

THE LEGALIZATION OF E-COMMERCE ACTIVITIES IN THE ONLINE PUBLIC SERVICE SECTOR ACCORDING TO THE BASIC PRINCIPLES OF THE MARKET MECHANISM IN VIETNAM

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ABSTRACT

By qualitative and quantitative methods, the paper shows that in spite of not having been established for a long time and really developed steadily, e-commerce activities in Vietnam's online public service sector have made remarkable progresses over the past few years. The legalization of these activities by a system of policies, regulations and legal documents of the state is considered as one of the key factors leading to this success. In practice, the Government of Vietnam has actively built a basic legal corridor for the establishment and development of the e-commerce market in the online public service sector from the very beginning. Basically, this system of legal documents can regulate almost all activities of the e-commerce market in the online public service sector. Although the political determination of the heads of units contributed significantly to this success, the decisive role belonged to the civil service provision capacity of the public apparatus. At the same time, the new users' accessibility to online public services are an indicator of concern and a notable measure, while the modernity and synchronization of the infrastructure system is also a factor which is not secondary at all in the implementation of e-commerce activities in the online public service sector. Initial results show that the public administration of Vietnam has saved the state budget significant expenditures. Nevertheless, the proportion of people using online public services in Vietnam is still relatively low, while many basic elements in Vietnam's system of policies, regulations, and legal documents are still incomplete and in line with the current conditions of the country. The most worrying of these is the public service capacity of the public apparatus, the quality of the expert team, and the issue of safety and security in the internet. In such a situation, the first prioritized solution is to continuously add more policies and complete current regulations to create a stable legal corridor for e-commerce activities in the online public service sector, but the commercialization and marketization of the public administration's operations according to the basic principles of the market mechanism plays a really key role.

Key words: legalization, e-commerce activity, online public service, basic principle, market mechanism, Vietnam

1. Introduction

The total population of Vietnam in 2019 was 96,208,984 people.¹⁵¹³ As of December 31, 2018, Vietnam has more than 714,000 active businesses and strives to have 1 million businesses by 2020. Additionally, Vietnam has more now than 5.3 million individual business households.¹⁵¹⁴ Vietnam has currently about 58,000 public institutions with around 2.5 million state employees. This figure does not include organizations and state staffs in the police, military, and state-owned enterprise sector.¹⁵¹⁵ In 2019, Vietnam welcomed more than 18 million international visitors.¹⁵¹⁶ In 2019, there were approximately 4.5 million Vietnamese people living in more than 110 other countries and territories. There are annually around 400-500 experts and intellectuals of these participating in scientific and technological activities with Vietnam.¹⁵¹⁷ All of these individuals and organizations need to carry out a certain number of administrative procedures with the Vietnamese government in different forms and degrees. If all e-commerce activities in the online public service sector are operated synchronously and stably performed, Vietnam will save around 6,490 billion VND per year for administrative procedures alone.¹⁵¹⁸ This figure will certainly be even larger and more significant for countries with huge populations such as China, India, and Indonesia. However, all e-commerce activities in the online public service sector need to take place within the framework of certain legal corridors. How are these activities regulated in

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¹⁵¹³ Ban Chỉ đạo Tổng điều tra dân số và nhà ở Trung ương, *Tổng điều tra dân số và nhà ở thời điểm 0 giờ ngày 01 tháng 4 năm 2019, Tổ chức thực hiện và kết quả sơ bộ*, 45, 57 (Nhà xuất bản Thống kê, Hà Nội, 2019).

¹⁵¹⁴ Kiều Linh, *Không nên ép 5,3 triệu hộ cá thể lên doanh nghiệp*, VnEconomy (July 10, 2019, 21:38 PM), available at: <http://vneconomy.vn/khong-nen-ep-53-trieu-ho-ca-the-len-doanh-nghiep-20190710175248716.htm>, accessed on July 28, 2020.

¹⁵¹⁵ Mai Anh, *Đến 2025, tiếp tục giảm tối thiểu 10% đơn vị sự nghiệp công lập*, TẠP CHÍ TÀI CHÍNH (June 17, 2020, 15:26 PM), available at: <http://tapchitaichinh.vn/su-kien-noi-bat/den-2025-tiep-tuc-giam-toi-thieu-10-don-vi-su-nghiep-cong-lap-324413.html>, accessed on July 28, 2020.

¹⁵¹⁶ Duyên Duyên, *Việt Nam đón 18 triệu lượt khách quốc tế năm 2019, thu về 726.000 tỷ*, VnEconomy (Dec. 30, 2019, 08:15 AM), available at: <http://vneconomy.vn/viet-nam-don-18-trieu-luot-khach-quoc-te-nam-2019-thu-ve-726000-ty-20191229214417225.htm>, accessed on July 28, 2020.

¹⁵¹⁷ Đặng Minh Khôi, *Công tác người Việt Nam ở nước ngoài: Những dấu ấn sinh động 2019*, THẾ GIỚI & VIỆT NAM (Jan. 17, 2020, 19:55 PM), available at: <https://baoquocte.vn/cong-tac-nguoi-viet-nam-o-nuoc-ngoai-nhung-dau-an-sinh-dong-2019-108128.html>, accessed on July 28, 2020.

¹⁵¹⁸ Công thông tin điện tử chính phủ, *Giới thiệu Cổng DVCQG và những lợi ích dành cho doanh nghiệp*, TRANG TIN CHÍNH PHỦ ĐIỆN TỬ (May 22, 2020), available at: <http://egov.chinhphu.vn/gioi-thieu-cong-dvcqg-va-nhung-loi-ich-danh-cho-doanh-nghiep-a-NewsDetails-37865-14-186.html>, accessed on July 27, 2020.

