



COMMENT

On the Decree No. 02 of 2011 On Administrative Responsibility for Press and Publication Activities Of the Prime Minister of the Socialist Republic of Vietnam

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I. INTRODUCTION

This Comment contains the analysis of the Decree of the Prime Minister of the Socialist Republic of Vietnam No. 2 of 2011 on Administrative Responsibility for Press and Publication Activities in light of international standards on freedom of expression.¹

ARTICLE 19 is an international, non-governmental human rights organisation which works with partner organisations around the world to protect and promote the right to freedom of expression. We have previously provided legal analyses of various laws related to freedom of expression in more than 30 countries.² Regarding Vietnam, we have previously issued a draft legislation on freedom of information and assisted local stakeholders in raising awareness on the importance of access to information nationally and internationally.

Decree No. 02 of 2011 (“Decree”), regulating administrative responsibility for press and publication activities, applies to individuals, journalists, editors, foreign organisations, publishers, printers, owners and operators of photocopiers. It deals with the following issues:

- violations of the regimes concerning press licences;
- information content;
- provision of information to the press and using information of the press, and press briefing;
- cooperation in the production of broadcasting programmes;
- publication content;
- printing activities;
- publication archiving and distribution;
- publication import and export;
- reporting, publication, and print management.

According to the Government, the Decree has been designed to improve media professionalism, create an environment based on rule of law, and clarify unclear articles of the 1989 Press Law.

In this Comment, ARTICLE 19 raises a number of concerns about the provisions of the Decree and their failure to comply with international standards. We call on the Vietnam Government to immediately repeal the Decree and abide with its international freedom of expression commitments.

II. Vietnam’s obligation to promote and protect media freedom and freedom of expression

Vietnam is a member state of the International Covenant of Civil and Political Rights (“ICCPR”). Article 19 of the ICCPR guarantees the right to freedom of expression in the following terms:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

¹ Copy of the Decree is attached in Appendix to this Comment.

² These analyses can be found on the ARTICLE 19 website, at <http://www.article19.org/publications/law/legal-analyses.html>.

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3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
- a) For respect of the rights or reputations of others;
 - b) For the protection of national security or of public order (ordre public), or of public health or morals.

Further, the ICCPR, in Article 2, places a dual obligation on states to:

[A]dopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

and to:

[E]nsure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, ...

International law does permit some restrictions on the right to freedom of expression and information in order to protect the private and public interests listed in paragraph 3 of Article 19 of the ICCPR. However, both the language of the provisions guaranteeing freedom of expression and the international jurisprudence make it clear that any restrictions must meet a strict three-part test. This test, which has been confirmed by the Human Rights Committee,³ requires that any restriction must: a) be provided for by law; b) be required for the purpose of safeguarding one of the legitimate interests noted in Article 19(3); and c) be necessary to achieve this goal. It is clear that the proper approach to evaluating a particular restriction is not to balance the various interests involved but to ascertain whether the restriction meets the strict test elaborated above.⁴

The first part of the test means that state action restricting freedom of expression that is not specifically provided for by law is not acceptable. Restrictions must be accessible, foreseeable, and “formulated with sufficient precision to enable the citizen to regulate his conduct.”⁵ As a result, official measures which interfere with media freedom but are not specifically sanctioned by law, such as discretionary acts committed by the police or security forces, offend freedom of expression guarantees. Secondly, only measures which seek to promote legitimate interests are acceptable. The list of legitimate interests contained in Article 19(3) is exclusive. Measures restricting freedom of expression which have been motivated by other interests, even if these measures are specifically provided for by law, are illegitimate.

Thirdly, even measures which seek to achieve one of the legitimate goals listed must meet the requisite standard established by the term “necessity”. Although absolute necessity is not required, a “pressing social need” must be demonstrated, the restriction must be proportionate to the legitimate aim pursued, and the reasons given to justify the restriction must be relevant and sufficient.⁶ The government, in protecting legitimate interests, must restrict freedom of expression as little as possible. Thus vague or broadly defined restrictions, even if they satisfy the “prescribed by law” criterion, will generally be unacceptable because they go beyond what is strictly required to achieve the legitimate aim.

