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Jurisprudence & Comparative Judicial Reasoning Legal Interpretation in Contemporary Vietnamese Case Law: Judicial Reasoning Practices and Reform Directions

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Abstract: *A decade after the publication of Vietnam's first judicial precedents, case law has steadily consolidated its role within the national adjudication system. Notably, the enactment of the 2024 Law on Organization of People's Courts—which formally codifies the courts' mandate to interpret laws in the course of adjudication—has established a coherent statutory foundation for the development of precedent. Grounded in a systematic theoretical framework encompassing the concept, grounds, and methodologies of statutory interpretation, this article examines how interpretive reasoning manifests across landmark Vietnamese precedents, specifically Precedents No. 03/2016/AL, 04/2016/AL, 58/2023/AL, 60/2023/AL, and 82/2026/AL. Through this analysis, the study identifies institutional, doctrinal, and capacity-related barriers—particularly the prevalence of administrative-style internal guidance—and proposes targeted reforms to deepen the analytical rigor of judicial reasoning in future Vietnamese case law.*

Keywords: *Legal interpretation; case law; judicial reasoning; 2024 Law on Organization of People's Courts; statutory construction.*

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I. Introduction

Within the Civil Law tradition, statutory rules are inherently drafted at a high level of abstraction to encompass recurring social relations. This conceptual generality inevitably generates competing understandings when abstract provisions are applied to concrete, multifaceted disputes. Recognizing the imperative to resolve interpretive divergence, both Resolution No. 03/2015/NQ-HĐTP[2] and Resolution No. 04/2019/NQ-HĐTP of the Council of Justices of the Supreme People's Court (SPC) established as a core selection criterion that a precedent must clarify statutory provisions susceptible to differing interpretations. For many years, however, Vietnam's positive legal framework contained a notable structural omission: it lacked an explicit statutory grant conferring legal interpretation authority upon the courts during adjudication.

A landmark institutional turning point occurred with the passage of the 2024 Law on Organization of People's Courts by the National Assembly[1]. This statute expressly stipulates that, in exercising judicial power, the People's Courts carry the mandate to interpret the law as applied in the adjudication and resolution of cases and legal matters[2]. This foundational provision reflects a decisive shift in legislative philosophy, aligning the judiciary's interpretive competence directly with the practical demands of adjudication while establishing a unified legal basis for developing and refining case law. Marking a decade since the introduction of Vietnam's inaugural precedents, a systematic evaluation of the legal interpretation dimension within published case law holds both theoretical significance and pressing practical value for elucidating the true nature of precedent and elevating the quality of judicial reasoning.

[1]Article 3(2) of the 2024 Law on Organization of People's Courts (Law No. 34/2024/QH15, adopted by the 15th National Assembly on June 24, 2024, effective January 1, 2025).

[2]Article 2 of Resolution No. 03/2015/NQ-HĐTP dated October 28, 2015 of the Council of Justices of the Supreme People's Court on the Process of Selecting, Publishing, and Applying Case Law.

II. Theoretical Foundations of Legal Interpretation and Its Relationship with Case Law

2.1. The Nature of Legal Interpretation and Case Law

From the perspectives of linguistics and communication theory, interpretation is a cognitive operation aimed at resolving ambiguities and clarifying obscured meanings in communicative exchanges among actors. Situated within the architecture of state governance, law functions as a specialized medium of communication between the State and the legal subjects governed by its norms. Regardless of how meticulously legislative drafting is executed, statutory texts inevitably contain "gray zones" whose true normative contours become discernible only when tested against real-world conflicts requiring authoritative resolution. This inherent feature explains why legal interpretation is organically bound to the adjudicative function and resides primarily within the judiciary.

Within the judicial process, case law emerges as the crystallized standard of statutory interpretation and application. Under current Vietnamese law, case law comprises arguments and rulings within legally effective judgments or decisions of a court regarding a specific case, selected by the Council of Justices of the SPC and promulgated by the Chief Justice of the SPC for courts to study and apply in adjudication[4]. Accordingly, whereas legal interpretation serves as the analytical tool enabling judges to ascertain the fairest and most reasonable meaning of a statutory provision in an individual dispute, case law represents the institutional mechanism that elevates the product of such interpretation into a normative benchmark for future analogous cases.