Vietnam's system of legal documents, how is their marketability and practical application level up to now, and what solutions need to be taken to both upgrade the legal bases and improve the operational quality of the e-commerce market in the online public service sector of Vietnam in the coming time according to fundamental principles of the marketing mechanism, the rule of law, and democratic society in the current context of the Industrial Revolution 4.0? What reference lessons can the emergence and development of Vietnam's e-commerce market in the online public service sector over the past few years provide neighboring countries of similar socio-economic conditions? These issues have been partly addressed and resolved by both authorities and scholars at home and abroad in many different forms and degrees, but there are still a number of questions that have not found satisfactory answers. It is therefore on the basis of qualitative and quantitative methods as well as specialized and interdisciplinary approaches, the paper does not only analyze the legal bases for the recent emergence and development of the e-commercial market in the online public service sector of Vietnam, but also give some recommendations to improve the quality of service to people of the public administration system and create conditions for society to enjoy modern public service achievements in the today's age of global digitalization.

2. The legal basis for the establishment and development of an e-commerce market in the online public service sector according to the principles of the market mechanism in Vietnam

The e-commerce market in the online public service sector is often formed and develops based on a lot of different subjective and objective factors. However, in the specific context of current Vietnam, the most important one is still the policies and regulations of the state and the civil service provision capacity of the public apparatus. All of them partly reflect the availability of online public service providers according to the fundamental principles of the market mechanism.

2.1. Regulations and policies to develop the e-commerce market in the online public service sector of Vietnam

In terms of policy and development orientation, Vietnam has identified the strategy of e-government construction according to the model of digital government, digital society, and digital economy as one of the top priorities in the coming decades to create firm foundations

for the comprehensive digitization of the country¹⁵¹⁹ in the current context of the Industrial Revolution 4.0. Since the 2000s, the Government of Vietnam has attached great importance to the application of information technology achievements in the state apparatus activities and identified this as one of the main driving forces contributing to the promotion of the innovation and creating the ability to take advantage of the available recourses for the country's successful implementation of the industrialization and modernization in the near future.¹⁵²⁰

To concretize the aforementioned policies and actively apply them for real life activities, Vietnam has legally issued a series of legal documents to act as legal corridors for the establishment and development of e-commerce activities in the online public service sector. The most typical of these are the *Law on Electronic Transactions* on November 29, 2005¹⁵²¹ and the *Law on Information Technology* on June 29, 2006.¹⁵²² While the Law on Electronic Transactions is the foundation for all electronic transactions, the Law on Information Technology serves the development of the information technology industry and the management of information technology and communication technology. That means Vietnam is making important advancements on the road of digital transformation and operation according to the model of e-government.¹⁵²³ On February 15, 2007, the Government of Vietnam issued the Decree No. 26/2007/NĐ-CP *detailing the implementation of the Law on Electronic transactions regarding digital signatures and digital signature authentication services*.¹⁵²⁴ On January 13, 2010, Vietnam's Prime Minister issued the

¹⁵¹⁹ TTXVN, *Xây dựng Chính phủ điện tử là ưu tiên hàng đầu của Việt Nam*, BÁO VĂN HÓA ĐIỆN TỬ (Apr. 14, 2019, 07:30 AM), available at: <http://baovanhoa.vn/van-hoa/chinh-sach-quan-ly/artmid/568/articleid/17532/xay-dung-chinh-phu-dien-tu-la-uu-tien-hang-dau-cua-viet-nam>, accessed on July 27, 2020.

¹⁵²⁰ Mai Tiến Dũng, *Xây dựng Chính phủ điện tử hướng tới Chính phủ số và nền kinh tế số ở Việt Nam*, TRANG TIN CHÍNH PHỦ ĐIỆN TỬ (Feb. 28, 2020), available at: <http://egov.chinhphu.vn/xay-dung-chinh-phu-dien-tu-huong-toi-chinh-phu-so-va-nen-kinh-te-so-o-viet-nam-a-NewsDetails-37599-14-186.html>, accessed on July 26, 2020.

¹⁵²¹ Quốc hội, *Luật Giao dịch điện tử*, Số: 51/2005/QH11 (Hà Nội, (Nov. 29, 2011).

¹⁵²² Quốc hội, *Luật công nghệ thông tin*, Luật số: 67/2006/QH11 (Hà Nội, June 29, 2006).

¹⁵²³ Shepherdson, C., *Chính phủ điện tử ở Việt Nam: Cơ hội và thách thức*, Thu Nga (biên dịch), QUẢN TRỊ MẠNG (Mar. 4, 2006, 11:00 AM), available at: <https://quantrimang.com/chinh-phu-dien-tu-o-viet-nam-co-hoi-va-thach-thuc-19987>, accessed on July 26, 2020.

¹⁵²⁴ Chính phủ, *Nghị định quy định chi tiết thi hành luật giao dịch điện tử về chữ ký số và dịch vụ chứng thực chữ ký số*, Số : 26/2007/NĐ-CP (Hà Nội, Feb. 15, 2020).

Decision No. 63/QĐ-TTg approving the planning for development of national digital information security up to 2020.¹⁵²⁵

On July 1, 2014, the Central Committee of the Communist Party of Vietnam issued the *Resolution No. 36-NQ/TW on accelerating the application and development of information technology to meet the requirements of sustainable development and international integration*.¹⁵²⁶ The resolution has identified a specific goal that by 2020, Vietnam must “effectively implement the administrative reform program, closely linked with the construction of e-Government and the provision of online public services in high degree and in many areas.”¹⁵²⁷ On April 15, 2015, the Government of Vietnam issued the *Resolution No. 26/NQ-CP Promulgating the Government’s Action Program to implement the Resolution No. 36-NQ/TW on July 1, 2014 of the Politburo of the Central Committee of the Communist Party of Vietnam on the promotion of application and development of information technology to meet the requirements of sustainable development and international integration*.¹⁵²⁸ The resolution identified the “Raising of Vietnam’s e-Government position in the United Nations ranking. Publicize the operations of the state agencies in transparent ways in the network environment.”¹⁵²⁹

These contents have been further concretized in later legal documents. The most notable of these is the *Document No. 1178/BTTTT-THH on the promulgation of the Vietnamese E-Government Architecture Framework, Version 1.0* on April 21, 2015 of the Ministry of Information and Communications.¹⁵³⁰ On November 19, 2015, Vietnam National Assembly passed the *Law on Cyber Information Security* at the 10th session of the term XIII.¹⁵³¹ On July 12, 2018, Vietnam’s Prime Minister issued the *Decision No. 28/2018/QĐ-TTg on sending and receiving electronic documents between agencies in the state*

¹⁵²⁵ Thủ tướng Chính phủ, *Quyết định số 63/QĐ-TTg phê duyệt Quy hoạch phát triển an toàn thông tin số quốc gia đến năm 2020*, Số: 63/QĐ-TTg (Hà Nội, Jan. 1, 2010).

