



DEZAN SHIRA & ASSOCIATES

Your Partner for Growth in Asia



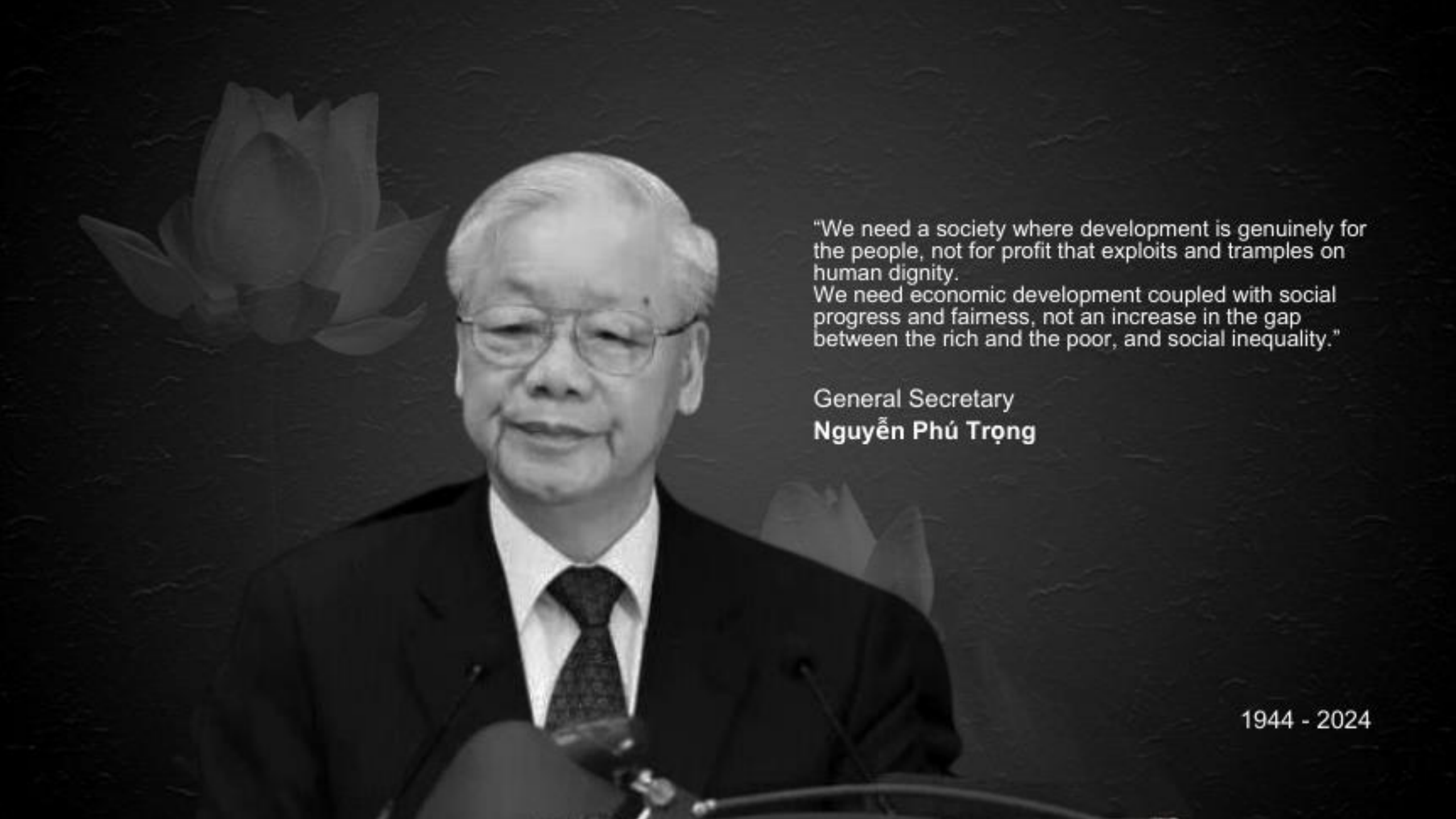
TEKID

Co-Hosts



Vietnam's Personal Data Protection Decree: **Comprehensive Overview, Compliance Roadmap, Regional Impact** [Panel Discussion]

VW Business Center 200 Pasteur, District 3, Ho Chi Minh City



“We need a society where development is genuinely for the people, not for profit that exploits and tramples on human dignity. We need economic development coupled with social progress and fairness, not an increase in the gap between the rich and the poor, and social inequality.”