³ For example, in *Mukong v. Cameroon*, No. 458/1991, views adopted 21 July 1994, 49 GAOR Supp. No. 40, UN Doc. A/49/40, para. 9.7.

⁴ The European Court has held that in evaluating restrictions it is faced not with a choice between two conflicting principles but with a principle of freedom of expression that is subject to a number of exceptions which must be narrowly interpreted. *Sunday Times v. United Kingdom*, 26 April 1979, Series A no. 30, 2 EHRR 245, para. 65.

⁵ *Ibid.* at para. 49.

⁶ *Ibid.* at para. 62. These standards have been reiterated in a large number of cases.

III. Problematic issues with the Decree

ARTICLE 19 finds that the following provisions of the Decree violate the international standards outlined above.

i. Governmental control over the media and expression

The principal problem of the Decree is that it illegitimately subjects freedom of expression and the media to the control of the Government. Although rules on the operation of the media are acceptable when they are necessary to achieve legitimate interests, such as protection of public order, reputation, rights of others, public health or national security, these rules should be set out not by governments but by parliaments as legislative bodies. Parliaments have the legitimate power to regulate issues concerning human rights as they are designed to protect individuals from the government itself. In contrast, governments regulate matters concerning public administration.

As most subject matters regulated by the Decree are not related to public administration but to freedom of expression and media freedom, the government should not regulate them.

ii. Overregulation

The broad scope of the Decree is another serious problem. The Decree regulates matters that are normally left to the journalist profession or media industry. For example, in most democratic states, the print media and the internet are self regulated and not regulated by legal acts. Likewise, international media standards do not require special statutory regulation of business processes such as publishing, printing, archiving and distribution. Finally, standards of news making and reporting, as well as regulation of the interaction of individuals with the media (media briefing, providing information to the press and using information from the press), are entirely professional issues. Journalists, rather than the state, are better placed to develop rules on objective reporting and decide if the professional standards have been violated.

iii. Obscure provisions

ARTICLE 19 is concerned about a number of obscure provisions which provide opportunities for state intervention and restrictions of legitimate expression. For example, although the term “publication” is widely used in the Decree, the latter does not contain a definition of “publication.” It is not clear, for instance, whether a print-out of a manuscript on a home printer would be regarded as a “publication.” Furthermore, the rules restricting “publication that preaches to obscene lifestyle, criminal action, social evils, superstition or anything that does not suit Vietnam’s fine custom” or “bias information that does not cause serious consequences” or “inappropriate illustration and title which confuse the readers” or “sell, circulate, rent out and post on the internet the publication that encourages superstition, bad tradition and social evils” can be used to arbitrarily and unnecessarily restrict legitimate speech. Finally, despite the requirement for giving “timely notice” for organisation of a press

briefing, the Decree does not specify the length of time required in advance. This gives opportunities for authorities to restrict press briefing.

iv. Unnecessary regime of registration

There are an overwhelming number of sanctions on conducting activities without registration and permission. The Decree provides for sanctions when the following activities are carried out without registration/licenses:

- issuing letter (Article 4);
- circulation by a foreigner of publication (Article 4);
- using printing equipment (Article 22);
- broadcasting channels, news and political programmes (Article 16);
- import of publications (Article 25).

