLGD that Ngan Anh facility had infringed the industrial property rights. According to the mark database managed by The NOIP, the subject matter considered is a sign of "Bao Xuan" and a sign of "Bao Xuan and image" which is displayed on the packaging of the product: Lotion, regenerating, restoring; cream to treat freckles, age spots; skin whitening acne cream; acne treatment cream, as shown in turn in the assessment sample produced at Ngan Anh facility, is not a protected object and is not a transferred object ... ”.

On January 22, 2016, the Institute of Intellectual Property Science had an inspection conclusion No. NH018-16YC/KLGD, stating that: *“The sign of “Bao Xinh and image” presented on the package of skin whitening cream prevent Acne of Ngan Anh Facility, is an infringing element of the right to the mark “Bao Xuan and image” protected under the Mark Registration Certificate No. 172843 of Ich Nhan Company.”*

On June 10, 2016, the Inspector of the Ministry of Science and Technology issued a decision to sanction administrative

violations of the act of producing cosmetic products with the brand “Bao Xuan” and “Bao Xinh, image”, presenting similar stylization confusingly with the marks “Bao Xuan” and “Bao Xuan, image” being protected in Vietnam for Ich Nhan Company. According to the conclusion of handling of violations, *“this is an infringement of the rights to marks according to the provisions of Article 129 of the Intellectual Property Law and is sanctioned for the administrative violation of industrial property”*.

On July 27, 2011, Ngan Anh facility registered the mark of Bao Xuan at The NOIP. After many checks and verifications, on May 26, 2015, the Department of Intellectual Property issued a decision No. 11692/QD-SHTT to refuse to grant a Mark Registration Certificate No. 4-2011-15391 of the Ngan Anh facility. In the decision of refusal, the grounds and reasons are as follows:

According to paragraph e clause 2 Article 74 of Intellectual Property Law: *“Signs other than integrated marks which are identical with or confusingly similar to registered marks of identical or similar goods or services on the basis of applications for registration with earlier filing dates or priority dates, as applicable, including applications for registration of marks filed pursuant to a treaty of which the Socialist Republic of Vietnam is a member;”*

According to paragraph g clause 2 Article 74 of Intellectual Property Law: *“Signs identical with or confusingly similar to another person's mark which has been widely used and recognized for similar or identical goods or services before the filing date or the priority date, as applicable;”*

Due to the failure of registering Bao Xuan's mark for their products, Ngan Anh facility sued the NOIP. At the first instance trial on September 22, 2015, the representative of the NOIP still maintained his opinion in Decision No.11692/QD-SHTT, but the court of first instance said that Bao Xuan products of Ich Nhan company belonged to the List of functional foods managed by the Department of Food Safety - Ministry of Health; Bao Xuan products of Ngan Anh facility are managed by the Cosmetic Administration Department of the Health Department ... so two products in two different categories cannot infringe on each other's marks. Finally, the Hau Giang court declared that Ngan Anh facility won the case. The People's Procuracy of Hau Giang province appealed the entire judgment and proposed to the appellate court to reject the request to initiate a lawsuit from Ngan Anh facility.³

In another administrative case, Ha Trung Hau Production and Commercial Co., Ltd initiated a lawsuit at the People's

Court of Da Nang City to cancel the Decision No. 7737/QD-XPVPHC on sanctioning administrative violation dated 19/10/2015 by the Chairman of Da Nang City People's Committee. In this decision, the Chairman of Da Nang City People's Committee believes that the HTH Co., Ltd had packed their products which is an act of infringement of the mark of another company, namely AJINOMOTO Vietnam CO., LTD. Previously, Sub-department of Market Management conducted administrative inspection and temporary seizure of goods of the HTH Co., Ltd, after High People's Court in Da Nang city declared and determined that the Sub-department of Market Management had made an unlawful decision.

The Chairman of the Da Nang city People's Committee issued the decision on sanction an administrative violation based on the assessment conclusion and provided by AJINOMOTO Vietnam. However, after that, to vindicate themselves, The HTH Co., Ltd has provided a series of Inspection Conclusions to prove that the signs on its products don't show acts of infringement of the mark of the AJINOMOTO Vietnam. And after being detained, HTH also asked the Academy of Science and intellectual property in Vietnam to assess the overall signs that they are using⁴. On October 6,



³ Online newspaper of the Communist Party of Vietnam, *“The infringement of intellectual property rights of Bao Xuan mark”*, The People's Procuracy of Hau Giang province protested, on August 16, 2016, see at: [http://dangcongsan.vn/phap-luat/vu-viec-xam-pham-](http://dangcongsan.vn/phap-luat/vu-viec-xam-pham-403063.html)

[quyen-so-huu-tri-tue-nhan-hieu-bao-xuan-vien-kiem-sat-nhan-dan-tinh-hau-giang-da-khang-nghi-403063.html](http://dangcongsan.vn/phap-luat/vu-viec-xam-pham-403063.html)

⁴ Vietnamese law, *“Aji-no-moto mark “imitation” case, temporarily suspending execution of sanctioning*

2015, the Academy of Science and intellectual property in Vietnam issued the Conclusion of Industrial Property Assessment No. NH453-15YC/KLGD. The conclusion stated that there were **INSUFFICIENT GROUNDS** for

determination that the sign of a red two-handle bowl with steam on a red plate and the 3 hieroglyphs below of the HTH Co., Ltd is the act of infringement of the mark right which is protected by AJIOMOTO CO., LTD.

Assessment conclusion No. NH453-15YC/KLGD	
The sign of the HTH Co., Ltd	The mark of AJIOMOTO CO., LTD.
	
<p><u>Describe:</u> A red bowl with a lid and 3 hieroglyphs printed on it.</p>	<p><u>Describe:</u> a red two-handle bowl with steam on a red plate and the 3 hieroglyphs below.</p>
<p><u>CONCLUSION:</u> INSUFFICIENT GROUNDS for determination that the mark of HTH Co., Ltd shows the act of infringement of the mark right which is protected by AJIOMOTO CO., LTD.</p>	

For 3 hieroglyphs of HTH company using the mark of K.T.MSG Co., Ltd (Thailand) and 3 hieroglyphs of AJINOMOTO Vietnam, the Inspection Council concluded: Although each mark has a text component which is 03 hieroglyphs – which are the words that consumers (usually housewives or food sellers) can't read and understand the meaning so they are considered similar signs – but when they are combined with the

different part of the picture, as well as with different layouts (One has text below the image, the other has a background image for the text), it makes the whole of the sign distinguish against the mark. This is completely consistent with the reality that AJINOMOTO Vietnam CO., LTD has no longer used these three hieroglyphs on packages separately for many years (over 05 years), the company just uses the overall mark to attach on their product packaging.

decision”, November 14, 2015, see at: [https://baophapluat.vn/tieu-dung-thong-minh/vu-nhai-](https://baophapluat.vn/tieu-dung-thong-minh/vu-nhai-dinh-xu-phat-235966.html)

[nhan-hieu-ajinomoto-tam-thoi-dinh-chi-thi-hanh-quyet-dinh-xu-phat-235966.html](https://baophapluat.vn/tieu-dung-thong-minh/vu-nhai-dinh-xu-phat-235966.html)

However, on October 19, 2015, the HTH CO., LTD was still be administratively sanctioned. Due to this decision, the HTH CO., LTD initiated a lawsuit at a Court to request for cancellation of an administrative decision. And in the process of settling at Court, the Chairman of Da Nang City People's Committee issued a decision to cancel this administrative sanction decision without clearly stating reasons. Currently, the case extended from 2015 until now without an official conclusion.

Through these cases, it can be seen that disputes of marks or disputes relating to the mark rights are often very complicated and depend much on the assessment conclusions of the competent agencies. The assessment conclusions will be taken at the request of relevant agencies, organizations, and individuals. Therefore, depending on the subject matter that requires the assessment, the conclusion will have different results. Some individuals and organizations took advantage of this and separated the elements of a complete mark to compare with the signs of other organizations and individuals, which make assessment conclusions benefit for them and overpower their competitors.

