



# Employee Data Privacy – Vietnam

## Cross-Border Data Transfer

### Are there any restrictions on transferring personal data and how can these be overcome?

Cross-border data transfers affect all organizations that engage online IT services, cloud-based services, remote access services and global HR databases. Understanding the applications of lawful data transfer mechanisms is essential to validate recipients located outside the country. Data transfers typically include the following examples:

- personal data communicated over the telephone, by email, fax, letter, through a web tool or in person to another country;
- IT systems or data feeds which lead to personal data being stored on databases hosted internationally;
- people/entities outside the country being able to access or "see" personal data held in the country; and
- the use of personal data by third parties through external solutions, e.g., outsourcing, offshoring and cloud computing.

The law is currently silent on the transfer of employee data outside of Vietnam.

Vietnam's Law on Cybersecurity (No. 24/2018/QH14) has data localization requirements for domestic and foreign service providers using internet and telecommunication networks. The Law includes requirements to store certain data for a specified time period within Vietnam and is applicable to: (1) users' personal data, (2) data on the relationships of users, and (3) data generated by users in Vietnam.



On 18 February 2022, the Ministry of Public Security (MPS) issued Official Letter No. 470/BCA-ANKT, taking the position

that the localisation requirement in the Cybersecurity Law would only be applied if/when an enterprise does not cooperate or refuses to cooperate with Vietnamese functional authorities in providing information for investigating and handling crimes. That said, it is unclear whether the views reflected in the MPS Official Letter will be reflected in the decree(s) implementing the Cybersecurity Law.

The Vietnamese government has approved a draft decree on personal data protection, which likely includes specific requirements for the cross-border transfer of personal data. Most of the text of the approved draft has not yet been released.

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