2.2. Grounds and System of Legal Interpretation Methods

2.2.1. Categories of Grounds for Legal Interpretation

To safeguard objectivity, prevent arbitrary judicial construction, and strengthen the persuasive force of judgments, courts must anchor statutory interpretation in identifiable reference points. Grounds for legal interpretation refer to the totality of factors relied upon by a court to elucidate the content, meaning, and scope of application of a specific legal provision. Legal scholarship broadly classifies these grounds into two principal categories[3]:

- **Internal (Intrinsic) Grounds:** Elements situated within the normative legal act under interpretation, including semantic structure, specialized legal terminology, the placement of an article within its respective chapter or section, logical interrelationships among provisions in the same enactment, and the title and regulatory scope of the instrument itself.
- **External (Extrinsic) Grounds:** Factors located outside the immediate statutory text, encompassing related norms across the domestic legal order, binding international treaties, the historical context surrounding the statute's enactment, legislative drafting records, contemporary socio-economic conditions, moral standards, customary practices, and legal doctrines.

2.2.2. System of Legal Interpretation Methods

Drawing upon these grounds, modern jurisprudence has formulated a set of complementary interpretive methodologies that enable adjudicators to engage with the full normative depth of statutory rules[4]:

1. Grammatical Interpretation: The foundational textual inquiry relying on rules of grammar, syntactic structure, verb conjugation, punctuation, and lexical relationships within sentences to establish the literal meaning of a provision.

2. Systematic Interpretation: Situating the provision under review within the organic totality of the legal system—including the Constitution, adjacent statutes, published precedents, and ratified international treaties—to ensure normative coherence and eliminate internal contradictions.

3. Historical Interpretation: Tracing the political, social, and institutional circumstances or historical records linked to the genesis and amendment of a rule (such as legislative submissions, committee verification reports, and parliamentary debates) to uncover its original meaning.

4. Interpretation Based on Legislative Intent: Decoding the core normative message that the lawmaker sought to convey, or identifying the specific policy objectives the legislature intended to achieve at the time of enactment.

5. Sociological (Pragmatic) Interpretation: A flexible, context-sensitive approach permitting judges to invoke extra-statutory sources—such as moral traditions, religious values, and prevailing socio-economic realities—to arrive at an interpretation that maximizes substantive fairness and practical feasibility.

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[3]Hanoi Law University (2022), General Theory of State and Law, Judicial Publishing House, Hanoi, pp. 445–452.

[4]Friedrich Carl von Savigny (1840), System des heutigen Römischen Rechts, Vol. I, Veit und Comp., Berlin, pp. 212–216 (establishing the four classical canons of legal interpretation: grammatical, logical, historical, and systematic).

6. Comparative Interpretation: Consulting legislative solutions, judicial reasoning in foreign court decisions, and international academic scholarship addressing parallel legal institutions across other jurisdictions.

Alongside these six classical canons, judicial reasoning frequently employs **logical interpretation** (deductive and analogical inference governed by formal logic) and **purposive (teleological) interpretation** (construction guided by the underlying social interest or legal good that the norm is designed to protect) to resolve complex legal dilemmas.

III. Practical Manifestations of Legal Interpretation in Vietnamese Case Law

3.1. General Characteristics of Interpretive Reasoning in Vietnamese Case Law

A comprehensive survey of published precedents in Vietnam reveals a recurring pattern: adjudicating panels remain relatively cautious and reactive in articulating explicit interpretive arguments to clarify the substantive content and boundaries of invoked statutory provisions. Many highly persuasive interpretive grounds—particularly non-binding extrinsic sources capable of illuminating legal substance, such as empirical socio-economic realities and scholarly legal doctrines—remain largely untapped in the reasoning sections of judgments selected as precedents.

A salient structural feature across most contemporary Vietnamese precedents is a pronounced shift in analytical focus: rather than interpreting legal norms, courts predominantly devote their reasoning to interpreting the factual circumstances of the case. By sequencing facts and assigning legal significance to objective events, panels move directly to selecting the applicable statutory provision. While this "fact-interpretation over norm-interpretation" approach adequately disposes of the immediate dispute, it deprives the precedent of generalized doctrinal depth and diminishes its guiding value for future cases involving factual variations.

3.2. In-Depth Analysis of Selected Landmark Precedents

Precedent No. 03/2016/AL and Precedent No. 04/2016/AL: Doctrinal Gaps in "Softening" Transaction Formalities

In both of these foundational civil and land-law precedents[8], the courts established a progressive judicial rule: where interested parties (such as parents, spouses, or co-owners) are aware of a gift or transfer of land-use rights, raise no objection, and further engage in conduct demonstrating factual acquiescence, they are deemed to have consented to the transaction, thereby preserving the legal validity of the real estate contract.