¹⁵²⁶ Ban Chấp hành Trung ương Đảng Cộng sản Việt Nam, *Nghị quyết về đẩy mạnh ứng dụng, phát triển công nghệ thông tin đáp ứng yêu cầu phát triển bền vững và hội nhập quốc tế*, Số 36-NQ/TW (Hà Nội, July 1, 2014).

¹⁵²⁷ Mai Tiến Dũng, *supra* note 8.

¹⁵²⁸ Chính phủ, *Nghị quyết Số: 26/NQ-CP Ban hành Chương trình hành động của Chính phủ thực hiện Nghị quyết số 36-NQ/TW ngày 01 tháng 7 năm 2014 của Bộ Chính trị Ban Chấp hành Trung ương Đảng Cộng sản Việt Nam về đẩy mạnh ứng dụng, phát triển công nghệ thông tin đáp ứng yêu cầu phát triển bền vững và hội nhập quốc tế*, Số: 26/NQ-CP (Hà Nội, Apr. 15 2015).

¹⁵²⁹ Mai Tiến Dũng, *supra* note 8.

¹⁵³⁰ Bộ Thông tin và Truyền thông, *Văn bản về việc ban hành Khung Kiến trúc Chính phủ điện tử Việt Nam, Phiên bản 1.0*, Số: 1178/BTTTT-THH (Hà Nội, Apr. 21, 2015).

¹⁵³¹ Quốc hội, *Luật An toàn thông tin mạng*, Luật số: 86/2015/QH13, 1239 + 1240 CÔNG BÁO, 3-30 (Dec. 28, 2015).

*administrative system.*¹⁵³² On January 23, 2019, the Government of Vietnam issued the *Directive No: 02/CT-TTg on the strengthening of the usage of government's specialized digital signatures in the activities of state agencies at all levels.*¹⁵³³ On January 24, 2019, the Government of Vietnam issued the *Decree No. 09/2019/NĐ-CP regulating the reporting mode of state administrative agencies.*¹⁵³⁴ In which, there is the task of standardization of the reporting mode and the construction of a national reporting information system.¹⁵³⁵ On March 7, 2019, the Government of Vietnam issued the *Resolution on a number of key tasks and focal solutions for e-government development in the period of 2019-2020, with a vision to 2025, No. 17/NQ-CP.*¹⁵³⁶

On September 27, 2019, the Politburo of the Communist Party of Vietnam issued the *Resolution No: 52-NQ/TW on a number of guidelines and policies to actively participate in the fourth industrial revolution.*¹⁵³⁷ The resolution sets out the target that by 2025 Vietnam will be among the top four ASEAN countries in e-government rankings according to the evaluation criteria of the United Nations.¹⁵³⁸ On that basis, the *Decision No. 2323/QĐ-BTTTT promulgating the Vietnam E-Government Architecture Framework, Version 2.0* was signed by the Minister of Information and Communications Nguyễn Mạnh Hùng on December 31, 2019.¹⁵³⁹ On February 24, 2020, Vietnam's Prime Minister signed the *Decision No. 293/QĐ-TTg promulgating a set of indicators that synthesize periodic reports and socio-economic statistical reports to serve the management and administration of the Government and the*

¹⁵³² Thủ tướng Chính phủ, *Quyết định về việc gửi, nhận văn bản điện tử giữa các cơ quan trong hệ thống hành chính nhà nước*, Số: 28/2018/QĐ-TTg (Hà Nội, July 12, 2018).

¹⁵³³ Chính phủ, *Chỉ thị về việc tăng cường sử dụng chữ ký số chuyên dùng chính phủ trong hoạt động của cơ quan nhà nước các cấp*, Số: 02/CT-TTg (Hà Nội, Jan. 23, 2019).

¹⁵³⁴ Chính phủ, *Nghị định quy định chế độ báo cáo của cơ quan hành chính nhà nước*, Số: 09/2019/NĐ-CP (Hà Nội, Jan. 24, 2019).

¹⁵³⁵ Công thông tin điện tử chính phủ, *20/22 bộ, cơ quan ngang bộ chuẩn hóa một bước các chế độ báo cáo định kỳ*, TRANG TIN CHÍNH PHỦ ĐIỆN TỬ (June 11, 2020), available at: <http://egov.chinhphu.vn/2022-bo-co-quan-ngang-bo-chuan-hoa-mot-buoc-cac-che-do-bao-cao-dinh-ky-a-NewsDetails-37869-14-186.html>, accessed on July 27, 2020.

¹⁵³⁶ Chính phủ, *Nghị quyết về một số nhiệm vụ, giải pháp trọng tâm phát triển chính phủ điện tử giai đoạn 2019 - 2020, định hướng đến 2025*, Số: 17/NQ-CP (Hà Nội, Mar. 7, 2019).

¹⁵³⁷ Bộ Chính trị, *Nghị quyết về một số chủ trương, chính sách chủ động tham gia cuộc cách mạng công nghiệp lần thứ tư*, Số: 52-NQ/TW (Hà Nội, Sept. 27, 2019).

¹⁵³⁸ Vân Anh, *Chính phủ điện tử là phép nhân giữa cải cách quản trị công với chuyển đổi số*, VIETNAMNET (Feb. 25, 2020, 18 :15 PM), available at: <https://vietnamnet.vn/vn/cong-nghe/thanh-cong-cua-chinh-phu-dien-tu-la-phep-nhan-giua-cai-cach-quan-tri-cong-voi-chuyen-doi-so-619364.html>, accessed on July 27, 2020.