ARTICLE 19 notes that technical registration requirements for the press, publishing houses and print houses do not *per se* offend guarantees of freedom of expression as long as they meet a number of conditions, noted below. However, ARTICLE 19 considers registration to be unnecessary and it is not, in fact, required in many countries. The Human Rights Committee, which oversees the ICCPR, has noted, “effective measures are necessary to prevent such control of the media as would interfere with the right of everyone to freedom of expression.”⁷

In particular, registration regimes should respect the following conditions: the authorities should have no discretion to refuse registration once the requisite information has been provided; registration should not impose substantive conditions on the press; and the registration system should be administered by bodies which are independent of government. Registration requirements which do not respect these conditions offend freedom of expression principles because they cannot be justified on the grounds listed in the ICCPR, such as protecting the rights or reputations of others, national security, or public order, health or morals.

Although the registration procedures are set out in other laws, ARTICLE 19 is concerned that the registration regime in Vietnam is not simply a technical process and that registration may be refused. Hence we are worried about the numerous sanctions which failures to obtain registration and licences entail.

In addition, ARTICLE 19 is concerned that the media, individuals and organisations are overburdened with administrative requirements in order to perform their functions. For example, the Decree provides for sanctions in the following circumstances:

- a publication has been published by a person using a pseudonym (Article 7);
- the competent authority is not informed about relocation of press, and representative office, publishing house and printing house (Article 28);
- printing products are not recorded by printing houses (Article 22);
- the Department of Publications is not informed of the name of publication, author, website address and date of posting before publishing on the internet (Article 28);
- the Ministry of Information and Communication and Department of Information and Communication are not informed about the establishment, termination of the

⁷ General Comment 10 (19) in Report of the Human Rights Committee (1983), 38 GAOR, Supp. No. 40, UN Doc. A/38/40.

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representation, appointment and termination of the post of permanent reporters be reported to (Article 28);

- a fair and exhibition of publication is held without permission (Article 24).

The numerous administrative requirements are hurdles for economic activities and will have a negative effect on free flow of information. Moreover, the requirement to inform state authorities about almost any publication or public activity will have a chilling effect on free expression. Finally, we are concerned that some of the above restrictions of the Decree violate the 1989 Press Law of Vietnam. For example, the prohibition to publish articles under pseudonyms (Article 7), which seems to be addressing in particular Vietnam's bloggers, as many of them publish under pseudonyms to avoid possible reprisals - this appears to conflict with Article 7 par. 3 of the 1989 Press Law which entitles the media not to disclose the names of persons providing information where it is possible that such disclosure may cause harm to those persons.

v. Unnecessary bans and censorship

ARTICLE 19 notes that the Decree permits censorship by restricting:

- the placing of poster board, sign in front of foreign representation (Article 4);
- organisation by foreign institution of film screening, exhibition and other activities relating to the press and with participation of Vietnamese without approval (Article 4);
- publishing of publications without appraisal and importing of publication without registration (Article 25);
- posting opinion expressed at conference, gathering, exchange, symposium in form of an interview without author's approval (Article 8).

Furthermore, some requirements are likely to be used for censoring expression. For example, the requirements:

- to seek approval by the licensing authority of all publications before printing (as it follows from the wording of Article 22). In addition, no publication can be published without a decision by a publishing house, director or print permit (Article 22).
- to present interviewees with the text of the interview before publication (Article 8)

ARTICLE 19 notes that the many bans are absolute because they can be imposed without any consideration of their necessity in the particular circumstances, in particular:

- use of photocopier and other equipment to copy illegally the press, publication and other printing products banned from circulation (Article 22);
- adding, omitting or expressing wrongly the interviewee opinion on the press (Article 8);
- holding of banned books (Article 24);
- distribution of publications by foreign representative offices in Vietnam (Article 24);
- selling, renting out or posting on the internet of not-for sales or for internal use only publication (Article 24).

ARTICLE 19 finds that these provisions illegally restrict the right to freedom of expression and are impermissible under international standards.

vi. Lack of protection of journalistic sources

ARTICLE 19 is very concerned about the rule establishing administrative liability for media publications that do not identify sources of information (Article 7). This provision is not in compliance with international law.