Viewed through the lens of interpretive methodology, however, both Precedents No. 03/2016/AL and 04/2016/AL stop at announcing a dispositive rule without supplying a reasoned explanation of why the law validates such transactions despite statutory mandates requiring strict formal compliance and express written consent. To bridge this argumentative gap, the courts could have invoked the **doctrine of manifested will and true intent in contract formation** to demonstrate that silence coupled with affirmative conduct constitutes an authentic expression of contractual consent. Moreover, applying sociological interpretation by referencing customary practices surrounding intra-familial real estate transactions in Vietnam would have underscored the inequity and impracticality of mechanically enforcing rigid formalistic rules.

Precedent No. 58/2023/AL: Implicit Application of a Multi-Layered Criminal Interpretation Chain

Precedent No. 58/2023/AL addresses a classic sentencing-bracket dilemma in criminal adjudication: the defendant unlawfully transported five whole tiger carcasses alongside one vital body part indispensable to the life of a sixth tiger[5]. The court held that this conduct infringed upon the lives of six individual tigers, thereby triggering the aggravated sentencing bracket under Point c, Clause 3, Article 244 of the 2015 Criminal Code (as amended in 2017), which penalizes the transportation of *"six or more bears or tigers, or body parts indispensable to the life of six or more bears or tigers"*.

While the outcome is entirely sound and aligns with environmental criminal policy, the precedent text fails to identify the interpretive methods and grounds that guided the court to this construction. Deconstructing its underlying logic reveals that the panel implicitly combined three distinct tiers of legal interpretation:

• **Non-Mechanical Grammatical Interpretation:** The court rejected a hyper-literal reading under which the statutory threshold would be satisfied only by six intact tigers or six vital body parts in isolation, without allowing aggregation across both physical categories.

• **Logical Interpretation:** The court established a quantitative and qualitative equivalence: since six tigers correspond to six vital body parts, one intact tiger is logically equivalent to one vital body part, permitting their summation into six protected units.

• **Purposive (Teleological) Interpretation:** Guided by the title and protected legal interest of Article 244 (the protection of endangered, precious, and rare wildlife), the court identified the core metric of social harm as the

[5]Precedent No. 58/2023/AL on the Sentencing-Bracket Circumstance under Point c, Clause 3, Article 244 of the 2015 Criminal Code (as amended in 2017), adopted by the Council of Justices of the SPC on February 1–2, 2023 and promulgated under Decision No. 39/QĐ-CA dated February 24, 2023 of the Chief Justice of the SPC.

total number of individual tigers whose lives were destroyed—which, in this case, indisputably amounted to six animals.

Because this three-step reasoning chain was left unarticulated in the text of Precedent No. 58/2023/AL, its methodological guidance for judges confronting similarly structured penal provisions remains underutilized.

Precedent No. 60/2023/AL: Insufficient Analysis of Normative Hierarchy and Protection of the Weaker Party

In Precedent No. 60/2023/AL concerning a state lottery prize-payout dispute[6], although the final ruling protected the legitimate interests of the ticket purchaser, the judicial reasoning fell short of thoroughly resolving the core legal questions presented. Rather than confining its analysis to the technical calculation of statutory time limits under the Civil Code, the court should have examined the legal nature of the "prize-claim rules" (standard-form terms and conditions) unilaterally drafted by the lottery enterprise.

Specifically, through systematic and purposive interpretation, the panel ought to have delineated the hierarchy of legal validity among the Civil Code[12], the implementing Circular of the Ministry of Finance[13], and the lottery company's internal rules. Building upon that hierarchy, the court should have invoked the *contra proferentem* principle governing standard-form contracts to construe ambiguous or restrictive terms against the drafter and safeguard the weaker party in the transaction (the retail lottery consumer). The omission of this analytical layer confined Precedent No. 60/2023/AL to a narrow ruling on time computation rather than elevating it into a benchmark precedent on judicial control over standard terms.

Precedent No. 82/2026/AL: Achieving Substantive Equity While Leaving Unexplained the Grounds for Bypassing Formal Thresholds

Precedent No. 82/2026/AL exemplifies the judiciary's pursuit of substantive equity without fully articulating the doctrinal basis supporting that outcome[14]. In this dispute, the court declined to treat formal markers—such as the date of marriage registration or sole title registration on the Land Use Right Certificate—as absolute determinants. Instead, the panel weighed substantive realities: the parties had held a wedding ceremony, submitted marriage registration paperwork, acquired the property using joint funds, experienced registration delays due to objective obstacles involving foreign elements, and operated under land-law restrictions that barred foreign nationals from holding title on Land Use Right Certificates at the relevant time.