¹⁵³⁹ Bộ Thông tin và Truyền thông, *Quyết định ban hành Khung kiến trúc Chính phủ điện tử Việt Nam phiên bản 2.0*, Số: 2323/QĐ-BTTTT (Hà Nội, Dec. 31, 2019).

*Prime Minister.*¹⁵⁴⁰ The decision states clearly that the Government Office must complete the Government reporting information system by June 30, 2020.¹⁵⁴¹ On March 24, 2020, the Government of Vietnam issued the *Decision No. 411/QĐ-TTg approving the list of integrated public services, provided on the National Public Service Portal in 2020.*¹⁵⁴² Of these, 65 public services are prioritized for integration and provision on the National Public Service Portal in 2020.¹⁵⁴³

On June 2, 2020, the Government of Vietnam issued the Decision No: 749/QĐ-TTg *approving the “national digital transformation program to 2025, with a vision to 2030.*¹⁵⁴⁴ The decision sets out the target to 2030, 100% of Vietnam’s online public service system must reach level 4. 100% of work profiles from ministerial and provincial level upwards will be handled by the online public service route. The digital economy accounts for 20% of the country’s GDP, but each industry must reach at least 10% of their total annual revenues. Vietnam is among the world’s top 50 countries in Information and communication Technology Development Index (IDI), 50 leading countries in the Global Competitiveness Index (GCI), 35 best countries in Global Innovation Index (GII), and 30 leading countries in cyber security and cyber safety.¹⁵⁴⁵ On July 22, 2020, Vietnam’s Prime Minister issued the *Decision No. 20/2020/QĐ-TTg on electronic identifiers of agencies and organizations to serve the connection and sharing of data with the central ministries, industries, localities.*¹⁵⁴⁶

¹⁵⁴⁰ Thủ tướng Chính phủ ký, *Quyết định ban hành Bộ Chỉ tiêu tổng hợp báo cáo định kỳ và báo cáo thông kê về về kinh tế - xã hội phục vụ sự chỉ đạo, điều hành của Chính phủ, Thủ tướng Chính phủ*, Số: 293/QĐ-TTg (Hà Nội, Feb. 24, 2020).

¹⁵⁴¹ Chí Kiên, *Hoàn thiện một số dịch vụ công cung cấp trên Cổng DVCQG*, BÁO ĐIỆN TỬ CHÍNH PHỦ NƯỚC CHXHCN VN (Mar. 24, 2020, 15 :51 PM), available at: <http://baochinhphu.vn/Xay-dung-Chinh-phu-dien-tu/Hoan-thien-mot-so-dich-vu-cong-cung-cap-tren-Cong-DVCQG/390772.vgp>, accessed on July 27, 2020.

¹⁵⁴² Thủ tướng Chính phủ, *Quyết định phê duyệt danh mục dịch vụ công tích hợp, cung cấp trên cổng dịch vụ công quốc gia năm 2020*, Số: 411/QĐ-TTg (Hà Nội, Apr. 23, 2020).

¹⁵⁴³ Chí Kiên, *65 dịch vụ công tích hợp, cung cấp trên Cổng DVCQG năm 2020*, BÁO ĐIỆN TỬ CHÍNH PHỦ NƯỚC CHXHCN VN (Mar. 25, 2020, 15 :20 PM), available at: <http://baochinhphu.vn/Xay-dung-Chinh-phu-dien-tu/65-dich-vu-cong-tich-hop-cung-cap-tren-Cong-DVCQG-nam-2020/390919.vgp>, accessed on July 27, 2020.

¹⁵⁴⁴ Thủ tướng Chính phủ, *Quyết định phê duyệt “chương trình chuyển đổi số quốc gia đến năm 2025, định hướng đến năm 2030*, Số: 749/QĐ-TTg (Hà Nội, June 2, 2020).

¹⁵⁴⁵ Vũ Phương Nhi, *Việt Nam phấn đấu thuộc nhóm 50 nước dẫn đầu về Chính phủ điện tử*, BÁO ĐIỆN TỬ CHÍNH PHỦ NƯỚC CHXHCN VN (June 5, 2020, 09:16 AM), available at: <http://baochinhphu.vn/Xay-dung-Chinh-phu-dien-tu/Viet-Nam-phan-dau-thuoc-nhom-50-nuoc-dan-dau-ve-Chinh-phu-dien-tu/397356.vgp>, accessed on July 27, 2020.

¹⁵⁴⁶ Thủ tướng Chính phủ, *Quyết định về mã định danh điện tử của các cơ quan, tổ chức phục vụ kết nối, chia sẻ dữ liệu với các bộ, ngành, địa phương*, Số: 20/2020/QĐ-TTg (Hà Nội, July 22, 2020).

In summary, Vietnam has done a lot of legal work to support the creation and operation of the e-government system and e-commerce activities¹⁵⁴⁷ in the online public service sector. Vietnam has not only devised a very clear and long-term strategy to develop e-commerce activities in the online public services sector, but this country's system of legal documents has also covered almost all specific activities of the online public service system according to the basic principles of the market mechanism. Although the network of e-commerce services has really been introduced to Vietnam since the early years of the twenty-first century, the Government of Vietnam has grasped the situation and actively took advantage of these opportunities to quick integrate the country into the digital life of all humanity. The system of Vietnamese regulations and policies on e-commerce activities in the field of online public services has since then been continuously updated, supplemented, and improved more. Therefore, although many regulations, policies, and legal documents in this area are no longer relevant, expired, and being added, updated, and replaced gradually, very few newly born and developed fields of industries have many legal documents, policies, and regulations supplemented and updated as frequently and continuously as e-commerce activities in the area of online public service. These policies, regulations, and legal documents have created a legal corridor to regulate e-commerce activities in the online public services sector. In the practical conditions of current Vietnam, most of the world's modern technological achievements are imported from outside and the system of Vietnam's policies, regulations and legal documents are often enacted and adjusted to suit the changing circumstances. The emergence and development of the e-commerce market in the online public service sector not only comes from the urgent practical needs of the whole society, but also thanks to the modern technological achievements of the humanity in the era of the Industrial Revolution 4.0. The activities of e-commerce in the online public service sector are often activated first and have been starting since internet services began to be introduced into Vietnam. However, Vietnam had at that time almost no legal corridors, development policies, and specific regulations for these legitimate economic activities. The introduction and development of the system of aforementioned policies, regulations and legal documents mentioned is therefore in practice the legalization and standardization of the e-commerce activities in the field of online public service of Vietnam over the past few decades.