General Secretary
Nguyễn Phú Trọng

1944 - 2024



DEZAN SHIRA & ASSOCIATES

Your Partner for Growth in Asia



TEKID

Co-Hosts



Vietnam's Personal Data Protection Decree: **Comprehensive Overview, Compliance Roadmap, Regional Impact** [Panel Discussion]


VW Business Center 200 Pasteur, District 3, Ho Chi Minh City

As a corporate services firm, we help businesses invest in Asia.

1992	Privately owned group of companies across Asia. Founded 30 years ago, in Shenzhen and Hong Kong.
35	Offices: 29 in Asia, 4 in Europe and 2 in North America.
350	Services professionals with expertise in legal, tax, accounting, audit, human resources and technology.
80+	Countries served by our international business advisory and professional services in Asia.
5000+	Multinational clients that have already chosen us.

[Explore our Services.](#)
[Learn about our firm.](#)



 **Locations** China, Hong Kong SAR, India, Indonesia, Singapore, Vietnam
Bangladesh, Japan, Malaysia, Philippines, S. Korea, Thailand,
Australia, Italy, Germany, United Kingdom, United States



DEZAN SHIRA & ASSOCIATES

Your Partner for Growth in Asia



A Regional Question:

Comparison of Personal Data Protection Laws Singapore | China | Vietnam

Overview of Personal Data Protection



SINGAPORE

- Personal Data Protection Act (PDPA)

Enacted: 2012 (Updated 2020)

Governing Body: Personal Data Protection Commission (PDPC)

Scope: Applies to all private sector organizations

Key Principles:

- Consent
- Purpose Limitation
- Notification
- Access and Correction
- Accuracy
- Protection
- Retention Limitation
- Transfer Limitation
- Openness



CHINA

- Personal Information Protection Law (PIPL)

Enacted: 2021

Governing Body: Cyberspace Administration of China (CAC)

Scope: Applies to entities processing personal information of individuals within China

Key Principles:

- Lawfulness, fairness, and transparency
- Purpose Limitation
- Data Minimization
- Accuracy
- Storage Limitation
- Security
- Accountability
- Rights of Data Subjects



VIETNAM

- Law on Cyber Information Security (LCIS) & Decree 13/2023/ND-CP

Enacted: 2015 (Updated 2023)

Governing Body: Ministry of Information and Communications

Scope: Applies to organizations and individuals involved in data processing activities

Key Principles:

- Consent
- Purpose Limitation
- Data Minimization
- Accuracy
- Confidentiality and Security
- Rights of Data Subjects
- Cross-border Data Transfer Restrictions

Overview of 26 alternative legal bases to consent for processing personal data

LEGAL BASIS	AU	CN	SG	VN
Necessity in an emergency or to protect the life or health of a person	✓	✓	✓	✓
Necessity to comply with legal obligations	✓	✓	✗	✓
Necessity to enter into, or perform an obligation under, a contract with the data subject	✗	✓	✓	✗
Statistics and/or research	✗	✗	✓	✓
Necessity for public health and/or safety	✓	✓	✗	✓
Processing authorized by law or regulation	✓	✓	✓	✓
Exercise of official or legal authority or performing a task in the public interest	✗	✗	✗	✗
Investigating and/or preventing crimes or misconduct	✓	✗	✗	✓
Necessity for legal proceedings and related purposes	✓	✗	✓	✗
News reporting in the public interest	✗	✓	✓	✓

LEGAL BASIS	AU	CN	SG	VN
Business transactions	✗	✗	✓	✗
Publicly available information	✗	✓	✓	✗
Establishing, exercising, or defending a legal claim or right	✓	✗	✓	✗
Cooperating with government agencies	✗	✗	✓	✗
Necessity for human resources management	✗	✓	✓	✗
Protecting national security	✗	✗	✗	✓
Protecting public revenue	✓	✗	✗	✗
Locating missing persons	✓	✗	✗	✗
Calculating service fees	✗	✗	✗	✗
Business improvement purposes	✗	✗	✓	✗
Necessity for "evaluative purposes"	✗	✗	✓	✗
Necessity for recovery or payment of a debt	✗	✗	✓	✗
Credit reporting	✗	✗	✓	✗
Private trust or benefit plan	✗	✗	✓	✗
Providing a service for personal or domestic purposes	✗	✗	✓	✗