We note that protection of sources is a fundamental principle of freedom of expression and press freedom as well as a cornerstone to independent and professional investigative journalism. International law⁸ imposes four requirements for an exception to the right of protection of sources to be valid: i) the identity of the source is necessary for the investigation or prosecution of a serious crime, or the defence of a person accused of a criminal offence; ii) the information or similar information leading to the same result cannot be obtained elsewhere; iii) the public interest in disclosure outweighs the harm to freedom of expression; and iv) disclosure has been ordered by a court, after a full hearing. The legal regime in Vietnam does not follow these standards.

vii. *Lack of safeguards in the enforcement processes*

Although the Decree over-regulates the conduct of the media, individuals and organisations, its enforcement regime lacks safeguards against abuse of administrative powers. Various bodies are empowered to supervise and enforce the Decree. This regulation framework subjects media and other forms of expression to strict state control. Regrettably the Decree does not set out procedures for enforcement; this lack of procedure deprives the media of safeguards against abuses of power by administrative bodies.

viii. *Harsh sanctions*

Finally, ARTICLE 19 is concerned about the regime of sanctions which include harsh fines, confiscations, revocation of licenses and revocation of press cards of journalists.

International law requires that sanctions on the right to freedom of expression meet the above mentioned three-part legality test. In this respect disproportionate sanctions are in violation of the right to freedom of expression. Many of the prescribed sanctions have extremely severe consequences restricting the opportunities of journalists to practice their profession in the future or of the media to continue its activities. Such sanctions should be preserved for the most serious offenses and therefore should be reserved for criminal rather than administrative law. Moreover, the prescribed sanctions are not justified in view of the provision of recovery methods by the Decree such as recalls of publications, apologies and ceasing of distribution. In this regard, we recall the principle that the “least restrictive means” or “less drastic means” should be applied with respect to basic freedoms such as the right to freedom of expression.

IV. Recommendations

ARTICLE 19 notes that although the Vietnamese legislation allows for judicial control over acts issued by the Executive, such as the Decree, experience indicates that Vietnamese courts are not willing to correct decisions of the Government. We also note that Article 4 of the 1992

⁸ *Recommendation No. R (2000) 7* of the Committee of Ministers to Member States on the right of journalists not to disclose their sources of information; Adopted by the Committee of Ministers on 8 March 2000, at the 701st meeting of the Ministers' Deputies.

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Constitution of Vietnam designates the Communist Party as a “force leading the State and society.” As a result all state institutions including courts are obliged to follow party pronouncements and policies. ARTICLE 19 is concerned about the negative effect of such a legal regime because it makes it impossible to obtain invalidation of either the Decree as a whole or of the above mentioned problematic provisions.

In the light of the serious flaws of the Decree, ARTICLE 19 calls on the Government of Vietnam to repeal the Decree in its entirety, refrain from adopting a similar regulation in the future, and fully implement Vietnam’s actual obligations under international human rights treaties.

APPENDIX: Decree No. 02 of 2011 on administrative penalty in press and publication activities⁹

Gov.
S.R of VN
Ref: 02/2011/ND-CP

Hanoi 6.1.2011

Chapter II

Violation in Press and Publication and the penalties applied

Part 1

Violation in press activities

Article 4

Violation of regulation on press licence

2. Fine from 5-10m (million *dong*):
- b) Issue news letter without license
 - c) Foreigner, foreign organizations issue and circulate news letter and publication without license
 - d) Issuing insert, promotional material without license
 - f) Placing poster board, sign in front of foreign rep.
 - g) Foreign institutions to screen film organise exhibition and other activities relating to press and with participation of Vietnamese without approval.