¹⁵⁴⁷ Shepherdson, *supra*.

2.2. Implementation capacity and development practice of e-commerce activities in the field of online public services in Vietnam over the past few years

On the basis of the provisions of the law and policy of the state on the commercial market in the online public service sector, Vietnam's related authorities and ministries have constructed and supplied online public services for people according to a certain number of principles. However, the success of these activities depends decisively on the political determination of the leaders of the functional agencies, the actual capacity of the public apparatus system, the operational ability of the infrastructure, the users' opportunities of access to online public services, and the practical efficiency and effect of online public services on human life. This fact has been shown through the following specific developments:

The political determination of the leaders of the functional agencies: aside from the system of policies, regulations, and legal documents, the political determination and attention of the leaders of the related agencies also play an important role in the success of e-commerce activities in the online public service sector. In this regard, the Government of Vietnam has always paid attention to and attached great importance to the application of information technology achievements for the construction of e-Government over the past few years and this political determination has in practice also led to a certain number of positive results.¹⁵⁴⁸ The head of the Government of Vietnam has regularly requested the central ministries and local government agencies to increase the use of the National Public Service Portal in the operation of the state administrative apparatus.¹⁵⁴⁹ In this process, the Government of Vietnam has always emphasized its goal of bringing Vietnam into the group of four leading ASEAN countries in e-government.¹⁵⁵⁰ By the end of 2020, 100% of Vietnam's central ministries and local governments must complete the construction of their platforms to

¹⁵⁴⁸ Báo điện tử Chính phủ nước Cộng hòa Xã hội chủ nghĩa Việt Nam, *Thực trạng và giải pháp xây dựng Chính phủ điện tử*, BÁO ĐIỆN TỬ CHÍNH PHỦ NƯỚC CHXHCN VN (July 30, 2018, 16 :25 PM), available at: <http://baochinhphu.vn/Xay-dung-Chinh-phu-dien-tu/Thuc-trang-va-giai-phap-xay-dung-Chinh-phu-dien-tu/354722.vgp>, accessed on July 27, 2020.

¹⁵⁴⁹ Vũ Phương Nhi, *Đẩy mạnh ứng dụng Công dịch vụ công quốc gia*, BÁO ĐIỆN TỬ CHÍNH PHỦ NƯỚC CHXHCN VN (July 8, 2020, 14 :57 PM), available at: <http://baochinhphu.vn/Xay-dung-Chinh-phu-dien-tu/Day-manh-ung-dung-Cong-dich-vu-cong-quoc-gia/400194.vgp>, accessed on July 27, 2020.

¹⁵⁵⁰ Bảo Ngọc, *Đưa Việt Nam vào nhóm 4 nước dẫn đầu về chính phủ điện tử trong ASEAN*, TUỔI TRẺ ONLINE (Mar. 12, 2019, 17:22 PM), available at: <https://tuoitre.vn/dua-viet-nam-vao-nhom-4-nuoc-dan-dau-ve-chinh-phu-dien-tu-trong-asean-2019031216145265.htm>, accessed on July 27, 2020.

integrate, share data, and connect to their national data sharing and integration platform.¹⁵⁵¹ Thoroughly grasping the guiding spirit of the Government, the National Committee on E-Government determined that by 2020, the construction and planning of the national information systems and databases must be completed, and at the same time, developing many national information systems and databases in other fields according to specific plans.¹⁵⁵² Similarly, the Steering Committee 896 also issued an Implementation Plan for the Master Scheme to simplify administrative procedures, citizenship documents, and databases related to population management in 2020.¹⁵⁵³ On the basis of the Government's direction, all related ministries and the entire state government system are actively constructing e-government and strengthening e-commerce activities in the online public service sector in many different forms and degrees.¹⁵⁵⁴

The actual capacity of the public apparatus system: with the active, proactive and enthusiastic direction of the Government, state agencies have initially provided a number of essential online public services for people and businesses. The most typical of these are business registration procedures, tax declaration, tax payment, electronic customs, and social insurance.¹⁵⁵⁵ On December 9, 2019, the Government of Vietnam opened the National Public Service Portal, but the rate of level 4 online public services has so far doubled. All the central ministries and local governments are linked to the national documentary interconnected axis. Approximately 86.5% of electronic documents are exchanged by the Internet.¹⁵⁵⁶ The proportion of state employees equipped with computers to serve their work reached 90.95% at the central level, 97.14% at provincial departments and agencies, and 90.87% at People's Committees of districts. The document management and administration software systems

¹⁵⁵¹ Chí Kiên, *Tháng 6/2020, 100% văn bản điện tử được gửi, nhận ở cả 4 cấp chính quyền*, BÁO ĐIỆN TỬ CHÍNH PHỦ NƯỚC CHXHCN VN (Apr. 6, 2020, 14:04 PM), available at: <http://baochinhphu.vn/Xay-dung-Chinh-phu-dien-tu/Thang-62020-100-van-ban-dien-tu-duoc-gui-nhan-o-ca-4-cap-chinh-quyen/392128.vgp>, accessed on July 27, 2020.

¹⁵⁵² Chí Kiên, *Kế hoạch hoạt động của UBQG về Chính phủ điện tử năm 2020*, BÁO ĐIỆN TỬ CHÍNH PHỦ NƯỚC CHXHCN VN (Mar. 25, 2020, 15:17 PM), available at: <http://baochinhphu.vn/Xay-dung-Chinh-phu-dien-tu/Ke-hoach-hoat-dong-cua-UBQG-ve-Chinh-phu-dien-tu-nam-2020/390905.vgp>, accessed on July 27, 2020.