LEGAL BASIS	AU	CN	SG	VN
Necessity for "evaluative purposes"	✗	✗	✓	✗
Necessity for recovery or payment of a debt	✗	✗	✓	✗
Credit reporting	✗	✗	✓	✗
Private trust or benefit plan	✗	✗	✓	✗
Providing a service for personal or domestic purposes	✗	✗	✓	✗




Findings:

- Singapore most generous (18 of 26)
- China & Vietnam stricter (8 of 26)
- Australia for comparison (9 of 26)

Source:

Comparing "Consent" Rules in General Data Protection Laws across Asia-Pacific by Josh Lee Kok Thong, Managing Director (APAC), Future of Privacy Forum | Personal Data Protection Commission

Overview of Personal Data Protection

Category	 Singapore	 China	 Vietnam
Consent Requirements	Explicit consent required; opt-in mechanism	Explicit consent required; special provisions for sensitive personal information	Explicit consent required; detailed guidelines on obtaining and managing consent
Data Subject Rights	Access, correction, withdrawal of consent, data portability (upcoming)	Access, correction, deletion, data portability, restriction of processing	Access, correction, deletion, withdrawal of consent
Data Breach Notification	Mandatory notification to PDPC and affected individuals if significant harm is likely.	Mandatory notification to relevant authorities and affected individuals in case of serious breach.	Mandatory notification to Ministry of Public Security's Department of Cyber Security and High-Tech Prevention, affected individuals, and other related parties involving in the processing procedure.
Cross-Border Data Transfer	Allowed with safeguards; model contract clauses and binding corporate rules	Strict restrictions ; security assessment required for certain types of data	Restrictions apply ; compliance with local regulations required
Penalties for Non-Compliance	Financial penalties up to SGD 1 million	Fines up to RMB 50 million or 5% of the previous year's turnover	Fines and administrative sanctions; specific penalties vary based on the violation (Up to 5% of previous annual turnover)

Prominent Cases of Data Protection Violations:



SINGAPORE

SingHealth Data Breach (2018):

Incident: Personal data of 1.5 million patients, including the Prime Minister, were stolen.

[Source>>>](#)

Cause:

Weak cybersecurity practices and failure to follow established protocols.

Outcome: SingHealth and its IT vendor, IHiS, were fined SGD 1 million combined. The breach led to a major overhaul in Singapore's data protection practices and stricter regulations.

[Data Security Breach]

CHINA

Didi Chuxing (2021):

Incident: Chinese authorities launched a cybersecurity review into Didi just days after its IPO in the US, citing concerns over data security. [Source>>>](#)

Cause:

Alleged mishandling and excessive collection of user data.

Outcome: Didi was removed from app stores in China, and the company faced significant financial and operational challenges as a result of the investigation.

[Cross Boarder Transfer Violation]

VIETNAM

Mobile World (2018):

Incident: Data breach affecting millions of customers of Mobile World, a major electronics retailer.

[Source>>>](#)

Cause: Alleged poor security practices and failure to protect customer data adequately.

Outcome: The incident led to public outcry and increased focus on improving data protection practices in Vietnam.

[Data Security Breach
& Data Subject Rights Violation]



DEZAN SHIRA & ASSOCIATES

Your Partner for Growth in Asia



Overview on Vietnam's Personal Data Protection Decree

Key Principles of Personal Data Protection laws in Vietnam Under Decree 13/2023/ND-CP



Key Principles	Resulting Obligations
Awareness	Data subjects must be notified when their data is being collected or processed.
Clarity on data collection and purpose	Data subjects must be informed about the purposes for collecting their data and how it will be used. Data processing can only be done for the outlined purposes.
Relevance	The collected data and purposes must be appropriate and limited to the scope and purpose for which it is processed.
Commercial use	Personal data cannot be bought or sold in any form.
Privacy	Personal data must be protected and kept confidential.
Time limits	Personal data must only be stored for the period necessary for its processing.

Consent Requirements

Consent Requirements

Consent must be informed and must be **provided freely**. This requires that data subjects are provided with information about **what personal data is processed**, specific purposes of processing, their rights and obligations in relation to their data, and **who** processed personal data.