Article 7

Violation of regulation on information content

1. Warning or fine 1 to 3m (million *dong*):
- a) Do not quote the source while posting on media
 - b) Do not write family name, real name or pen name of the authors or group of authors
 - c) Post the news without knowing the real name and address of the author
2. Fine from 3-5m:
- a) Biased information but does not cause serious consequence
 - b) Inappropriate illustration and title which confuse the readers
 - c) Post mystical stories, new scientific issues on specialist journal without quoting the sources
 - d) Revealing individual privacy without that individual or his/her relative permission unless legislation states otherwise
 - e) Publishing document and private letter of individual without the legal owner permission unless law states otherwise.
 - f) Posting individual photo without permission of its owner or it relatives except when looking for victim's relatives, photo of criminally charged individual, imprisoned person or photo of collective activities.
 - g) Posting un-proven information and relationship of individual in a case which is being investigated or not yet tried

4. Fine from 20-30m:

⁹ The translation of the Decree was produced for the purposes of ARTICLE 19 analysis only. The text is not an official translation of the Decree.

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- a) Biased information that caused serious consequence
- b) Posting VN map which insufficiently or wrongly express national sovereignty

5. Fine from 30-40m:

- a) Posting banned works
- b) Posting, broadcasting information which violate item 1, Article 6 of the press law, the law amending some provisions of the press law.
- c) Posting, broadcasting information which violate item 1, 2 and 3 of Article 10 of the press law but not to the level where criminal measures are needed.

6. Additional penalty:

- a) Confiscation of exhibit and facilities for actions mentioned at point 3, 4 and 5 of this Article in case serious consequence is caused.
- b) Revoking the license 90 to 180 days for action prescribed at item 5 of this Article.
- c) Indefinite revoking of press card of journalist who commits action prescribed at item 4 and 5 of this article.

7. Recovery methods: Correct, apologize for actions at point a, b, d, d and e of item 2, point d item 3 and item 4 and 5 of this Article

Article 10

Violation of regulation on press briefing

1. Warning or fine from 1-3m:

- a) Organise press briefing without notice or with untimely notice
- b) Organise press briefing which dose not correspond to the institution functions, tasks and objectives

2. Fine from 10-20mil: organise briefing without competent authority approval or the event has been banned.

3. Fine from 30-40m: content of the press briefing violate item 1, 2 and 3 of Article 10 of the press law.

Article 18

Violation of publication content

1. Fine from 5 to 10 m for publisher who do not ask the distributor to recall or do not recall the publication which subject to recall

2. Fine from 10-20m for:

- a) Publication that offend the honour, dignity or reveal the individual privacy without the approval of that individual or the individual relative except when the law state otherwise
- b) Publication with biased content which breach the institution or individual legal rights.
- c) Use Vietnam map to present or illustrate the publication but dose not express or express wrongly the administrative boundary of localities or Vietnam geological names or national sovereignty.
- d) Publish the publication that subject to appraisal but do not carry out the appraisal.

3. Fine from 20 to 30m:

- a) Publish Vietnam map but do not express or express wrongly national sovereignty
- b) Publish the publication that preach obscene lifestyle, criminal action, social evils, superstition or anything that dose not suit Vietnam's fine custom.

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4. Fine from 30 to 40m for publication that violate Article 10 of the publication law except for the case stipulated at point b, item 3 of this Article.
5. Additional penalty. Confiscation of exhibit for action mentioned at point a, b, c, d of item 2, 3 and 4 of this Article
6. Recovery methods.
 - a) Must recall the publication (action mentioned at item 1)
 - b) Must apologise (actions mentioned at point a, b of item 2)
 - c) Must cease the distribution and carry out the appraisal (action mentioned at point d, item 2)

