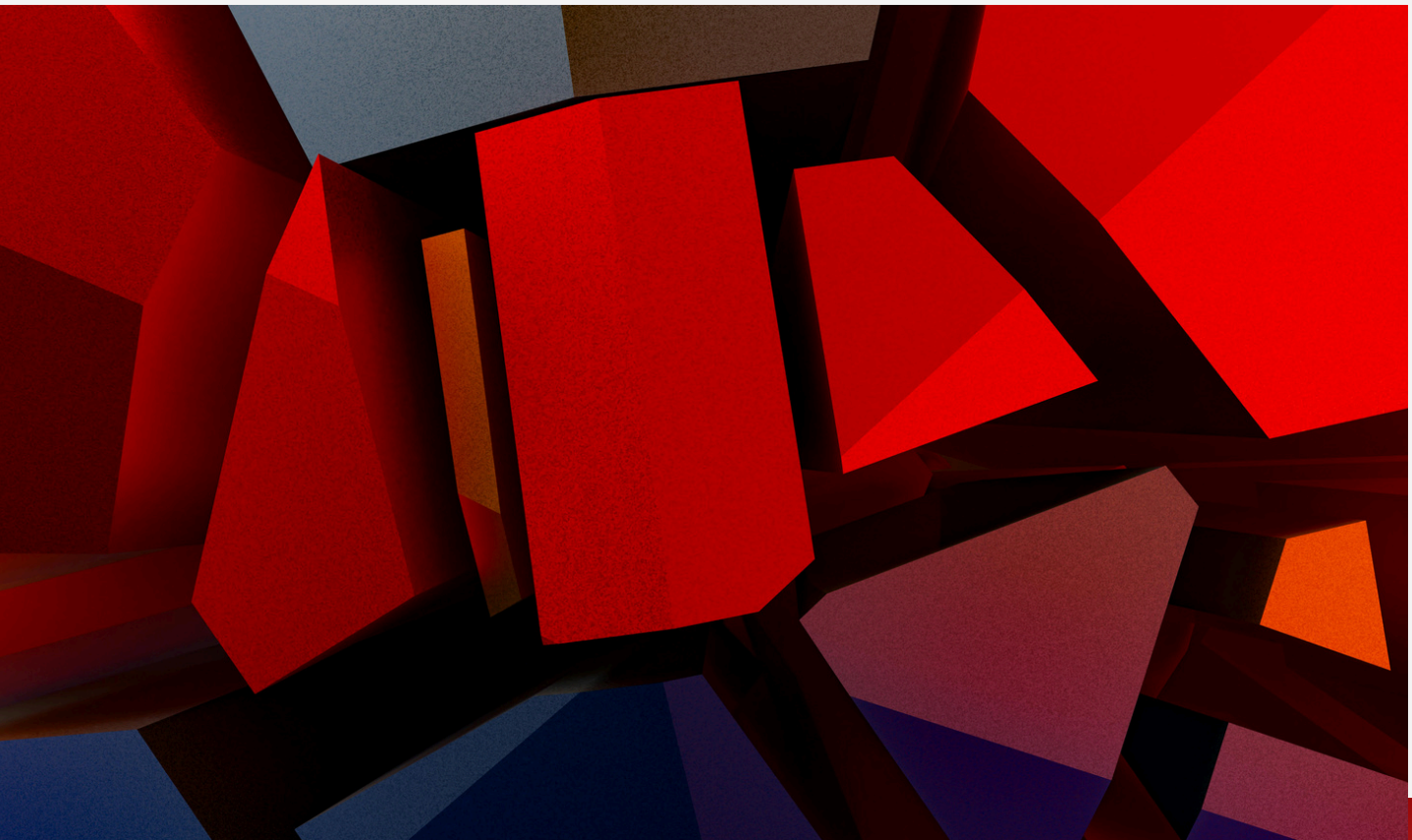


PENALTIES FOR PERSONAL DATA VIOLATIONS ACCORDING TO THE LATEST DRAFT DECREE



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PENALTIES FOR PERSONAL DATA VIOLATIONS ACCORDING TO THE LATEST DRAFT DECREE

** This content is based on the Draft Decree on Sanctions for Administrative Violations in the Field of Cybersecurity and Personal Data Protection. The Draft is currently open for public consultation. In the future, the Draft will undergo stages of consultation, appraisal, and revision; therefore, the content is subject to change until it is officially promulgated.*

1. APPLICABLE ENTITIES

Vietnamese organizations and individuals, as well as foreign organizations and individuals (hereinafter collectively referred to as organizations and individuals) that commit administrative violations. Accordingly, "organizations" herein include:

- Private enterprises, joint-stock companies, limited liability companies, partnerships, and dependent units of enterprises;
- Organizations established under the Law on Cooperatives;
- Organizations established under the Law on Investment;
- Political-social organizations, social organizations, and socio-professional organizations;
- Foreign enterprises or branches, representative offices, and business locations of foreign enterprises providing telecommunications services, Internet services, cyberspace content services, information technology, and cybersecurity; foreign agencies, organizations, and individuals directly participating in or related to the processing of personal data of Vietnamese citizens and persons of Vietnamese origin whose nationality has not been determined and who are residing in Vietnam and have been issued identity certificates;
- Agents providing telecommunications services or electronic games; Internet agents that are organizations;
- Representatives and representative offices of foreign telecommunications enterprises; branches of telecommunications service enterprises;
- Public telecommunications and electronic game service points; public Internet access points;
- Organizations and enterprises providing information content services on mobile telecommunications networks and cyberspace;
- Units operating in the fields of broadcasting and television using radio frequencies;

- Public service units, social organizations, socio-professional organizations, and foreign non-governmental organizations using radio frequencies;
- Domain name registrars; organizations and enterprises registering domain names;
- Information system owners and information system operating units;
- State agencies committing administrative violations that do not fall under their assigned state management duties;
- Other organizations as prescribed by law.