Like the case of the HTH CO., LTD, some companies have signs of borrowing of the State's power to deal with competitors. According to the provisions of Clause 1, Article 27 of Decree 99/2013 / ND-CP, in case arising complaints, denunciations, or

disputes over the right to registration and the property rights, the scope of protection of the relevant industrial property rights to carry out procedures for requesting settlement of complaints and denunciations at the competent agencies according to the provisions of the Law on intellectual property. However, in this case, the State agencies did not instruct AJINOMOTO Vietnam CO., LTD to initiate lawsuits to complaints when they believe that their interests are infringed. They directly handled other enterprises although there is no solid grounds and had signs of "administrative civil relationship". After realizing that their decision was wrong, the competent agency issued a decision to revoke and cancel the sanctioning decision and did not clearly state the reasons. Therefore, companies after being fined will be suffered great losses, finance, reputation, and relationship in business during the past time.

3. CONCLUSION

It can be seen that at present, acts of infringement of the intellectual property is often handled by administrative measures. This can be explained by many subjective and objective reasons. First of all, coming from the mentality of the IP right holders, they do not want to participate in the course of adversarial process as well as believe in the course of settlement in Court. This also comes from the advantages and disadvantages of handling the acts of infringement of the intellectual property

rights by civil and administrative measures in Vietnam today. The handling of acts of infringement of the IPR by administrative measures which directly aims to the management of the State about IPR, terminate of infringement of the intellectual property, deterrence and prevent the acts of infringements of IP rights in the future, but do not intend to compensation for the IPR holders. According to current law, almost all acts of infringement of IP rights can be administratively sanctioned.

However, prescribing acts that have signs of infringement of the IPR is civil rights but be handled by administrative measures, which has led to the fact that many businesses take advantage of this regulation to overpower other businesses, “administrative of civil relationship”.

Therefore, in this issue, it is necessary to have a correct view of mark disputes among entities, limitation of intervention of the State agencies to create a public and equal business environment.

LIST OF REFERENCES

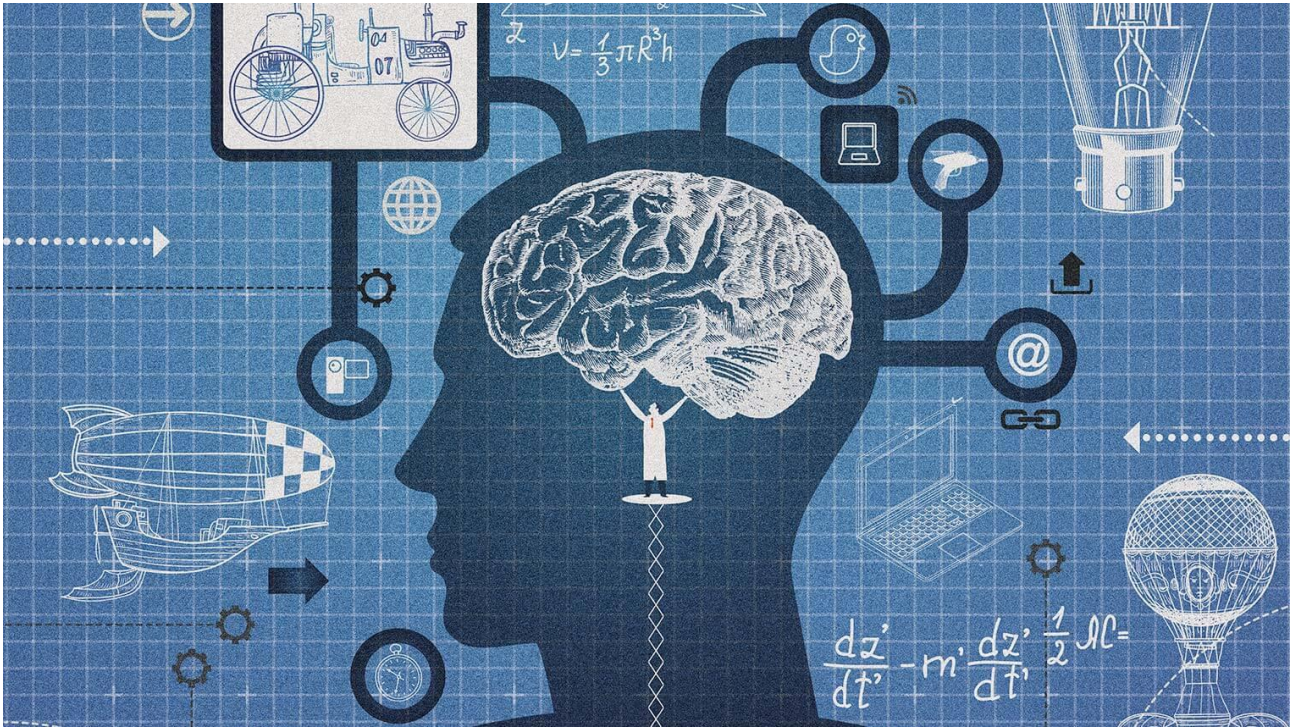
[1] University of Social Sciences and Humanities, Inspection - Legal - Intellectual Property Department, *“The need to*

establish a specialized court on intellectual property of Vietnam”, see at: <http://ttpc.hcmussh.edu.vn/?ArticleId=eb7762ab-3003-44cf-a5e3-86b21710022a>

[2] Doctoral thesis - Bui Thi Hai Nhu, *“Settlement of mark disputes under Vietnamese law”*, see at <https://123doc.net/document/4189757-giai-quyet-tranh-chap-ve-nhan-hieu-theo-phap-luat-viet-nam-tt.htm>

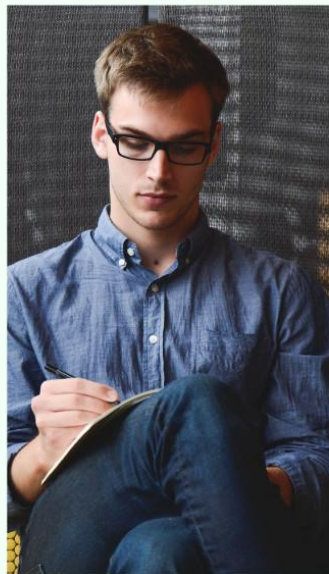
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[4] Vietnamese law, *“Aji-no-moto mark “imitation” case, temporarily suspending execution of sanctioning decision”*, November 14, 2015, see at: <https://baophapluat.vn/tieu-dung-thong-minh/vu-nhai-nhan-hieu-ajinomoto-tam-thoi-dinh-chi-thi-hanh-quyet-dinh-xu-phat-235966.html>



1. What are the requirements for homeownership of foreigners?
2. When is a business forced to use an e-invoice?
3. Is it legal for administrative sanctions without making violation records?

PART II. LAWS & PRACTICE



LEGAL NEWSLETTER NO. 13
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I. WHAT ARE THE REQUIREMENTS FOR HOMEOWNERSHIP OF FOREIGNERS?

I am a foreigner and I intend to buy a house in Vietnam. I would like to know whether I can buy a house in Vietnam. If it is possible, what specific conditions I have to meet? I hope FDVN Law Firm will respond to me soon. Thank you.