Article22

Violation of regulation on printing activities

1. Warning or fine from 1 to 3m: do not register the printing equipment for the equipment that subject to registration
2. Fine from 3-5m:
 - a) Do not implement property the content of printing license
 - b) Transfer the printing permit
 - c) c, Amend the permit
 - d) do not have the printing logbook or do not record fully the printing products including the design and post-printing outsourcing work.
 - e) d. Use photocopier and other equipment to print, copy illegally the press and publication for business purpose or for distribution.
 - f) Print other product rather than publication which exceed the contracted quantity from 100 to less than 500 products.
3. Fine from 5 to 10m:
 - a) Sign printing contract with do not correspond to publication decision, publication permit, or out sourcing permit for foreign countries.
 - b) Print votive paper without registration
 - c) Print other product rather than publication which exceed the contracted quantity from 500 to less than 1000 products.
 - d) Use photocopier and other equipment to copy illegally the press, publication and other printing products banned from circulation
4. Fine from 10 to 20m:
 - a) Print ID cards, passports, degree and certificate without competent authority approval
 - b) Print ID cards, passports, degree and certificate of the national education system, anti-fraud stamp without signature and stamp of the competent authority.
 - c) Print press, magazine without permit
 - d) Print publication exceed the quantity expressed in publication permit from 50 to less than 500 copies
 - e) d. Improper printing of publication as compared to the permit
 - f) Print publication for foreign county without the print out sourcing permit.
 - g) Publication printing that dose not corresponds to the manuscript signed by the director of the publishing house or stamped by the licensing authority.
 - h) Add, omit or illegally amend the manuscript.
 - i) Print publication exceeds the quantity expressed in the contract of equal or more than 1000 copies.
 - j) Print other product rather than publication which is not included in the business registration.
 - k) Print label, package when the mock up dose not show signature and stamp of the business that order the printing, proper business registration or introduction letter of the business in question.

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- l) Print label for pharmaceutical chemistry or medicine without business registration and registration number.
 - m) Print non-ordered product
5. Fine from 30 to 40m:
- a) Print, copy press and publication which subject to recall, confiscation, ban, destroy or their content violate Article 10 of the publication law.
 - b) Print publication without decision of the publishing house director or print permit.
 - c) Print publication or press, anti-fraud stamp without printing permit
 - d) Print publication which exceed the quantity expressed in the publication decision or permit of equal or more than 500 copies.
 - e) Print banned product except when the printer is allowed to print for foreign countries
 - f) Print, copy illegally the classified materials
6. Additional fine
- a) Indefinite withdrawal of permit for action mentioned at point b, item 2, this article.
 - b) Withdrawal of permit from 90 to 180 days for action mentioned at point a of item 5 this article.
 - c) Confiscate the exhibit, for action mentioned at point b, c, d of item 3, 4 and 5 this article.
 - d) Confiscate the exhibit, action mentioned at point a, d and e, item 5 of this Article
7. Recovery method
- a) Must register the printing equipment for action mentioned at item 1 this article
 - b) Must re-apply for permit for action mentioned at point c, item 2 this article.
 - c) Must destroy the publication, for action mentioned at point d, item 2 this article.

Article 24

Violation of regulation on publication archiving and distributing

1. Fine from 3 to 5 m:
- a) Hinder the distribution of legal publication.
 - b) Sell, circulate, rent out, and post on the internet the publication that was illegally imported or published.
 - c) Sell, circulate, rent out, and post on the internet the publication that encourage superstition, bad tradition and social evils.
 - d) Post on the internet the publication of the publishing house or institution with publishing functions that are dissolved, merged or split without the written permission of the author or institution taking over the right and civil obligation of the dissolved, split or merged publishing house or institution.
2. Fine from 5 to 10m:
- a) Sell, rent out, post on the internet the not-for-sales or for internal use only publication.
 - b) Archive, distribute, print, or illegally copy the publication without the invoice to prove its legal origin from 50 to less than 100 copies.
 - c) Sell, circulate, rent out, and post on the internet the publication that advocates obscene, violent lifestyle.
3. Fine from 10 to 20m:
- a) Distribute or archive in order to circulate the publication that subject to ban, recall or confiscation.
 - b) Sell, circulate, rent out, and post on the internet the publication that subject to recall, confiscation or ban.
 - c) Archive, distribute, print, or illegally copy publication without invoice proving the legal origin from 100 to less than 150 copies.
 - d) Sell, illegally distribute publication outworked for foreign country in Vietnam territory.