¹⁵⁵³ Chí Kiên, *Triển khai thực hiện Đề án tổng thể đơn giản hóa TTHC, giấy tờ công dân*, BÁO ĐIỆN TỬ CHÍNH PHỦ NƯỚC CHXHCN VN (May 8, 2020, 10:51 AM), available at: <http://baochinhphu.vn/Xay-dung-Chinh-phu-dien-tu/Trien-khai-thuc-hien-De-an-tong-the-don-gian-hoa-TTHC-giay-to-cong-dan/395041.vgp>, accessed on July 27, 2020.

¹⁵⁵⁴ Chí Kiên, *supra* note 29.

¹⁵⁵⁵ Mai Tiến Dũng, *supra* note 8.

¹⁵⁵⁶ Lan Anh, *Đẩy mạnh xây dựng Chính phủ điện tử*, NHÂN DÂN ĐIỆN TỬ (Feb. 22, 2020, 01:46 PM), available at: <https://nhandan.com.vn/khoahoc-congnghe/day-manh-xay-dung-chinh-phu-dien-tu-473264/>, accessed on July 26, 2020.

have been deployed at all central ministries and localities. As of December 21, 2017, Vietnam Electricity supplied 100% online electricity services.¹⁵⁵⁷ 100% of the basic customs procedures have so far been automated nationwide to the sub-department level.¹⁵⁵⁸ The electronic tax declaration system has been deployed in 63/63 provinces and cities and 100% of affiliated tax departments.¹⁵⁵⁹ The Ministry of Health has recently completed the provision of online public services at level 4 for 100% of administrative procedures under its management, 5 years earlier than the previously declared roadmap.¹⁵⁶⁰ Around 97% of the documents of the public service offices in Quảng Ninh and An Giang have been exchanged electronically.¹⁵⁶¹ Approximately 1,349 level 2 administrative procedures, 530 level 3 online public services, 404 level 4 online public services have been provided through the online public services portal of Thừa Thiên-Huế province.¹⁵⁶² By July 1, 2020, the electronic copy authentication service from the original on the National Public Service Portal has been planned to open and deployed nationwide.¹⁵⁶³

Infrastructure system capabilities: some information-based databases such as national business registration database, national insurance database, national population database, and national land database are currently under construction and all components are taken into operation.¹⁵⁶⁴ On the morning of May 22, 2020, the Ministry of Information and Communications launched a campaign to promote digital transformation by Vietnam's cloud

¹⁵⁵⁷ Toàn Thắng, *EVN công bố cung cấp 100% dịch vụ điện trực tuyến*, TRANG TIN CHÍNH PHỦ ĐIỆN TỬ (Dec. 22, 2017), available at: <http://egov.chinhphu.vn/evn-cong-bo-cung-cap-100-dich-vu-dien-truc-tuyen-a-NewsDetails-37587-14-186.html>, accessed on July 27, 2020.

¹⁵⁵⁸ Hoàng Thành, *Thực trạng và giải pháp triển khai dịch vụ công trực tuyến tại Bộ Tài chính*, TẠP CHÍ TÀI CHÍNH (June 27, 2017, 10:52 AM), available at: <http://tapchitaichinh.vn/nghien-cuu-trao-doi/thuc-trang-va-giai-phap-trien-khai-dich-vu-cong-truc-tuyen-tai-bo-tai-chinh-126476.html>, accessed on July 27, 2020.

¹⁵⁵⁹ TA, *Bộ Tài chính đạt nhiều kết quả trong triển khai chính phủ điện tử*, BÁO ĐIỆN TỬ CHÍNH PHỦ NƯỚC CHXHCN VN (July 9, 2020, 15 :43 PM), available at: <http://baochinhphu.vn/Xay-dung-Chinh-phu-dien-tu/Bo-Tai-chinh-dat-nhieu-ket-qua-trong-trien-khai-chinh-phu-dien-tu/400317.vgp>, accessed on July 27, 2020.

¹⁵⁶⁰ Đình Nam, *Bộ đầu tiên cung cấp toàn bộ dịch vụ công trực tuyến mức độ 4*, BÁO ĐIỆN TỬ CHÍNH PHỦ NƯỚC CHXHCN VN (June 30, 2020, 14:00 PM), available at: <http://baochinhphu.vn/Hoat-dong-cua-lanh-dao-Dang-Nha-nuoc/Bo-dau-tien-cung-cap-toan-bo-dich-vu-cong-truc-tuyen-muc-do-4/399369.vgp>, accessed on July 27, 2020.

¹⁵⁶¹ Lan Anh, *supra* note 44.

¹⁵⁶² MK, *Thừa Thiên-Huế đứng đầu về phát triển Chính phủ điện tử cấp tỉnh*, BÁO ĐIỆN TỬ CHÍNH PHỦ NƯỚC CHXHCN VN (July 11, 2018, 20:08 AM), available at: <http://baochinhphu.vn/Xay-dung-Chinh-phu-dien-tu/Thua-ThienHue-dung-dau-ve-phat-trien-Chinh-phu-dien-tu-cap-tinh/363371.vgp>, accessed on July 27, 2020.

¹⁵⁶³ Cổng thông tin điện tử chính phủ, *Bản sao điện tử được chứng thực có giá trị như bản chính*, TRANG TIN CHÍNH PHỦ ĐIỆN TỬ (June 4, 2020), available at: <http://egov.chinhphu.vn/ban-sao-dien-tu-duoc-chung-thuc-co-gia-tri-nhu-ban-chinh-a-NewsDetails-37867-14-186.html>, accessed on July 27, 2020.