FDVN's opinion:



According to Article 7 Law on housing 2014, a foreigner can become one of the entities eligible for the homeownership in Vietnam:

1. Entities eligible for the homeownership in Vietnam

Entities eligible for homeownership in Vietnam are stipulated in Article 159 Law on housing 2014, including: *“Foreign individuals who are allowed to enter Vietnam.”*

According to Article 20 of the Law on entry, exit, transit, and residence of foreigners in Vietnam, a foreigner shall be permitted for entry if he/she:

a) possesses a passport or documents enabling international travel, except for cases of visa-free entry as specified in this Law. Passport of a foreigner wishing to make entry in form of unilateral visa-free must be valid at least for another 6 months; and

b) does not fall into circumstances of entry suspension, including Children under 14 years of age without parents, guardians, or authorized custodians; Forging papers or providing false information to obtain entry/exit/residence permit; Any person suffering from a mental disease or infectious disease that threatens the public health; Any person that was deported from Vietnam within the last 03 years; Any person that was compelled to leave Vietnam within the last 06 months; For reasons of epidemic prevention; For reasons of natural disasters; For reasons of national defense, national security, social order, and social safety.

2. Requirements on homeownership of foreigners in Vietnam

is stipulated at Clause 3 Article 160 of Law on housing 2016 as follows: *“having permission to enter Vietnam and he/she is not granted diplomatic immunity and privileges as prescribed by law”*.

This Article is guided in Clause 1, Article 74 of Decree No. 99/2015 / ND-CP: A foreign individual must have an unexpired passport bearing the entry seal of Vietnam’s immigration authority and not given diplomatic immunity and privileges

according to Ordinance on diplomatic immunity and privileges of diplomatic missions, consular offices, and representative authorities of international organizations in Vietnam.

3. Regarding forms of the homeownership in Vietnam, Clause 2 Article 159 stipulates 2 forms of the homeownership stipulates that:

(1) Invest in project-based housing construction in Vietnam as prescribed by this Law and corresponding regulations of law;

(2) Buy, rent and purchase, receive, or inherit commercial housing including apartments and separate houses in the project for housing construction, except for areas under management relating to national defense and security as prescribed by regulations of the Government.

4. Regarding the homeownership duration, it is specified in Clause 3, Article 7 of Decree No. 99/2015/ND-CP:

“Foreign individuals who are allowed to enter Vietnam may own housing for up to 50 years from the date of issue of the Certificate. When the house ownership period written on the Certificate expires, if the owner wishes to have this period extended, the State shall consider granting an extension according to Article 77 of this Decree.”

5. Regarding the permissible quantity of houses owned by foreign

individuals specified at Article 76 Decree 99/2015/NĐ-CP:

(1) Foreign entities may own up to 30% of the total number of apartments in an apartment building. In case, an area whose population is equivalent to ward-level administrative units and there are many apartment buildings for sale or lease-purchase, foreign entities may own up to 30% of the number of apartments of each apartment building, and up to 30% of the total number of apartments of all these apartment buildings.

(2) For independent house: In an area whose population is equivalent to ward-level administrative units and there is a commercial housing construction project, in which there are independent house for sale or lease-purchase, the number of detached houses that may be owned by foreign entities as specified below:

Where the quantity of detached houses of a project is fewer than 2,500, foreign entities may own up to 10% of the houses of such project;

Where there is only one project whose quantity of detached houses is equivalent to 2,500 houses, foreign entities may own up to 250 houses of them;

Where there are two or more projects whose total quantity of detached houses does not exceed 2,500 houses, foreign entities may own up to 10% of the houses of each project.

Ha Thi Hien - FDVN Law Firm

II. WHEN IS A BUSINESS FORCED TO USE AN E-INVOICE?

Dear FDVN Law Firm. The law on tax administration just comes into effect, I read information that the time when businesses are required to use e-invoices is from November 1, 2020, some other information is July 1, 2022. Therefore, I would like to know the exact time, and if it passed the time limit mention above that my company hasn't switched to use e-invoices, shall we be applied any penalties?

FDVN's opinion:



[1] General provisions for electronic invoices:

In Clause 1 Article 89 of Law on tax administration 2019 prescribed: *“An electronic invoice means an invoice in the form of electronic data, issued by the goods seller or service provide to record the goods sale or service provision in accordance with regulations of law on electronic accounting and tax, including the invoices generated by cash registers that are digitally connected to tax authorities.”*

Rules for issuance, management, and use of electronic invoices is prescribed in Article 90 of Law on tax administration 2019 as follows:

“1. When selling goods/services, the seller shall issue and send electronic invoices to buyers. The electronic invoices shall follow standard formats and contain sufficient information in accordance with tax laws and accounting laws, regardless of the value of each sale.

2. The sellers that use cash registers shall register to use electronic invoices generated by cash registers that are digitally connected to the tax authorities.

3. The registration, management and use of electronic invoices in sale of goods/services shall comply with regulations of law on electronic transactions, accounting and tax.

4. Electronic invoices shall be authenticated by tax authorities according to information provided on the invoices by the enterprises, business organizations, other organizations, household businesses and individual businesses. Enterprises, business organizations, other organizations, household businesses and individual businesses are held responsible for the accuracy of information on their invoices.”

[2] The time when businesses have to use the e-invoices:

Some reasons why there is different information about official time businesses have to use e-invoices are:

Previously, Clause 2, Article 35 of Decree 119/2018/ND-CP on e-invoices have regulation on enforcement as follows: *“The implementation of e-invoices and authenticated e-invoices as provided by this Decree shall be completed by enterprises, economic or other organizations, business households and individuals by November 1, 2020.”*

Recently, the National Assembly has passed the Law on Tax Administration 2019, which comes into effect from July 1, 2020, prescribed in Clause 2, Article 151 as follows: *“Regulations on electronic documents and invoices of this Law **come into force from July 01, 2022**; organizations and individuals are recommended to apply regulations on electronic documents and invoices in this Law before July 01, 2022.”*

These provisions have given a question to many businesses about the official mandatory time to use e-invoices.

However, it is necessary to clearly distinguish the scope of these regulations. Decree 119/2018/ND-CP prescribed details about using e-invoices when selling goods and providing services; duties and powers of tax administration agencies at all levels and related agencies and organizations of the management and using e-invoices; rights, obligations and responsibilities of agencies, organizations, and individuals in

the management and use of e-invoices. Whereas, the Law on tax administration in 2019 only has general provisions on electronic invoices such as: the concept of electronic invoices; principles of preparing, managing and using e-invoices; applying electronic invoices when selling goods or providing services; e-invoice services without regulations on the time of registration, revitalization of e-invoices.

Moreover, Clause 3 Article 26 in Circular 68/2019/NĐ-CP prescribed: *“From November 01, 2020, enterprises, business organizations, other organizations, household businesses and individual businesses shall apply for use of electronic invoices in accordance with this Circular.”*

Therefore, enterprises, business organizations, other organizations, household businesses have to apply for use of electronic invoices from November 01, 2020.

[3] If it past the time limit as prescribed that the enterprises haven't switched to use electronic invoices, shall enterprises be applied any penalties?

Currently, there is no official regulation on the level of sanction for not registering to use electronic invoices from November 1, 2020. However, unlawful actions on invoices can be handled for administrative violations which are regulated specifically in Point c, Clause 1, Article 24, and Clause 2, Article 24 of the Law on handling of administrative

violations in 2012. Penalties can be up to VND 50.000.000 for individuals and VND 100.000.000 for organizations.

Therefore, enterprises should switch the form of invoices within the time limit specified in Law in order not to disrupt or affect their business operations.

III. IS IT LEGAL FOR ADMINISTRATIVE SANCTIONS WITHOUT MAKING VIOLATION RECORDS?

My mother is usually peddling on the sidewalk in the evening. Because it was crowded on Sunday so she went to a place where street vendors are prohibited to sell. But on that Sunday, there was an urban order management board who decided to sanction on the spot immediately for encroaching on the sidewalk with a fine of 200,000 VND without making a record. So I want to ask whether it is legal when the urban order management board fined on the spot without making a violation record? Hope your company to respond to me soon.

FDVN's Opinions:



According to the Article 56, Law on handling administrative violations 2012, administrative sanction without record taking is regulated:

“1. Administrative sanction without record taking is applicable in cases of warning or fines of up to 250,000 VND for individuals, 500,000 VND for organizations, and the persons with sanctioning competence must make decisions of administrative sanctions on the spot.

