

ANNEX 5**INFORMATION ON LEGAL DOCUMENTS PERTAINING TO INFORMATION
AND COMMUNICATIONS WORK¹**

This Annex provides the information on 03 Decrees, namely:

- (1) *Decree No. 119/2020/ND-CP* (hereinafter referred to as Decree 119),
- (2) *Decree No. 15/2020/ND-CP* (amended and supplemented by Decree No.14/2022/ND-CP dated January 17, 2022) (hereinafter referred to as Decree 15),
- (3) *Decree No. 72/2013/ND-CP* (amended and supplemented by Decree No. 27/2018/ND-CP dated March 01, 2018) hereinafter referred to as Decree 72).

I. THE PROCESS ON DEVELOPMENT OF THE DECREES

The drafting of the aforementioned Decrees followed all steps in the process of developing legal documents according to the 2015 Law on the Promulgation of Legal Documents (amended and supplemented in 2020), referred to as Law on Law 2015, which includes: the stages of public posting, collecting people's opinions, holding seminars to collect opinions from stakeholders, etc. It is to ensure that, the opinions (if any) should be considered, absorbed, or explained in accordance with relevant regulations before the final draft legal document is approved by the competent authority.

- The Decrees on violation sanctions are all administrative ones with penalties that are slightly higher than those in prior Decrees. Those provisions in the Decrees do not intend to increase the severity level of sanctions, but main goal is to establish more clearly dimension of freedom of the press and freedom of expression in accordance with international practices, from that raise the awareness and legal consciousness of the people, public servants, and journalists and thereby limiting violations. In terms of formality to treat the violations, it is the post-inspection and there is no censorship prior to the printing/broadcasting/release of media products.

- As stated in the 4th ICCPR Report (paragraphs 90 and 97), the consistent policy of the State of Viet Nam is to ensure the right to freedom of expression, freedom of the press, and the right to information for everyone. These rights are secured through: (i) supporting journalism, publishing development; (ii) enabling people to freely search, access, express and exchange information, and (iii) implementing necessary and appropriate management measures to prevent acts of exploitation of freedom of speech, freedom of the press to infringe

¹ These are 03 legal documents stated in Report CCPR/C/136/2/Add.4) (on freedom of expression)

upon the legitimate rights and interests of organizations and individuals as well as to create a healthy environment in a virtual world.

Therefore, the provisions of Decrees 119, Decree 15, and Decree 72 aim to ensure that reporters and journalists have a more favorable, free, and safe operating environment, as well as a secure internet environment, while adhering to the principles of legality, necessity, and proportionality as stated under paragraph 3, Article 19 and Article 20 of the ICCPR. At the same time, Decree 119 has added favorable terms to protect journalists in their work.

II. CERTAIN POINTS REGARDING THE CONTENTS OF DECREES

1. With regard to Decree 119

On October 7, 2020, the Government issued Decree No. 119, outlining penalties for administrative violations in press, publishing, and printing activities. This Decree replaces Decree No. 159/2013/ND-CP, which increases penalties for a variety of press-related offenses, including: Increase fines for speech and conduct that threaten the live of journalist and reporter without reaching the level of criminal prosecution; destroying, intentionally damaging means and materials for press activities of journalist and reporter; using a modified or erased journalist's card to conduct journalistic activities; impersonating a journalist or a reporter, taking advantage of his or her status as a journalist or reporter to interfere with or obstruct telecommunication; or using a modified or erased journalist's card to conduct journalistic activities.

* *Some new regulations* specified in Decree 119 compared to Decree 159/2013/ND-CP, specifically as follows:

- A fine ranging from VND 30,000,000 to VND 50,000,000 shall be imposed for the following acts of violation:²

+ Conviction of crimes without a court judgment.

+ Posting and broadcasting information about relatives and relationships of individuals in cases of negative practices when there is no evidence to prove that relatives and such relationships are related to the case of negative practice or when the relevant competent authorities have not reached a conclusion.

- A fine ranging from VND 50,000,000 to VND 70,000,000 shall be imposed for the following violations³:

+ Posting or broadcasting false information causing serious impacts.

+ Posting or broadcasting information with untruthful content, distorting or insulting the honor and reputation of organizations, honor and dignity of individuals.

² Article 8.4 b and d.