2. FORMS OF SANCTION

Primary Sanction: Monetary fine.

Additional Sanctions: Depending on the nature and severity of the violation, organizations and individuals committing administrative violations may also be subject to one or more of the following additional sanctions:

- Warning;
- Deprivation of the right to use licenses or permits for a fixed term;
- Fixed-term suspension of operations;
- Confiscation of exhibits, means, and digital accounts used to commit administrative violations (hereinafter collectively referred to as exhibits and means of administrative violations);
- Expulsion of foreigners who commit administrative violations.

3. PROVISIONS ON MONETARY FINES

- The maximum fine for administrative violations relating to the trading of personal data is 10 times the illicit revenue derived from the violation.
- The maximum fine for other administrative violations in the field of personal data protection is VND 1.5 billion for individuals and VND 3 billion for organizations.
- The maximum fine for organizations committing violations regarding cross-border transfer of personal data is 5% of the organization's total turnover in the immediately preceding fiscal year.

In cases where there is no turnover in the preceding year, or the fine calculated based on turnover is lower than the maximum fine (specifically VND 3 billion), a fine of VND 3 billion shall be applied.

4. SPECIFIC GROUPS OF VIOLATIONS IN THE FIELD OF PERSONAL DATA AND CORRESPONDING SANCTIONS

Based on Section 7, Chapter II of the Draft, fines for violations of personal data protection can be summarized into the following main groups.

The fines below apply to individuals; fines for organizations are **twice those applicable to individuals**:

Group of Violations Regarding Rights and Consent of Data Subjects

- **Obstructing the withdrawal of consent:** A fine ranging from VND 25,000,000 to VND 50,000,000 for acts of preventing or intentionally hindering the withdrawal of consent.
- **Accessing and Rectifying Data:** A fine ranging from VND 25,000,000 to VND 50,000,000 for failing to allow data subjects to access, view, or rectify their data.
- **Processing Data without Consent:** A fine ranging from VND 50,000,000 to VND 70,000,000 for processing data without consent or forcing consent for other purposes.
- **Procedures for Exercising Subject Rights:** A fine ranging from VND 70,000,000 to VND 100,000,000 for failing to establish procedures for data subjects to exercise their rights.
- **Response Timeframe for Requests:** A fine ranging from VND 70,000,000 to VND 100,000,000 for failing to respond to or fulfill requests to withdraw consent, view, rectify, or delete data within the prescribed time limit (usually 02 working days for a response).

Group of Violations Regarding Principles of Processing, Storage, and Security

- **Over-retention of Data:** A fine ranging from VND 25,000,000 to VND 50,000,000 for continued storage when it is no longer consistent with the purpose, or when the data subject has withdrawn consent/requested deletion; or VND 50,000,000 to VND 70,000,000 if stored beyond a period suitable for the processing purpose.
- **Failure to Delete Data on Time:** A fine ranging from VND 25,000,000 to VND 50,000,000 for failing to delete data within 02 working days upon **request**.
- **Audio/Video Recording in Public Places:** A fine ranging from VND 25,000,000 to VND 50,000,000 for failing to notify the data subject that they are being recorded.
- **Wrongful Purpose and Lack of Security:** A fine ranging from VND 50,000,000 to VND 70,000,000 for processing data for the wrong purpose, failing to ensure accuracy, or failing to apply basic data protection measures.

- **National Security Infringement / Data Breach:** A fine ranging from VND 70,000,000 to VND 100,000,000 for processing data against the State, harming national security, or misappropriating, intentionally disclosing, or losing personal data.
- **Personnel for Sensitive Data Protection:** A fine ranging from VND 70,000,000 to VND 90,000,000 for failing to designate a department or personnel in charge of sensitive personal data protection.

Group of Violations in Business Activities and Data Transfer

- **Advertising Business:** A fine ranging from VND 50,000,000 to VND 70,000,000 for using customer data outside of the agreement or failing to allow subjects to opt-out of data sharing.
- **Illegal Trading and Collection:** A fine ranging from VND 50,000,000 to VND 70,000,000 for the illegal purchase or sale of personal data or illegal collection for training AI systems.
- **Cross-border Data Transfer:** A fine ranging from VND 70,000,000 to VND 100,000,000 for failing to prepare/store impact assessment dossiers or failing to comply with inspection requests from the Ministry of Public Security.

Group of Violations Regarding Reporting and Impact Assessment

- **Notification of Violation:** A fine ranging from VND 25,000,000 to VND 50,000,000 for failing to notify the Ministry of Public Security within 02 working days after detecting a personal data protection violation.
- **Impact Assessment Dossiers:** A fine ranging from VND 50,000,000 to VND 70,000,000 for failing to establish, store, or submit data processing impact assessment dossiers to the Ministry of Public Security.

Special Fine Rates

- **Fine Based on Revenue:** Up to 5% of prior-year turnover for repeat violations in advertising or illegal data trade.
- **Fine Based on Scale of Data Breach:**
 - Leaking/losing data of 100,000 to under 1,000,000 citizens: Fine is **multiplied by 02**.
 - Leaking/losing data of 1,000,000 to under 5,000,000 citizens: Fine is **multiplied by 05**.
 - Leaking/losing data of over 5,000,000 citizens: Fine of **5% of total turnover** or **3% to 5% of total turnover** (for violations involving cross-border transfers).
 - **Data Trading:** The maximum fine is 10 times the illicit revenue obtained from the violation.

Additionally, accompanying additional sanctions often include revocation of business licenses or suspension of personal data processing for a period of 01 to 03 months.

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