In case administrative sanctions are detected thanks to using technical, professional equipment, means, the record must be taken.

2. Decisions of administrative sanctions on the spot must be written clearly the information of date of decisions; full name, address of violators or name, address of violating organizations; acts of violations; venues of violations; evidences and details related to the violation settlement; full name, position of persons who make sanctioning decisions; articles, clauses of applicable legal documents. In case of fines, there must be the fine levels in the decisions.”

According to the information that you provided, your mother went to a place where street vendors are prohibited to sell, and according to Article 12 Decree No. 100/2019/ND-CP regulating administrative penalties for road traffic and rail transport offenses, penalties for violations against

regulations on the use of land area for road traffic is determined:

“1. A fine ranging from 100,000 VND to 200,000 VND shall be imposed upon an individual, from 200,000 VND to 400,000 VND upon an organization that commits any of the following violations:

a) Hawking on the roadway or on the sidewalk where street vendors are prohibited, except for the violations specified in Point c Clause 2, Point b Clause 5, Point e Clause 6 of this Article;”

For your mother’s acts of peddling on street sidewalks with regulations prohibiting street vendors, the fine level is up to 200,000 VND. Therefore, for this sanctioning level, as specified in Article 56 of the Law on handling of administrative violations 2012 cited above, the person with sanctioning competence shall issue a decision to sanction administrative violation on the spot without making a violation record as per the current law.

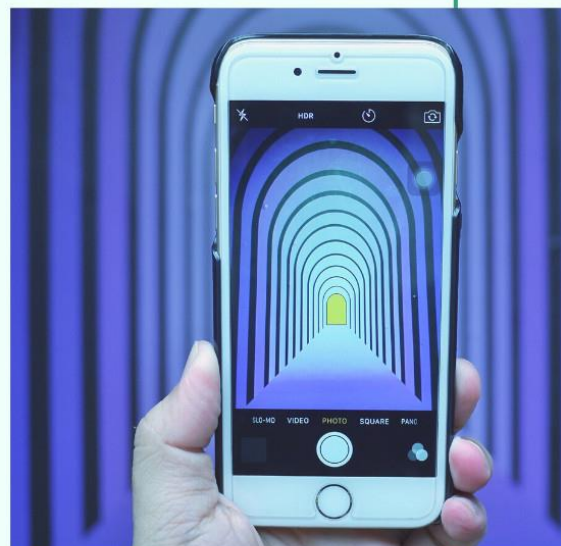
Nguyen Thi Suong - FDVN Law firm

PART III. KNOW THE RULES

119 TYPES OF FAULTS OF MOTORCYCLISTS & SANCTIONS

Đinh Thị Thông - FDVN LAW FIRM

LEGAL NEWSLETTER NO. 13
SEPTEMBER, 2020





FDVN LAW FIRM

Feel free to go with the truth

119 TYPES OF FAULTS OF MOTORCYCLISTS & SANCTIONS

*Decree No. 100/2019 / ND-CP Government,
dated December 30, 2019*





SUMMING UP 119 TYPES OF FAULTS OF MOTORCYCLISTS, MOTORCYCLES & SANCTIONS

STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Penalties imposed upon operators of mopeds and motorcycles (including electric motorcycles) and the like violating road traffic rules - Clause 1, Clause 10 Article 6 of Decree No. 100/2019/ND-CP issued on December 30, 2019 ("Decree No. 100/2019/ND-CP")				
01	Failure to obey the commands or directions of the signboards or road markings;	FINES FROM VND 100,000 TO VND 200,000	In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.	
02	There is no sign of overtaking before crossing;			
03	Failure to keep a safe distance to cause a collision with an adjacent vehicle or to keep the distance as prescribed by the signboard "Minimum distance between two vehicles";			
04	Turning without yielding to the pedestrians and wheelchairs of the disabled that cross the street at crosswalks or non-motorized vehicles running in the cycle lane;			
05	Turning without yielding to oncoming vehicles, the pedestrians and wheelchairs of the disabled that cross the street at other positions than crosswalks;			

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SUMMING UP 119 TYPES OF FAULTS OF MOTORCYCLISTS, MOTORCYCLES & SANCTIONS

STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning drivers of motorcycles and meds (including electric motorbikes), vehicles similar to motorcycles and similar motorcycles in violation of road traffic rules - Clause 1, Clause 10 Article 6 of Decree No. 100/2019/ND-CP				
06	Reversing motor tricycles without observation or signaling;	FINES FROM VND 100,000 TO VND 200,000		
07	Carrying a passenger who uses an umbrella;		In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.	
08	Failure to comply with the regulation on giving way at an intersection, except for the violations specified at Points b and e, Clause 2, Article 6 of Decree No. 100/2019 / ND-CP;		In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.	
09	Changing lanes where prohibited or without signaling;			
10	Going three abreast or more;		In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.	
11	Failure to turn on the lights from 7 pm to 5 am or in a foggy or bad weather when visibility is short;		In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.	

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning drivers of motorcycles and meds (including electric motorbikes), vehicles similar to motorcycles and similar motorcycles in violation of road traffic rules - Clause 1, Clause 10 Article 6 of Decree No. 100/2019/ND-CP				
12	Dodging oncoming vehicles improperly; using high beams while avoiding oncoming traffic; failure to yield to oncoming vehicles where the road is narrow, sloping, or obstructed;	FINES FROM VND 100,000 TO VND 200,000	In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.	
13	Honking from 10 pm to 5 am, using the high beam in rural areas or residential areas, except for emergency vehicles on duty;		In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.	
14	Operating an emergency vehicle without conformable warning devices or using warning devices without a license issued by a competent authority or without an unexpired one;			
15	Making a U-turn where no U-turn is permitted, except for the violations specified at Point d, Clause 4, Article 6 of Decree No. 100 / ND-CP;			
16	Operating the vehicle at a lower speed than the lowest permissible speed.			In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.



SUMMING UP 119 TYPES OF FAULTS OF MOTORCYCLISTS, MOTORCYCLES & SANCTIONS

STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning drivers of motorcycles and meds (including electric motorbikes), vehicles similar to motorcycles and similar vehicles of motorcycles in violation of road traffic rules - Clause 2, Clause 10 Article 6 of Decree No. 100/2019/ND-CP				
17	Stopping, parking on the roadway outside urban areas where sidewalks are available;	FINES FROM VND 200,000 TO VND 300,000		
18	Failure to reduce speed and yield when joining the traffic from an alley or when moving from a small road to a major road;		In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.	
19	Exceeding the speed limits by from 5 km/h to under 10 km/h;			
20	Going slowly without keeping to the right of the roadway in a manner that obstructs the traffic;		In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.	
21	Stopping, parking on the roadway in a manner that obstructs the traffic; stopping in groups of 03 vehicles or more on the roadway or in a road tunnel; parking on the roadway or on the sidewalk in urban areas against the law;			
22	Failure to allow another vehicle to overtake when it is safe to do so; failure to yield to vehicles in the emergency lane or on the major road at the intersection;		In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.	