³ Article 8.5.a, b

- A fine ranging from VND 150,000,000 to VND 200,000,000 shall be imposed for posting or broadcasting information infringing upon the right to freedom of belief or religion⁴.

* *The regulations protecting the legal rights of journalists* continue to be expanded and refined, as seen by the regulations below: ⁵

- A fine ranging from VND 10,000,000 to VND 20,000,000 shall be imposed for unlawfully obstructing professional activities of journalists or reporters.

- A fine ranging from VND 20,000,000 to VND 30,000,000 shall be imposed for illegally seizing press means and documents of journalists and reporters.

- A fine ranging from VND 30,000,000 to VND 40,000,000 shall be imposed for one of the following conducts:

+ Infringing upon the honor and dignity of journalists or reporters during professional activities;

+ Destroying or intentionally damaging means and documents of press activities of journalists and reporters.

- A fine ranging from VND 40,000,000 to VND 60,000,000 shall be imposed for making words or actions that threaten the lives of journalists or reporters.

2. With regard to Decree 15

On February 03, 2020, the Government issued Decree 15 on penalties for administrative violations against regulations on postal services, telecommunications, radio frequencies, information technology and electronic transactions. This Decree is amended and supplemented by Decree No. 14/2022/ND-CP dated January 27, 2022. The provisions of Decree 15 are completely appropriate in ensuring that citizens have the right to access and use the internet widely as well as the right to freedom of expression.

Section 4 Chapter V of Decree 15 stipulates that violations of online information are regulated based on Decree No. 72, and also specifies responsibilities and levels of administrative penalties for administrative violations in the implementation of regulations. The guarantee of individual's privacy compared to previous legal documents. According to the above argument, these acts are not contrary to the provisions of international human rights standards.

* Some *additional points* specified in the Decree 15 can be stated as follows:

- A fine ranging from VND 10,000,000 to VND 20,000,000 shall be imposed for taking advantage of social networks to commit one of the following conducts:⁶

⁴ Article 8.8.e

⁵ Article 7

⁶ Article 101.1

+ Providing, sharing fake information, untruthful information, distorting, slandering, insulting the reputation of agencies and organizations, honor and dignity of individuals.

+ Providing and sharing fabricated information, causing confusion among the public, inciting violence, crimes and social evils.

+ Providing and sharing links to online information with prohibited content.

- A fine ranging from VND 20,000,000 to VND 30,000,000 shall be imposed for disclosing information on the list of State secrets, personal secrets and other secrets which are not serious enough to be prosecuted for penal liability.⁷

- Remedy: Forced removal of untrue or misleading information or information that violates the law due to violations of the provisions of the above provisions.⁸

3. With regard to Decree 72

On July 15, 2013, the Government issued Decree 72 on the management, provision and use of internet services and online information. This Decree is amended and supplemented by Decree No. 27/2018/ND-CP on March 01, 2018.

Decree 72 has been developed on the basis of studying the provisions of the current legal system, in accordance with the development requirements of the current Vietnamese society, the cultural traditions of the Vietnamese people and fully meet the requirements of human rights according to the requirements of the United Nations Charter of Human Rights as well as the provisions and requirements of the international treaties on human rights to which Viet Nam is a member. According to Decree 72, individuals can fully provide information, express their own views and opinions and take responsibility before the law for the information they provide.

Regarding prohibited acts specified in Article 5, Decree 72: prohibited acts have been specified in many relevant Laws and Decrees that have been previously issued, such as: Law on Information Technology, Law on Press, Law on Telecommunications.

Internet is an open environment, allowing users to freely provide, search and use information without any geographical and territorial limitation while personal information of users does not need to be authenticated. Therefore, the internet also easily becomes a tool for bad people to take advantage of committing fraud, destroying cultural tradition, public morality, security, fine customs and traditions, to threaten children's safety, and, threaten national security, social order and safety. The introduction of prohibition regulations is intended to guide internet users to know which information and activities violate the law, affecting the common interests of the community, so that every internet user has to pay

⁷ Article 101.2

⁸ Article 101.3

attention, knowledge, adjust behavior and activities in accordance with the provisions of law in order to build and develop a healthy internet environment.

Currently, Viet Nam is studying to improve Decree No. 72 and Decree 15 in order to best guarantee human rights and civil rights in the cyberspace./.