¹⁵⁶⁴ Mai Tiến Dũng, *supra* note 8.

computing technology. Vietnam has currently about 27 data centers invested by 11 domestic enterprises with more than 270,000 servers connected to all corners of the country.¹⁵⁶⁵ On the afternoon of June 19, 2020, the Vietnamese speech processing technology platform using artificial intelligence VAIS and Vbee was presented in Hanoi.¹⁵⁶⁶ The leading information technology companies have also actively participated and have in practice made a number of remarkable contributions. For instance, VNPT is contributing to the construction of the National public service portal, the National electronic document exchange platform, the national reporting information system, the National land database. Simultaneously, FPT is supporting the deployment of digital solutions to nearly all sectors of public services from administration, finance, taxation to digital transformation, smart urban development, healthcare, transportation, and smart education. Viettel is also actively supporting the construction of e-Government of the Ministries of Information and Communication, Education and Training...¹⁵⁶⁷ Although the infrastructure for e-commerce activities in the online public service sector is gradually improved, but Vietnam's level of information technology application is ranked only about 80th and the level of information safety is positioned at over 100th in the world.¹⁵⁶⁸ This fact shows that Vietnam's system of policies and regulations in this area has paved the way for the development of the infrastructure on the one hand. There are on the other hand a lot of issues in the national system of legal documents on e-commerce activities in the online public service sector that need to be improved further in the coming time.

Opportunities to access online public services of users: Vietnam's e-commerce market in the online public services sector is very potential. Vietnam has currently more than 97 million people, over 70,000 businesses, and more than 126 million mobile phone subscribers. 68.7% of the population was Internet users in 2019¹⁵⁶⁹ and 60% of the population

¹⁵⁶⁵ Công thông tin điện tử chính phủ, *Phát động chiến dịch thúc đẩy chuyển đổi số bằng công nghệ Điện toán đám mây Việt Nam*, TRANG TIN CHÍNH PHỦ ĐIỆN TỬ (May 22, 2020), available at: <http://egov.chinhphu.vn/phat-dong-chien-dich-thuc-day-chuyen-doi-so-bang-cong-nghe-dien-toan-dam-may-viet-nam-a-NewsDetails-37864-14-186.html>, accessed on July 27, 2020.

¹⁵⁶⁶ Công thông tin điện tử chính phủ, *Ra mắt nền tảng công nghệ xử lý giọng nói tiếng Việt ứng dụng trí tuệ nhân tạo*, TRANG TIN CHÍNH PHỦ ĐIỆN TỬ (June 19, 2020), available at: <http://egov.chinhphu.vn/ra-mat-nen-tang-cong-nghe-xu-ly-giong-noi-tieng-viet-ung-dung-tri-tue-nhan-tao-a-NewsDetails-37870-14-186.html>, accessed on July 27, 2020.

¹⁵⁶⁷ Lan Anh, *supra* note 44.

¹⁵⁶⁸ Đình Nam, *Xây dựng Chính phủ điện tử phải bảo đảm an toàn, an ninh mạng*, TRANG TIN CHÍNH PHỦ ĐIỆN TỬ (Nov. 17, 2017), available at: <http://egov.chinhphu.vn/xay-dung-chinh-phu-dien-tu-phai-bao-dam-an-toan-an-ninh-mang-a-NewsDetails-37584-14-186.html>, accessed on July 27, 2020.

¹⁵⁶⁹ Công thông tin điện tử chính phủ, *supra* note 54.

was social networks users.¹⁵⁷⁰ Vietnam has 67 million internet users by 2020. Of these, there were 58 million social media users on the mobile phone devices in the early 2019.¹⁵⁷¹ The majority of Vietnamese people have access to smart mobile phone services. Of Vietnam's 64 million internet users, 61.73 million people accessed internet via mobile devices. This number accounts for 96% of internet users and 64% of Vietnam's population in 2019.¹⁵⁷² However, Vietnam's proportion of online public service usage is still very low.¹⁵⁷³ That fact shows that, although the specific regulations have created conditions for people to access more modern technologies, development policies on e-commerce market have not created safe foundations for people to participate in online public services.

The actual efficiency of e-commerce activities in the online public service sector is increasingly clear: In 2019, the number of authenticated copies made by online public services was over 102 million ones. If around 30% of the authenticated results can be reused, the social cost will save 428.4 billion VND per year.¹⁵⁷⁴ According to another calculation, the total social cost will save approximately 6,490 billion VND per year, when e-commerce activities in the online public service sector are deployed synchronously.¹⁵⁷⁵ In addition to the obvious economic benefits, Vietnam's position in the international arena has also increased significantly. According to the 2020 e-Government survey report of the United Nations, Vietnam is ranked 86th out of 193 member countries and territories of the world's biggest international organization. This figure increases 2 ranks compared to that of 2018. Vietnam has also maintained a continuous increase in rank during the period of 2014-2020.¹⁵⁷⁶

In short, with the advent and increasing improvement of the system of policies, regulations, and legal documents, the close leadership of the heads of the agencies, and the best efforts of the whole political system, Vietnam's e-commerce activities in the online public service sector have made steady progresses and achieved outstanding highlights over

¹⁵⁷⁰ Đình Nam, *supra* note 56.

¹⁵⁷¹ Hoàng Lâm, *Báo cáo Digital Marketing Việt Nam 2019: "Có tới 64 triệu người dùng Internet trên tổng số 97 triệu người Việt Nam"*, ANDREWS UNIVERSITY (July 3, 2020), available at: <https://andrews.edu.vn/bao-cao-digital-marketing-viet-nam-2019/>, accessed on July 27, 2020.

¹⁵⁷² *Id.*

¹⁵⁷³ Nguyễn Hồng Vân, *Xu hướng phát triển Chính phủ điện tử ở Việt Nam hiện nay*, QUẢN LÝ NHÀ NƯỚC (Aug. 15, 2019), available at: <https://www.quanlynhanuoc.vn/2019/08/15/xu-huong-phat-trien-chinh-phu-dien-tu-o-viet-nam-hien-nay/>, accessed on July 26, 2020.

¹⁵⁷⁴ Công thông tin điện tử chính phủ, *supra*.

¹⁵⁷⁵ Công thông tin điện tử chính phủ, *supra*.