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning drivers of motorcycles and meds (including electric motorbikes), vehicles similar to motorcycles and similar vehicles of motorcycles in violation of road traffic rules - Clause 2, Clause 10 Article 6 of Decree No. 100/2019/ND-CP				
23	Using warning devices for emergency vehicles on a non-emergency vehicle;	FINES FROM VND 200,000 TO VND 300,000	Confiscated priority signaling equipment installed and used in contravention of regulations. In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.	
24	Stopping or parking vehicles on tramways, bus stops to pick up and drop off passengers, at intersections, on pedestrian crossings; stopping the vehicle where there is a sign "No stopping and parking"; parking the vehicle at a place where the sign "Parking is prohibited" or "No Parking and Parking" signs are displayed; not complying with regulations on parking and parking at road intersections with railroads; stopping or parking vehicles within safe areas of railways, except for the violations specified at Point b, Clause 2, and Point b, Clause 3, Article 49 of Decree No. 100/2019 / ND-CP;			
25	The operator or the passenger on the vehicle does not wear a motorcycle helmet or does not wear it properly;			
26	Carrying a passenger who does not wear a motorcycle helmet properly, unless that person is a patient who needs urgent medical care, a child under 06 years of age, or a criminal being escorted;			
27	Carrying two people on a vehicle, unless a person being carried is a person who needs urgent medical care, a child under 14 years of age, or a criminal being escorted;			In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.
28	The vehicle is operated by the person from behind another person, unless such the latter is a child.			In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.

SUMMING UP 119 TYPES OF FAULTS OF MOTORCYCLISTS, MOTORCYCLES & SANCTIONS

STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning drivers of motorcycles and meds (including electric motorbikes), vehicles similar to motorcycles and similar types of motorcycles in violation of road traffic rules - Clause 3, Clause 10 Article 6 of Decree No. 100/2019/ND-CP				
29	Turning without slowing down or signaling (unless going along a curved segment where there is no level crossing);	FINES FROM VND 400,000 TO VND 600,000		
30	Carrying 03 people or more on the vehicle;		Deprivation of the right to use driving licenses for between 01 and 03 months. In case of committing acts of violation causing traffic accidents, the right to use driving licenses shall be deprived for between 2 and 4 months.	
31	Continuously honking, revving the engine in urban areas or residential areas, except for the emergency vehicles on duty;		In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.	
32	Stopping or parking on a bridge;			
33	Going in groups in a manner that obstructs the traffic, except for the cases permitted by competent authorities;			
34	Operating a vehicle directly related to the traffic accident without stopping, not maintaining the scene, and not participating in emergency care, except for the violations specified at Point dd, Clause 8, Article 6 of the Decree No. 100/2019 / ND-CP;		Deprivation of the right to use driving licenses from 01 month to 03 months.	

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning drivers of motorcycles and meds (including electric motorbikes), vehicles similar to motorcycles and similar types of motorcycles in violation of road traffic rules - Clause 3, Clause 10 Article 6 of Decree No. 100/2019/ND-CP				
35	Failure to keep the vehicle to the right; going in the wrong lane; crossing the median strip; going on a sidewalk unless for entering a house;	FINES FROM VND 400,000 TO VND 600,000		
36	Overtaking on the right side where prohibited;			
37	Entering prohibited areas, roads erected with signs prohibiting entry of operated vehicles, except for violations specified in Clause 5, Point b Clause 6 of Decree No. 100/2019 / ND-CP and emergency vehicles on missions;		Deprivation of the right to use driving licenses from 01 month to 03 months.	
38	The operator's or passenger's pulling or pushing another vehicle or item while sitting on the vehicle; leading an animal or carrying a bulky object while sitting on the vehicle; standing on the seat, the cargo bracket, or sitting on the handle; loading cargo to the vehicle beyond permissible limits; towing another vehicle or object;		In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.	
39	Exceeding the gross vehicle weight rating (GVWR) written on the Certificate of vehicle registration (if the GVWR is stated);			
40	Failure to turn on low beam while operating the vehicle in a road tunnel.		In case of committing acts of violation that cause a traffic accident, the right to use the driving license will be deprived for between 2 and 4 months.	



SUMMING UP 119 TYPES OF FAULTS OF MOTORCYCLISTS, MOTORCYCLES & SANCTIONS

STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning drivers of motorcycles and meds (including electric motorbikes), vehicles similar to motorcycles and similar vehicles of motorcycles in violation of road traffic rules - Clause 4, Clause 10 Article 6 of Decree No. 100/2019/ND-CP				
41	Exceeding the speed limits by 10 km/h - 20 km/h;	FINES FROM VND 600,000 TO VND 1,000,000		
42	Stopping or parking at inappropriate positions in a road tunnel;			
43	Overtaking in cases where overtaking is prohibited, overtaking on roads erected with signs prohibiting operated vehicles from overtaking, except for violations specified in Point h Clause 3 of the Decree No. 100/2019 / ND-CP;			
44	Overtaking in road tunnels in inappropriate places; making u-turn in road tunnels;			
45	Failure to yield to or obstructing emergency vehicles that are sending out emergency signals;			<ul style="list-style-type: none"> - Deprivation of the right to use driving licenses for between 01 and 03 months. - In case of committing acts of violation causing traffic accidents, the right to use driving licenses shall be deprived for between 2 and 4 months.
46	Failure to comply with the traffic lights;			<ul style="list-style-type: none"> - Deprivation of the right to use driving licenses for between 01 and 03 months. - In case of committing acts of violation causing traffic accidents, the right to use driving licenses shall be deprived for between 2 and 4 months.
47	Failure to obey the orders or instructions of the traffic conductor or traffic guard;			<ul style="list-style-type: none"> - Deprivation of the right to use driving licenses for between 01 and 03 months. - In case of committing acts of violation causing traffic accidents, the right to use driving licenses shall be deprived for between 2 and 4 months.
48	Using an umbrella, cell phone, or audio device other than hearing aid devices while operating the vehicle.			<ul style="list-style-type: none"> - Deprivation of the right to use driving licenses for between 01 and 03 months. - In case of committing acts of violation causing traffic accidents, the right to use driving licenses shall be deprived for between 2 and 4 months.

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning drivers of motorcycles and meds (including electric motorbikes), vehicles similar to motorcycles and similar vehicles of motorcycles in violation of road traffic rules - Clause 5, Clause 10 Article 6 of Decree No. 100/2019/ND-CP				
49	The driver of the vehicle performs acts of going in the opposite direction of the one-way road, going in the opposite direction on the road with the sign "Prohibited to go in the opposite direction", except for violations prescribed in Point b Clause 6 Article 6 of Decree No. 100/2019/ND-CP and cases where priority vehicles are performing emergency tasks as prescribed.	FINES FROM VND 1,000,000 TO VND 2,000,000	Deprivation of the right to use driving licenses from 01 month to 03 months.	
Sanctioning drivers of motorcycles and motorcycles (including electric motorbikes), vehicles similar to motorcycles and similar vehicles of motorcycles in violation of road traffic rules - Clause 6, Clause 10 Article 6 of Decree No. 100/2019/ND-CP				
50	Letting the sidestand or other object touching against the road while running;	FINES FROM VND 2,000,000 TO VND 3,000,000	The right to use the driving license is deprived from 02 months to 04 months.	
51	Entering a freeway, except for the vehicles serving the management and maintenance of the freeway;		The right to use driving license is stripped from 03 months to 05 months	
52	Operating a vehicle under the influence of alcohol but BAC does not exceed 50 mg per 100 ml of blood or BrAC does not exceed 0.25 mg per liter of breath;		The right to use driver's license is stripped from 10 months to 12 months.	
Sanctioning drivers of motorcycles and meds (including electric motorbikes), vehicles similar to motorcycles and similar motorcycles in violation of road traffic rules - Clause 7, Clause 10 Article 6 of Decree No. 100/2019/ND-CP				
53	Exceeding the speed limits by more than 20 km/h;	FINES FROM VND 4,000,000 TO VND 5,000,000	The right to use the driving license is deprived from 02 months to 04 months.	
54	Do not pay attention to observe and control vehicles speeding regulations causing traffic accidents; go into highways, stop, park, turn around, reverse, avoid vehicles, overtake vehicles, change lanes in accordance with regulations causing traffic accidents; not on the right road, lane, do not keep a safe distance between the two vehicles according to regulations causing traffic accidents or go into the road with signs with prohibited contents for the type of vehicles being controlled, going in the opposite direction of the one-way road, going in the opposite direction on the road with the sign "Prohibition of going in the opposite direction" causing traffic accidents, except for violations prescribed in Point d Clause 8 Article 6 of Decree No. 100/2019/ND-CP;		The right to use the driving license is deprived from 02 months to 04 months.	
55	Operating the vehicle while BAC exceeds 50 - 80 mg per 100 ml of blood, or BrAC exceeds 0.25 - 0.4 mg per liter of breath.		The right to use driver's license is stripped from 16 months to 18 months.	