Consent must be **explicitly given** and expressed in writing, by voice, by ticking the consent box, in the syntax of consent through text messages, by selecting consent in technical settings, or through another action that demonstrates this; | Consent letter must be expressed in a format that can be printed or reproduced in the text, including in the electronic or verifiable format

With sensitive personal data, the data subject must be informed that the **data to be processed is sensitive personal** data in the acquisition process.

Appropriate measures must be put in place to record and **save each consent** provided by data subjects proving that the data subjects have consented in case of any dispute.

A mechanism for data subjects to **withdraw their consent** **must** be available.

Explicit consent is required, with detailed operational guidelines on obtaining and managing consent

Data Subject Rights

Rights	Resulting In
Right to know	The data subject is informed about the processing of his or her personal data
Right to consent	The data subject may or may not consent to the processing of his or her personal data
Right to access	The data subject has access to view, edit or request correction of his or her personal data
Right to withdraw consent	The data subjects have the right to withdraw their consent
Right to erasure data	The data subject has the right to erase personal data or request personal data to be erased
Right to restrict data processing	The data subject is permitted to restrict the processing of his or her personal data
Right to request the provision of data	The data subject is entitled to request the Personal Data Controller, and Processor to provide overview of personal data .
Right to object to data processing	The data subject has the right to object to the Personal Data Controller and Processor processing his or her personal data in order to prevent or restrict the disclosure of personal data or its use for personal, advertising and marketing purposes.
Right to complain, denounce and initiate lawsuits	The data subjects have the right to complain, denounce or sue
Right to claim damages	The data subjects have the right to request compensation for damages.
Right to self-protection	The data subjects have the right to self-protect or request competent agencies and organizations to implement protection methods.

Obligations of Data Controller/Data Processor under VN PDPD

Data Controller:

This role, held by either an organization or an individual, involves determining the purpose and methodology of processing personal data.

→ Responsibilities include **compliance with data protection requirements, obtaining prior consent from data subjects for all processing activities, and promptly notifying the MPS of any personal data breaches.**

Data Processor:

This refers to an entity or individual that processes personal data on behalf of the Data Controller through a contractual agreement.

→ Duties include **notifying the Data Controller of any breaches and processing personal data** in accordance with the terms of the contract.

MANAGED BY

Data Protection Officer (DPO)



Responsibilities include:

- Enforcing the company's **Data Protection Policy** and ensuring compliance across the organization.
- **Developing guidelines for all staff members** and verifying their strict adherence.
- **Arranging training sessions for relevant employees**, either in-house or at external venues.
- **Supervising and guiding** the company's **Data Processors** while fostering talent within the team.
- Supplying senior management with necessary information, often involving highly sensitive data.
- Ensuring all data is current and that data destruction policies are properly implemented.

Data Breach Notification



In the event of a data breach, the PDPD mandates a record of violation.



The **Data Processor** notifies the **Data Controller**, along with the Data Controlling and Processing Party, **must inform the Ministry of Public Security (MPS) within 72 hours**

Breaches may incur fines from VND 10 million to VND 40 million



Cross-Border Data Transfer

Definition:

Any activity involving the use of cyberspace, electronic equipment, electronic means or other forms to transfer or process personal data of Vietnamese citizens outside Vietnam.

To transfer the data of Vietnamese citizens abroad, a “dossier” must be completed and **submitted to the Ministry of Public Security**
→ Within **60 days** of processing the data.

The dossier should include:

The contact information and details of the sender and the receiver	A description and explanation of how the regulations on the protection of personal data in this Decree will be met in the transfer process .
The contact details of a representative of the sender	An assessment of the impact of personal data processing <u>abroad including any potentially undesirable consequences or damage that may occur, and measures</u> for mitigating these outcomes.
A description and explanation of the objectives of transferring the personal data abroad	The consent of the person from whom the data is being collected and evidence that they are aware of the means of recourse available should any problems arise; and
A description of the type of personal data to be transferred abroad	A document that outlines the obligations and responsibilities of both the sender and receiver processing the data.