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- e) Hold fair and exhibition of that do not correspond to the permit.
4. Fine from 30 to 40m:
- a) Hold fair and exhibition of publication without permit.
 - b) Exhibit in the fair the illegal publication, illegally imported publication, banned publication, publication subject to recall or publication violate Article10 of the publication law .
 - c) Archive, distribute, print, or illegally copy publication without the invoice to prove its legal origin of equal or more than 150 copies.
 - d) Vietnam rep office of foreign institution directly distributes the publication in VN.
5. Additional fine: Confiscate the exhibit for action mentioned at point b, c, d of item 1; point b, c of item 2; point a, b, c, d of item 3; and point b, c, d of item 4 of this article.
6. Recovery method: Remove the publication from the internet for action stipulated at point d, item 1 of this Article.

Article25

Violation of regulation on publication import and export

1. Fine from 5-10m:
- a) Import the publication not listed in the registration for import.
 - b) Import the not-for-business publication without the import permit or the publication that dose not correspond to (registered) type, content, quantity, origin, objectives and scope of use.
 - c) Do not re-export or carry out import procedures for publication imported as materials for international seminars which allowed to organised in VN or publication belong to institution, family and individual that are used privately after it has been used (publicly).
 - d) Do not carry out the import procedures for the publication that was given to institution or individual via post with the value exceed the duty-free quantity.
2. Fine from 10-20m:
- a) Un-licensed import of publication for business purpose
 - b) Import of un-registered publication
 - c) Do not appraise the publication before circulation
3. Fine from 30-40m:
- a) Import publication with content that violate Article3 and 10 of the publication law.
 - b) Export the illegal publication, banned publication, publication subject to recall, publication with content violate Article 3 and 10 of the publication law.
4. Additional fine: Confiscate the exhibit related to activities stipulated at item 3 of this article.
5. Recovery method: Remove the publication from Vietnam or re-export the publication if it violate the point b, c of item 1 and point a of item 2 of this article.

Chapter IV

Article36

Entry into force

This decree enters into force from 25/2/2011. This decree replaces regulation at part 1, 2, chapter II and Article52,53 part 8 chapters II of the Government decree 56/2006/ND-CP of 6 June 2006 on administrative measure for cultural and information activities. All other regulations issued by government, ministries, ministerial level agencies and localities in contradiction with this decree are eliminated.

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Article37

Responsibility for implementation

Ministers, head of ministerial level agencies, head of government agencies, chair of provincial and centrally managed cities people committee are responsible for the implementation of this decree.

Norms for journalists

Article8

Violation in providing information to press and using information of the press

1. Warning or penalty from 1-3m
 - a) Prevent the institution and individual from providing information to the press
 - b) Do not provide the press with information according to Article7, the press law.
2. Fine 3-5 m for posting opinion that expressed at conference, gathering, exchange, symposium in form of an interview without the author approval.
3. Fine 5-10 m:
 - a) Add, omit or expressed wrongly the interviewee opinion on the press.
 - b) Do not implement the interviewee request for reviewing the Article by the interviewee before posting the interview.
 - c) Add, omit or distort the conclusion of the competent authority about cases when posting on the press.
4. Recovery method. Apologise and post fully the authority conclusion for action stipulated at point c, item 3.

Article16

Violation of regulation on cooperation in production of broadcasting program

1. Warning or fine from 1-3m:
 - a. Do not register the channel, news and political program
 - a) Do not carry out the additional registration for the cooperative programs if the content changed or the additional registration has not been approved in writing by the ministry of information and communication.
 - b) The cooperative contract does not fully express the content of cooperation.
 - c) Do not inform in writing the competent agencies the name, content, time, length, channel of the cooperative program; name, address of the partner, form of cooperation, rights and obligations of parties for cooperative products that are not program channel or regular program.
2. Fine from 5-10m:
 - a) Do not sign the cooperation contract
 - b) Do not implement correctly the content of contract and related regulation
 - c) Sign the contract with incompetent partner.
3. Fine from 10-20m:
 - a) Cooperate in radio, television, news and political program.
 - b) Do not specify the general news-political program if there are 2 or more promotional channels.
 - c) Broadcast exceed more than 30% of the total length of the first broadcasting of the cooperative program on the general news-political channel
 - d) Do not implement properly the principles and form of cooperation.