Notwithstanding the fairness of the result, the precedent leaves two principled legal questions unanswered: *First*, what doctrinal rationale justifies classifying assets acquired prior to formal marriage registration under the matrimonial common property regime rather than as co-ownership by shares between two independent individuals? *Second*, what legal ground or interpretive method authorizes a court to look past the statutory date of marriage registration, which the Law on Marriage and Family designates as the formal moment establishing a lawful spousal relationship? Failing to directly interpret the governing provisions of the Law on Marriage and Family exposes subsequent analogical applications of this precedent to potential challenges regarding formal legality.

IV. Underlying Causes of Shortcomings and Recommendations for Improvement

4.1. Underlying Causes of the Current Situation

The muted presence of explicit legal interpretation in Vietnamese case law stems from interrelated conceptual, doctrinal, and institutional factors within the judicial system:

• **Limited Role Perception and Interpretive Capacity Among Judges:** For decades prior to the entry into force of the 2024 Law on Organization of People's Courts, many Vietnamese judges did not fully perceive statutory interpretation as an integral component of their adjudicative mandate. Concurrently, Vietnamese legal scholarship had not yet developed a comprehensive, practice-oriented theory of judicial interpretation, leaving judges without robust theoretical frameworks or technical training to deploy interpretive canons systematically in judgments.

• **Centralization of Interpretive Authority at the Apex Level:** In practice, the dominant institutional actor exercising legal interpretation in Vietnam has long been the Council of Justices of the SPC. Its Resolutions guiding the uniform application of law have effectively functioned as a top-down, quasi-legislative "new form of case law."

• **Inhibiting Effects of Administrative Guidance and Professional Replies:** Alongside Council of Justices Resolutions, the SPC routinely issues Official Letters and Professional Guidance Replies to resolve practical legal queries raised by lower courts. Although expedient, this internal administrative-style guidance inadvertently curtails judicial independence, narrows the intellectual space and interpretive initiative of individual trial and appellate judges, and stifles the organic generation of richly reasoned judgments necessary

[6]Precedent No. 60/2023/AL on the Time Limit for Paying Lottery Prizes, adopted by the Council of Justices of the SPC on February 1–2, 2023 and promulgated under Decision No. 39/QĐ-CA dated February 24, 2023 of the Chief Justice of the SPC.

for precedent development. Consequently, the central agency of individual judges in statutory interpretation has yet to be fully recognized and empowered.

4.2. Recommendations for Reform

To operationalize the mandate of the 2024 Law on Organization of People's Courts and enrich the interpretive depth of Vietnamese case law, three coordinated reforms should be pursued:

1. Develop Interpretive Guidelines and Establish Legislative–Judicial Coordination Mechanisms: The SPC should spearhead the drafting of standardized criteria or a judicial benchbook on statutory interpretation, codifying recognized interpretive grounds and methodologies for adjudication. Simultaneously, institutional protocols should link legislative drafters with the judiciary, ensuring judges have systematic access to legislative histories and drafting records to ascertain legislative intent when construing complex provisions.

2. Reform Legal Education and Judicial Reasoning Training: Both theoretical foundations and practical exercises in legal interpretation should be integrated as core modules in undergraduate law curricula, judicial training programs at the Vietnam Court Academy, and continuing judicial education courses. Training should emphasize critical legal reasoning, the disciplined use of extrinsic sources (legal doctrine and empirical socio-economic context), and judgment-drafting techniques that make chains of legal inference transparent.

3. Shift from Administrative Guidance to Adjudicative Interpretation: The SPC should progressively curtail the issuance of informal Official Letters and internal Professional Guidance Replies, instead empowering and incentivizing individual judges to exercise active interpretive judgment directly within adjudicated cases. Rigorous, well-reasoned interpretive analyses forged in courtroom adjudication across all court levels will provide the richest and most sustainable reservoir for selecting future precedents.

V. Conclusion

Legal interpretation constitutes the intellectual core of adjudication and the vital force sustaining the normative authority of case law. By formally codifying the courts' duty to interpret the law in the course of adjudication, the 2024 Law on Organization of People's Courts has created a pivotal institutional opening to overcome the analytical constraints observed during the first decade of Vietnam's precedent system[1]. Only when judges master the full repertoire of interpretive methodologies—skillfully harmonizing statutory text with legal doctrine and contemporary social realities in every ruling—will Vietnamese case law transcend narrow fact-centered adjudication to become a true instrument of justice and legal uniformity.

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