Penalties for non-compliance | Individuals



[Individuals] will be criminally liable for committing the following privacy related offences

- **Infringement** upon other persons privacy or safety of letters, telephone, telegraph or other means of private communications
- **Illegally uploading information** onto or using information on computer networks and telecommunications networks
- **Illegally collecting, possessing, exchanging, trading, publishing information about bank accounts**

Fine of up to
VND 1 Billion (~\$41,000 USD)

And/or up to
7 years of imprisonment

Penalties for non-compliance | Corporate



[Organizations] will be criminally liable for committing the following privacy related offences

Specific Violations:

- Repeated breaches in marketing and advertising
- Illegal collection, transfer, purchase, and sale of personal data
- Disclosure or misplacement of **personal data of 5 million or more Vietnamese citizens**

Remedial Measures:

- Can involve a public apology, suspension of the data-collecting business license (for 1-3 months), forced data processing suspension (for 1-3 months), mandatory data destruction, and returning any illegal profits obtained.

Escalating Fines:

- **1-5 million citizens impacted:** fines up to VND 500 million
- **Over 5 million citizens impacted:** fines up to 5% of total revenue
- **Cross-border violations:**
 - 3% to 5% of the enterprise's previous fiscal year turnover in Vietnam

Additional Penalties:

- Suspending business licenses (for industries that require personal data collection) for 1-3 months, and confiscating evidence and data processing tools.



DEZAN SHIRA & ASSOCIATES

Your Partner for Growth in Asia



Implementation Progress of VN PDPD

Overview of the Vietnam PDPD Implementation

DEZAN SHIRA & ASSOCIATES

The Official Plan No.151 of the Ministry of Public Security dated 22 March, 2024 on auditing the compliance of Personal Data Protection Regulations

Audit Purpose:

- Evaluate the situation, personal data protection work, clarify the results achieved, inadequacies, limitations and causes, forecast the situation, the issues raised, and anticipate personal data protection work in the future; propose solutions to improve policies and laws and organize the implementation of policies and laws on personal data protection.
- Propose to handle violations on regulations of personal data protection according to the provisions of laws;
- Collect information, documents, and data during the actual audit process to serve research and development of personal data protection law, ensuring consistency, suitability, and feasibility;

Audit Content:

- Compliance with legal regulations on personal data protection in all activities of agencies and organizations subject to the audit, including administrative activities and technical systems
- Actual situation of applying processes and measures to protect personal data
- Implementation of administrative procedures on personal data protection
- Evaluate the advantages, difficulties, problems, and limitations in the protection of personal data, including institutional problems, legal regulations and practices of law enforcement, regulations and laws.
- Collect opinions and propose recommendations to improve the draft of Law on Personal Data Protection; gather specific recommendations on developing, promulgating new or amending and supplementing the draft of Law on Personal Data Protection; propose contents and policies that should be regulated in the Law on Personal Data Protection.

Overview of the Vietnam PDPD Implementation



Audit Subjects (Some tier companies in each field as below are enlisted in the plan):

- Aviation (Civil Aviation Authority of Vietnam, Vietnam Airlines);
- Telecommunication (Mobiphone, Vinaphone);
- Bank (VP Bank, Eximbank, Ban Viet Bank);
- Finance and Credit (FeCredit, F88, Mcredit);
- Payment intermediary (Momo, Bao Kim);
- Online game (VNG, Funtap, Dozgame);
- E-commerce (Shopee, Lazada, Winmart);
- Education (Apollo, ILA, Ocean Edu, Viet Nam Australia International Education Corporation);
- Healthcare Service (Medlatec, Victoria Healthcare);
- Real Estate (Savills, Khang Dien Group, Hung Thinh Group, Dat Xanh Group, TTC Land);
- Stock (Capital Securities JSC, MBS, Vndirect, VPS, Vietcap);
- Personal data processing service (NCT, Data Nest, Safecert, Trusting Social);
- Transport service (Grab);
- Insurance service (Generali, Manulife)

Audit Measure & Timeline:

- According to this plan, those above-mentioned companies shall be informed about the audit Decision from the audit authorities and be requested to send the Assessment Report on Personal Data Protection before 30 May 2024 to the Ministry of Public Security;
- The audit authorities will arrange and execute the audit in June, July and August 2024;
- The audit report with method to resolve violations (if any) is scheduled to send out in Sep 2024.