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning drivers of motorcycles and motorbikes (including electric motorbikes), vehicles similar to motorcycles and similar vehicles of motorcycles in violation of road traffic rules - Clause 8, Clause 10 Article 6 of Decree No. 100/2019/ND-CP				
56	Release both hands while operating the vehicle; steering with the legs; sitting on one side to operate the vehicle; lying on the seat while operating the vehicle; swapping positions while operating the vehicle; turning the whole body to the back or wearing a blind fold while operating the vehicle;	FINES FROM VND 6,000,000 TO VND 8,000,000	<ul style="list-style-type: none"> The right to use driving license is stripped from 02 months to 04 months. In case of recidivism or repeated violations, the right to use the driving license will be deprived for between 03 months and 05 months, the vehicle is confiscated. 	
57	Weaving on public roads whether inside or outside an urban area;		<ul style="list-style-type: none"> The right to use driving license is stripped from 02 months to 04 months. In case of committing crimes or committing violations many times, the right to use the driving license will be taken from 03 months to 05 months, the vehicle will be confiscated. 	
58	Running on one wheel (or two wheel if the vehicle is a motor tricycle);		<ul style="list-style-type: none"> The right to use driving license is stripped from 02 months to 04 months. In case of recidivism or repeated violations, the right to use the driving license will be deprived for between 03 months and 05 months, the vehicle is confiscated. 	
59	Exceeding the speed limits in a group of 02 vehicles or more;		<ul style="list-style-type: none"> The right to use driving license is stripped from 02 months to 04 months. In case of recidivism or repeated violations, the right to use the driving license will be deprived for between 03 months and 05 months, the vehicle is confiscated. 	

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning drivers of motorcycles and meds (including electric motorbikes), vehicles similar to motorcycles and similar types of motorcycles in violation of road traffic rules - Clause 8, Clause 10 Article 6 of Decree No. 100/2019ND-CP				
60	Failure to stop, protect the scene, inform the authority, or give first aid to the victim after causing an accident;	FINES FROM VND 6,000,000 TO VND 8,000,000	Being deprived of the right to use driving licenses from 03 months to 05 months.	
61	Operating the vehicle while BAC exceeds 80 mg per 100 ml of blood or BrAC exceeds 0.4 mg per liter of breath;		The right to use driver's license is deprived from 22 months to 24 months.	
62	Failure to comply with the law enforcement officer's order for alcohol content testing;		The right to use driver's license is deprived from 22 months to 24 months.	
63	Operating vehicles on roads under influence of narcotics;		The right to use driver's license is deprived from 22 months to 24 months.	
64	Failure to comply with traffic conductor's or law enforcement officer's order for drug testing.		The right to use driver's license is deprived from 22 months to 24 months.	
Sanctioning drivers of motorcycles and meds (including electric motorbikes), vehicles similar to motorcycles and similar types of motorcycles in violation of road traffic rules - Clause 9, Clause 10 Article 6 of Decree No. 100/2019ND-CP				
65	Violations specified at Points a, b, c, d, Clause 8, Article 6 of Decree No. 100/2019 / ND-CP that cause traffic accidents or disobey the driver's stop order equipment.	FINES FROM VND 10,000,000 TO VND 14,000,000	Being deprived of the right to use driving licenses from 03 months to 05 months.	

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning drivers of motorcycles and meds (including electric motorbikes), vehicles similar to motorcycles and similar vehicles of motorcycles in violation of regulations on conditions of vehicles when participating in traffic - Clause 1, Clause 4, Article 17 of Decree No. 100/2019/ND-CP				
66	Operating the vehicle without a horn, plate lamp, brake lamp, or a mirror on the left, or without a functional one;	FINES FROM VND 100,000 TO VND 200,000		
67	Operating a vehicle with an inappropriate license plate; the letters and numbers on the license plate are not clear; a license plate that is bent, blocked, or damaged; painting and altering additional letters and numbers or changing color of letters, numbers and background of the license plates (including trailers and semi-trailers);			
68	Operating a vehicle without turn signals or without functional ones;			
69	Using an inappropriate horn for the type of vehicle;		Confiscated whistle	
70	Operating a vehicle without a sound or smoke suppression system or without one that meets environmental requirements with regard to exhaust and noise;			
71	Operating a vehicle without a lamp with low beam and a high beam, or without a functional and conformable one;			
72	Operating a vehicle without a brake system or without a functional and conformable one;			
73	Operating a vehicle with an additional headlamp towards the back.			

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning drivers of motorcycles and motorcycles (including electric motorbikes), vehicles similar to motorcycles and similar vehicles of motorcycles in violation of regulations on conditions of vehicles when participating in traffic - Clause 2, Clause 4, Article 17 of Decree No. 100/2019/ND-CP				
74	Operating a vehicle without a corresponding certificate of vehicle registration or trailer/semi-trailer registration or using an expired certificate of vehicle registration;	<p style="text-align: center;">FINES FROM VND 300,000 TO VND 400,000</p>	<ul style="list-style-type: none"> Committing violations in case the vehicle registration is not available or the vehicle registration is used not issued by a competent authority, the vehicle's chassis number or engine number is not correct or is erased without proof of the source The vehicle's original origin (without papers or transfer of vehicle ownership or legal papers or documents of vehicle origin) shall have the vehicle confiscated. 	
75	Using a Certificate of vehicle registration that is falsified, or not consistent with the chassis number or engine number, or not issued by a competent authority;		<ul style="list-style-type: none"> Vehicle registration certificate, license plate is confiscated or has been erased. Committing violations in case the vehicle registration is not available or the vehicle registration is used not issued by a competent authority, the vehicle's chassis number or engine number is not correct or is erased without proof of the source The vehicle's origin (without papers, transfer of vehicle ownership or legal papers or documents of vehicle origin) shall have the vehicle confiscated. 	
76	Operating a vehicle without a license plate (if required); or the license plate of which is not consistent with the Certificate of vehicle registration or not issued by a competent authority;		<ul style="list-style-type: none"> Vehicle registration certificate, license plate is confiscated or has been erased. 	

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning drivers of motorcycles and meds (including electric motorbikes), vehicles similar to motorcycles and similar vehicles of motorcycles in violation of regulations on conditions of vehicles when participating in traffic - Clause 3, Clause 4, Article 17 of Decree No. 100/2019/ND-CP				
77	Operating a temporarily registered vehicle beyond its temporary operational period or operating area;	FINES FROM VND 800,000 TO VND 1,000,000	Deprivation of the right to use driving licenses from 01 month to 03 months.	
78	Operating an illegally manufactured or assembled vehicle on public roads.		The vehicle has been confiscated and the right to use driving license is confiscated from 01 month to 03 months.	
Sanctioning violations of regulations on conditions of drivers of motor vehicles - Clause 1, Article 21 of Decree No. 100/2019/ND-CP				
79	Persons aged from full 14 years old to under 16 years old operating motorbikes, mopeds (including electric motorbikes) and vehicles similar to motorcycles	PENALTY WARNING		
Sanctioning violations of regulations on conditions of drivers of motor vehicles - Clause 2, Article 21 of Decree No. 100/2019/ND-CP				
80	Any person operating a motorcycle or moped and the like without carrying an unexpired Certificate of civil liability insurance for motor vehicles;	FINES FROM VND 100,000 TO VND 200,000		
81	Any person operating a motorcycle or moped and the like without carrying the Certificate of vehicle registration;			
82	Operators of motorcycles and other vehicles similar to motorcycles do not carry a driving license, except for the violations specified at Point b, Clause 5, and Point c, Clause 7, Article 21 of Decree No. 100/2019 / ND -CP.			
Sanctioning violations of regulations on conditions of drivers of motor vehicles - Point a Clause 4 Article 21 of Decree No. 100/2019/ND-CP				
83	Any person from 16 to under 18 years of age operating a motorcycle with engine displacement of 50 cm3 or more;	FINES FROM VND 400,000 TO VND 600,000		