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4. Fine from 20-30m: cooperate without written approval of ministry of information and communication (MIC).
5. Additional fine: Confiscate the exhibit related to activities mentioned at item 4 of this Article if serious consequence is caused.
6. Recovery method.
 - a) Must register for activities mentioned at point a, b of item 1, this article
 - b) Must sign cooperative contract according to regulation for activities mentioned at point c, item 1 of this article.
 - c) Must inform in writing the competent authority for activities mentioned at point d, item 1 of this Article.
 - d) Must sign cooperative contract for action mentioned at point a, item 2 of this article.
 - e) Must terminate the cooperative contract for activities mentioned at point b, item 3 of this article.
 - f) Must specify the general news-political channel for activities mentioned at pointed b, item 3 of this Article.
 - g) Must property implement the regulation, for activities mentioned at point c, item 3 of this article.

Article28

Violation of regulation on reporting policies

1. Warning or fine from 1-3m:
 - a) Relocate the press, representative office without informing the competent authority
 - b) Do not report the establishment, termination of the representation; appointment and termination of the post of permanent reporters to MIC and DIC (Dept. of I &C) where the press representation located and its reporter posted.
 - c) Do not report, justify or report and justify untimely and incorrectly the content of information to government press management agency (GPMA).
 - d) Relocate the publishing house without informing the competent authority
 - e) Relocate the representative office of the foreign publishing house, foreign distribution agency without informing the GPMA.
 - f) Do not inform the Dept. of Publication (DP) the name of publication, author, web site address and date of posting before publishing on the internet.
 - g) The publisher do not inform the DP in writing once the number of copies changed.
 - h) Do not report to GPMA upon detecting the violation of Article10, the publication law of the product being printed or duplicated.
 - i) Do not inform in writing the print permit issuer once the address, director or owner of the printer changed.
 - j) Do not inform GPMA upon detecting that the publication violates the Article 10 of the Publication Law while in circulation.
2. Fine from 10-20m for dishonest reporting as requested by competent authority.
3. Fine from 10-20m: deliberately fake or make up the application for press card.
4. Additional fine: Revoke the press card, for action stipulated at item 3 of this article.
5. Recovery method: Must provide complete information, for action mentioned at item 1 of this article.

Article29

Illegal hindering the state management, inspection and checking activities

1. Warning or fine from 0.5-1m applied to institution or individual who dose not show or show incompletely the documents, information and data to GPMA or to competent personnel.

ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

2. Fine from 1-2m:

- a) Do not obey the inspection decision of the competent authority/personnel
- b) Do not provide or provide incompletely the document and data as requested by competent authority.
- c) Hinder the inspection and check of the competent authority.

3. Fine from 3-5m:

- a) Insult the competent authority on duty
- b) Delay, evade the implementation of competent authority's administrative decision; do not implement the inspective request, conclusion.

Fine from 5-10m:

- a) Illegally confiscate the document and equipment of the inspecting agency.
- b) Illegally remove seal, change the scenes, change the quantity and type of goods and exhibits which are exhibits of violation in press and publication activities being inspected, sealed or retained..
- c) Disperse and hide the exhibits and facilities being inspected, checked..

5. Recovery method:

- a) Must apologize, for activities stipulated at point a, item 3 of this Article.
- b) Must recover the exhibits, for activities stipulated at point c, item 4 of this Article.

Prime Minister
(Signed, sealed)
Nguyen Tan Dung