Development of the Vietnam PDPD Implementation

Workshop on Policy on Personal Data Protection hosted by the Ministry of Public Security on 5 June 2024

Main Discussion Points:

The representative of the Ministry of Public Security Central Report presented the perspectives, development orientation to Law on Personal Data Protection in Vietnam in review of the main points as below:

Experienced Experts from reference to the regulations on Personal Data Protection from other countries like France, India, Singapore, Indonesia, EU, VN may need adapt:

- Build and improve the legal mechanism to ensure the implementation of the rights to protect personal data
- Build institutions to ensure the implementation of the right to protect personal data
- Apply complaint and dispute resolution mechanisms to ensure the implementation of personal data protection rights (including conciliation mechanisms; administrative complaints; dispute resolution mechanisms)

Pointed out some issues in the implementation of Decree 13 after one year of implementing the regulation on personal data protection as follows:

- The implementation of the Decree is limited; the process of creating personal data impact assessment dossiers, personal data transfer impact assessment dossiers, and notifying violations of personal data protection is still facing many difficulties and delays;
- Training, instruction, and capacity-building for officers and employees have not been carried out, and many officers and employees are not even aware of the basic rights and obligations of data subjects; and
- The provision of technical solutions for personal data protection is still limited, and there are no criteria for evaluating these technical solutions.

Development of the Vietnam PDPD Implementation

DEZAN SHIRA & ASSOCIATES

Workshop on Policy on Personal Data Protection hosted by the Ministry of Public Security on 5 June 2024

Orientation of improvement and development:

Given the issues of the implementation of Decree 13/2023 as above briefed, the Ministry of Public Security is proposing and orienting the development of a Personal Data Protection Law with the main contents

- **Regarding the purpose:** The development of the Law on Personal Data Protection aims to improve the national legal system on personal data protection, create a legal corridor for personal data protection, and enhance capacity of personal data protection for domestic organizations and individuals to reach international and regional levels; promote the legal use of personal data to serve economic and social development.
- **Regarding subjects of application:** 04 main subjects of application are stipulated: **Foreign agencies, organizations, and individuals** directly participating in or related to personal data processing activities in Vietnam; Vietnamese agencies, organizations and individuals; Foreign agencies, organizations and individuals in Vietnam; Vietnamese agencies, organizations and individuals operating abroad.

- **Unify terminology and develop some important concepts on personal data protection such as:** personal data; personal data protection; clarify the concept and connotation of basic personal data and sensitive personal data; accurately and completely identify personal data processing activities
- **Develop personal data protection principles:** expected to develop 08 personal data protection principles, including: legality, transparency, purpose, limitation, accuracy, security, time limit storage and explanation.
- Regulate the rights and obligations of data subjects
- Regulate personal data protection conditions for organizations providing personal data processing services; Services providing organizations and personnel to protect personal data (DPO)

Development of the Vietnam PDPD Implementation

Workshop on Policy on Personal Data Protection hosted by the Ministry of Public Security on 5 June 2024

Orientation of improvement and development:

Given the issues of the implementation of Decree 13/2023 as above briefed, the Ministry of Public Security is proposing and orienting the development of a Personal Data Protection Law with the main contents

- Requires assessing the impact of processing personal data and transferring personal data abroad as a commitment before the law on personal data processing activities. **Accordingly, the entities, organization shall be proactive to process personal data and collect and file sufficient related documents for a later inspection by the competent authority.**
- **Complete regulations** on personal data protection measures and conditions to ensure personal data protection activities;
- **Regulates on the responsibilities of agencies, organizations, and individuals** such as the responsibilities of the Ministry of Public Security, the Ministry of Information and Communications, the Ministry of Science and Technology, Ministries, ministerial-level agencies, and Government agencies, People's Committees of provinces, Personal Data Controllers, Data Processors, Data Controllers and Processors, Third Parties, relevant organizations and individuals.

Conclusion:

Given the above information, the competent authority has taken action to inspect the implementation of personal data protection in some top-tier companies in Quarter II and Quarter III of 2024. Also take actions for preparation of development a Law on Personal Data Protection.

→ This is a suitable time for other companies that are not on the list to understand the requirements in the Decree on personal data protection and **conduct the internal assessment to comply with all requirements before the competent authority takes any further action** to avoid any potential risks.



DEZAN SHIRA & ASSOCIATES

Your Partner for Growth in Asia



TEKID

Co-Hosts



Vietnam's Personal Data Protection Decree: Comprehensive Overview, Compliance Roadmap, Regional Impact [Panel Discussion]

VW Business Center 200 Pasteur, District 3, Ho Chi Minh City