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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning violations of regulations on conditions of drivers of motor vehicles - Clause 5, Clause 9 Article 21 of Decree No. 100/2019/ND-CP				
84	Failure to have a driving license or using a driving license that is not issued by a competent authority, or using a falsified driving license;	FINES FROM VND 800,000 TO VND 1,200,000 (For drivers of two-wheeled motorbikes with a cylinder capacity of less than 175 cm3 and vehicles similar to motorcycles)	The driving license has not been issued by a competent authority, the driving license has been erased, the driving license is invalid.	
85	Using an international driving license issued by any of the Member States of the Convention of Road Traffic 1968 (except for international driving licenses issued by Vietnam's authority) without carrying a national driving license;			
86	Using an invalid driving license (driving license template number at the back does not match with the latest issued template number in system for management of driving license).		<ul style="list-style-type: none"> The driving license has not been issued by a competent authority, the driving license has been erased, the driving license is invalid. Being deprived of the right to use the latest driver's license in the driver's license management information system from 01 month to 03 months. 	
Sanctioning violations of regulations on conditions of drivers of motor vehicles - Clause 7, Clause 9 Article 21 of Decree No. 100/2019/ND-CP				
87	Possessing a driving license inconsistent with the operated vehicle;	FINES FROM VND 3,000,000 TO VND 4,000,000 (For drivers of two-wheeled motorbikes with a cylinder capacity of 175 cm3 or more, tri-wheeled motorbikes)		
88	Failure to have a driving license or using a driving license that is not issued by a competent authority, or using a falsified driving license;		The driving license has not been issued by a competent authority, the driving license has been erased, the driving license is invalid.	
89	Using an international driving license issued by any of the Member States of the Convention of Road Traffic 1968 (except for international driving licenses issued by Vietnam's authority) without carrying a national driving license.			
90	Using an invalid driving license (driving license template number at the back does not match with the latest issued template number in system for management of driving license).		<ul style="list-style-type: none"> The driving license has not been issued by a competent authority, the driving license has been erased, the driving license is invalid. Being deprived of the right to use the latest driver's license in the driver's license management information system from 01 month to 03 months. 	

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning vehicle owners for violations of regulations related to road traffic - Clause 1, Clause 15 Article 30 of Decree No. 100/2019/ND-CP				
91	Owners of motorcycles, moped and vehicles similar to motorcycles perform acts of voluntarily changing the trademarks and paint colors of vehicles in accordance with the vehicle registration papers.	FINES FROM VND 100,000 TO VND 200,000 FOR INDIVIDUALS, FROM VND 200,000 TO VND 400,000 FOR ORGANIZATIONS		Forcible restoration of marks and paint colors inscribed in vehicle registration papers according to regulations
Sanctioning vehicle owners for violations of regulations related to road traffic - Clause 4, Clause 14, Clause 15 Article 30 of Decree No. 100/2019/ND-CP				
92	Failure to follow procedures for transferring the vehicle ownership when buying, being given, allocated, or inherited a moped or motorcycle;	FINES FROM VND 400,000 TO VND 600,000 FOR INDIVIDUALS, FROM VND 800,000 TO VND 1,200,000 FOR ORGANIZATIONS		
93	Failure to follow procedures for issuance of revised certificates of vehicle registration as per the law when changing address of vehicle owners;		Enforced procedures for vehicle registration, name change, exchange, revocation of vehicle registration, license plate number, Certificate of technical safety and environmental protection according to regulations (except for cases of vehicle confiscation).	
94	Failure to comply with regulations on license plates, except for violations specified in Point i Clause 5 of this Article.			It is imperative to comply with regulations on number plates and regulations on lettering on the sides of the vehicle and vehicle doors



SUMMING UP 119 TYPES OF FAULTS OF MOTORCYCLISTS, MOTORCYCLES & SANCTIONS

STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning vehicle owners for violations of regulations related to road traffic - Clause 5, Clause 14, Clause 15 Article 30 of Decree No. 100/2019/ND-CP				
95	Deliberately cutting, welding and punching to modify chassis number and engine number; operating vehicles whose chassis number and engine number have been modified due to being cut, welded and punched;	FINES FROM VND 800,000 TO VND 2,000,000 FOR INDIVIDUALS, FROM VND 1,600,000 TO VND 4,000,000 FOR ORGANIZATIONS	Vehicle confiscated	
96	Falsifying or forging the documents about vehicle registration;		Confiscation of license plate, vehicle registration (if reissued); confiscation of forged files, papers and documents; confiscation of license plate, license plate change device, vehicle registration certificate, vehicle's technical safety and environmental protection inspection stamps, or vehicle registration certificate temporarily in contravention of regulations or erased.	
97	Changing the chassis, engine, shape, size, or functions of the vehicle;			
98	Providing false information or using fraudulent documents to apply for the license plate or Certificate of vehicle registration;		Confiscation of license plate, vehicle registration (if reissued); confiscation of forged files, papers and documents; confiscation of license plate, license plate change device, vehicle registration certificate, vehicle's technical safety and environmental protection inspection stamps, or vehicle registration certificate temporarily in contravention of regulations or erased.	
99	Allowing an unqualified person according to Clause 1 Article 58 of the Law on Road traffic to operate the vehicle on public roads (including those using an expired driving license or those with revoked driving license);			

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning vehicle owners for violations of regulations related to road traffic - Clause 5, Clause 14, Clause 15 Article 30 of Decree No. 100/2019/ND-CP				
100	Failure to comply with revocation of certificates of vehicle registration and license plates as per the law;			Enforced procedures for vehicle registration, name change, exchange, revocation of vehicle registration, license plate number, Certificate of technical safety and environmental protection according to regulations (except for cases of vehicle confiscation).
101	Operating vehicles without certificates of vehicle registration or with expired certificates of vehicle registration; operating vehicles with temporary certificates of vehicle registration beyond the permitted period, route and range;	FINES FROM VND 800,000 TO VND 2,000,000 FOR INDIVIDUALS, FROM VND 1,600,000 TO VND 4,000,000 FOR ORGANIZATIONS	<ul style="list-style-type: none"> Committing violations in the absence of vehicle registration or vehicle registration but not issued by a competent authority, incorrect vehicle chassis number, engine number or erased (including trailers and trailer shirts) without the proof of the vehicle's origin (without papers, documents on transfer of vehicle ownership or legal papers or documents of vehicle origin), the vehicle will be confiscated. Committing acts of violation in case the vehicle owner being the person directly operating the vehicle is also deprived of the right to use a driving license (when operating a motor vehicle) or a certificate of training in knowledge of traffic law road (when operating a special-use motorbike) from 01 month to 03 months. 	Enforced procedures for vehicle registration, name change, exchange, revocation of vehicle registration, license plate number, Certificate of technical safety and environmental protection according to regulations (except for cases of vehicle confiscation).

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning vehicle owners for violations of regulations related to road traffic - Clause 5, Clause 14, Clause 15 Article 30 of Decree No. 100/2019/ND-CP				
102	Operating vehicles with certificates of vehicle registration issued by other than competent authorities or with modified certificates of vehicle registration; operating vehicles with certificates of vehicle registration inconsistent with chassis number of the vehicles;	FINES FROM VND 800,000 TO VND 2,000,000 FOR INDIVIDUALS, FROM VND 1,600,000 TO VND 4,000,000 FOR ORGANIZATIONS	<ul style="list-style-type: none"> Confiscation of license plate, vehicle registration (if reissued); confiscation of forged files, papers and documents; confiscation of license plate, license plate change device, vehicle registration certificate, vehicle's technical safety and environmental protection inspection stamps, or vehicle registration certificate temporarily in contravention of regulations or erased. Committing violations in the absence of vehicle registration or vehicle registration but not issued by a competent authority, incorrect vehicle chassis number, engine number or erased (including trailers and trailer shirts) without the proof of the vehicle's origin (without papers, documents on transfer of vehicle ownership or legal papers or documents of vehicle origin), the vehicle will be confiscated. Committing acts of violation in case the vehicle owner being the person directly operating the vehicle is also deprived of the right to use a driving license (when operating a motor vehicle) or a certificate of training in knowledge of traffic law road (when operating a special-use motorbike) from 01 month to 03 months. 	

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning vehicle owners for violations of regulations related to road traffic - Clause 5, Clause 14, Clause 15 Article 30 of Decree No. 100/2019/ND-CP				
103	Installing and using devices modifying license plates against regulations and law;	FINES FROM VND 800,000 TO VND 2,000,000 FOR INDIVIDUALS, FROM VND 1,600,000 TO VND 4,000,000 FOR ORGANIZATIONS	<ul style="list-style-type: none"> Confiscation of license plate, vehicle registration (if reissued); confiscation of forged files, papers and documents; confiscation of license plate, license plate change device, vehicle registration certificate, vehicle's technical safety and environmental protection inspection stamps, or vehicle registration certificate temporarily in contravention of regulations or erased. Committing acts of violation in case the vehicle owner being the person directly operating the vehicle is also deprived of the right to use a driving license (when operating a motor vehicle) or a certificate of training in knowledge of traffic law road (when operating a special-use motorbike) from 01 month to 03 months. 	
Sanctioning vehicle owners for violations of regulations related to road traffic - Clause 5, Clause 14, Clause 15 Article 30 of Decree No. 100/2019/ND-CP				
104	Operating a vehicle without a license plate (if required); or the license plate of which is not consistent with the Certificate of vehicle registration or not issued by a competent authority.	FINES FROM VND 800,000 TO VND 2,000,000 FOR INDIVIDUALS, FROM VND 1,600,000 TO VND 4,000,000 FOR ORGANIZATIONS	<ul style="list-style-type: none"> Confiscation of license plate, vehicle registration (if reissued); confiscation of forged files, papers and documents; confiscation of license plate, license plate change device, vehicle registration certificate, vehicle's technical safety and environmental protection inspection stamps, or vehicle registration certificate temporarily in contravention of regulations or erased. Committing acts of violation in case the vehicle owner being the person directly operating the vehicle is also deprived of the right to use a driving license (when operating a motor vehicle) or a certificate of training in knowledge of traffic law road (when operating a special-use motorbike) from 01 month to 03 months. 	

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning illegal drivers, cheering illegal racing - Clause 2, Article 34 of Decree No. 100/2019/ND-CP				
105	Illegally racing motorbikes, mopeds or electric scooters.	FINES FROM VND 7,000,000 TO VND 8,000,000	The right to use the driving license is stripped from 03 months to 05 months and the vehicle is confiscated.	
Sanctioning drivers of road vehicles with foreign number plate - Clause 1, Clause 3, Article 35 of Decree No. 100/2019/ND-CP				
106	Operating a vehicle without a symbol for nationality recognition;	FINES FROM VND 500,000 TO VND 1,000,000 (For drivers of road motor vehicles with foreign number plate)		
107	The vehicle documents are not translated into English or Vietnamese;			
108	Operating a passenger vehicle without a list of passengers.			
Sanctioning drivers of road motor vehicles with foreign license plates - Clause 2 and Clause 3 Article 35 of Decree No. 100/2019 /ND-CP				
109	Operating the vehicle within Vietnam's territory beyond the deadline;	FINES FROM VND 3,000,000 TO VND 5,000,000		The remedial measure applied: Forced re-export of vehicles from Vietnam.
110	Operating the vehicle beyond permissible areas;			
111	Operating the vehicle without a license for international transport or international shipping badge or without an unexpired one;			The remedial measure applied: Forced re-export of vehicles from Vietnam.

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning drivers of road vehicles with foreign number plate - Clause 2, Clause 3, Article 35 of Decree No. 100/2019/ND-CP				
112	Operating a vehicle without a temporary license plate (if required) or one issued by a competent authority;	FINES FROM VND 3,000,000 TO VND 5,000,000		To be applied remedial measure: Forced re-export of vehicles from Vietnam.
113	Transporting passengers or cargo against concluded Agreements or Protocols on road transport;			The remedial measure applied: Forced re-export of vehicles from Vietnam.
114	Operating a right-hand drive vehicle or a foreigner's vehicle in Vietnam on public roads for tourism purposes without a guiding vehicle as prescribed;			
115	The nationality of the operator of the right-hand drive vehicle or a vehicle bearing a foreign license plate is not correct.			

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STT	OFFENSE	FINE LEVEL	ADDITIONAL PENALTIES	MEASURES TO FIX THE AFTERMATH
Sanctioning drivers of vehicles registered to operate in special commercial economic zones, international border gate economic zones - Clause 1, Clause 3, Clause 4, Article 36 of Decree No. 100/2019/ND-CP				
116	Failure to present the declaration of temporarily imported road vehicles;	FINES FROM VND 500,000 TO VND 1,000,000	Recidivism or repeated violations of this violation will have the vehicle confiscated.	Forced to bring the vehicle back to the special economic and trade zone or international border-gate economic zone.
117	Operating the vehicle without a badge or an unexpired one or one issued by a competent authority.		<ul style="list-style-type: none"> Committing this act of violation in case the badge is used out of service, the badge is also confiscated. Recidivism or repeated violations of this violation will have the vehicle confiscated. 	Forced to bring the vehicle back to the special economic and trade zone or international border-gate economic zone.
Sanctioning violations of regulations on traffic rules at horizontal roads, common bridges, railway tunnels - Clause 4 Article 47 of Decree No. 100/2019/ND-CP				
118	Operators of motorcycles, mopeds (including electric motorbikes), motorbikes and motorcycle-like vehicles stopping and parking within the safe area of crossroads or common bridges ; disobeying the commands and instructions of the signboards or road markings when crossing crossroads or common bridges.	FINES FROM VND 200,000 TO VND 300,000		
Sanctioning violations of regulations on traffic rules at horizontal roads, common bridges, railway tunnels - Clause 5, Clause 10 Article 47 of Decree No. 100/2019/ND-CP				
119	Operators of motorcycles, mopeds (including electric motorbikes), motorcycles-like vehicles and motorbike-like vehicles pass through barriers of crossroads and common bridges when the barrier is moving; crossing crossroads, common bridges when the red light is on; disobeying the orders and instructions of the staff guarding the crossroads, the common bridge when crossing the cross street or the common bridge.	FINES FROM VND 600,000 TO VND 1,000,000	Deprivation of the right to use driving license (when operating a road motor vehicle) or certificate of training in legal knowledge about road traffic (when driving a special-use motorbike) from 01 month to 03 months .	

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LEGAL NEWSLETTER

No 13 – 10/2020



05 BRANCHES AND REPRESENTATIVE OFFICES



- 99 Nguyen Huu Tho, Da Nang city
- 45C Tran Quoc Toan, Ha Noi city
- 336 Phan Chu Trinh, Hue city
- 359 Nguyen Du, Quang Ngai city
- 65 Hung Vuong, Phu Quoc, Kien Giang

30 TEAM MEMBERS



- Legal consulting service
- Participating in procedures
- Non-litigation attorney/representative
- Other legal services: M&A, Foreign investment

OUTSTANDING PARTNERS/CLIENTS