¹⁵⁷⁶ Linh Khánh, *Việt Nam tiếp tục tăng bậc trong bảng xếp hạng Chính phủ điện tử của Liên Hợp Quốc*, BÁO ĐIỆN TỬ NEWS (July 14, 2020, 22:03 PM), available at: <https://vtv.vn/kinh-te/viet-nam-tiep-tuc-tang-bac-trong-bang-xep-hang-chinh-phu-dien-tu-cua-lien-hop-quoc-202007142151086.htm>, accessed on July 27, 2020.

the past few years.¹⁵⁷⁷ As of March 13, 2020, the Government Office, central ministries, and local governments coordinated to bring 169 level 3 and 4 online public services on the National Public Service Portal for the people and businesses.¹⁵⁷⁸ Currently, 100% of ministries, ministerial-level agencies, and 62/63 centrally run provinces and cities have established their own Steering Committee for the construction of e-government and e-administration.¹⁵⁷⁹ In 2017, the Ministry of Finance offered 100% of online public services at level 3.¹⁵⁸⁰ Over 100 million people visited Lazada's e-trading floor monthly.¹⁵⁸¹ If all Vietnam's e-commerce activities in the online public services sector are completed and stably operated, the whole country will save around 6,490 billion VND per year in the field of administrative procedures only.¹⁵⁸² All of the aforementioned achievements have been imprinted by the system of policies, regulations, and legal documents of the state in the online public service sector. In other words, the establishment and operation of the system of legal documents, regulations, and policies of the state has created the legal corridor and contributed to the legalization of Vietnam's e-commerce activities in the online public service sector over the past few decades.

2.3. Problems and solutions

Although the legalization of e-commerce activities in the online public service sector has contributed to improving the operational quality of the public apparatus system and the handling efficiency of the administrative procedures in many different forms and degrees, the reality shows that there are still a lot of issues that need to be further enhanced both in terms of theory and operation practice in recent years. Therefore, this paper poses a number of questions and proposes a series of solutions to create a more stable legal corridor for e-commerce activities in the online public service sector and simultaneously facilitate the settlement of the administrative procedures to take place more quickly, smoothly, and effectively.

¹⁵⁷⁷ Lan Anh, *supra*.

¹⁵⁷⁸ Công thông tin điện tử chính phủ, *169 dịch vụ công được triển khai trên Cổng Dịch vụ công Quốc gia*, TRANG TINH CHÍNH PHỦ ĐIỆN TỬ (Mar. 16, 2020), available at: <http://egov.chinhphu.vn/169-dich-vu-cong-duoc-trien-khai-tren-cong-dich-vu-cong-quoc-gia-a-NewsDetails-37858-14-186.html>, accessed on July 27, 2020.

¹⁵⁷⁹ TTXVN, *supra*.

¹⁵⁸⁰ Hoàng Thành, *supra*.

¹⁵⁸¹ Hoàng Lâm, *supra*.

¹⁵⁸² Công thông tin điện tử chính phủ, *supra*.

Firstly, although Vietnam's system of legal documents on e-commerce activities in the online public service sector is relatively numerous and complete, many of these have not kept up with the development level of the world's information technology and the development practices of Vietnamese society. Vietnam is especially in shortage of the synchronous legal frameworks for e-government development, specific identification regulations, authentication of individuals and organizations in electronic transactions, legal provisions on electronic documents and archives. It is therefore required that legal documents on the e-commerce market in the online public services must update the practical needs of life,¹⁵⁸³ but at the same time have to maintain their relative level of stability within a certain period of time.

Secondly, in spite of several progresses, Vietnam's current infrastructure system serving e-commerce activities in the online public service sector still cannot fully meet the real demands of the national economy. A lot of national database platforms have not yet completed.¹⁵⁸⁴ This practice requires that all technical criteria, infrastructure, and operating regulations of online public services be specified to the maximum extent possible, so that the loopholes in the legal corridor are limited to make use as much as possible. Formally, this is not a difficult task, but it is in practice not simple, because apart from specialized legal skills, lawmakers must be able to grasp the latest development achievements of the world's information technology and it is especially necessary to provide regulations that are capable of applying to Vietnam's specific practices. This fact poses a difficult question on the quality of the human resources as online public service providers. This issue cannot be solved overnight, but an immediate starting is never redundant.

Thirdly, the proportion of Vietnamese people using online public services in the e-commerce market is still very restricted. Vietnam has already issued a relatively complete number of legal documents on e-commerce activities in the online public service sector, but there are still a lot of typical examples of personal information loss, misuse, and at the question of cyber security.¹⁵⁸⁵ Therefore, although the proportion of Vietnamese people using the internet and mobile phone has increased rapidly in recent times, many of them are still not convinced to use online public services. That means apart from the promulgation of a system of appropriate legal documents, the capacity of public service provision and the ability to

¹⁵⁸³ Nguyễn Hồng Vân, *supra*.

¹⁵⁸⁴ Hoàng Thành, *supra*.

¹⁵⁸⁵ Nguyễn Hồng Vân, *supra*.

protect information security for users of the public apparatus is also an issue that the Government of Vietnam cannot ignore in the operation of the e-commerce market in the online public service sector in the time to come.

Fourthly, the consciousness of the involved parties plays a decisive role. This awareness must come from practical activities and return to serve the practical needs of people in their participation in solving online public services in the e-commerce market. This fact shows that in addition to the legal path of the system of legal documents, the educational road to raise awareness of stakeholders is also a promising direction for the improvement of operational quality of the e-commerce market activity in the online public service sector. Vietnam has in practice not focused on the communication and maximized her social resources for the construction and development of e-government.¹⁵⁸⁶ Legal awareness education for stakeholders in the participation in E-commerce activities in the online service sector is therefore extremely essential and promising, but this kind of legal education must firstly derives from the typical models of legal compliance in real life.

Fifthly, the legalization of all the processes and procedures is a solution that can limit the single dimensional feature of e-commerce activities in the online public services sector, but the basic principles of the market mechanism also plays a vital role. Instead of the previously administrative working mechanism, Vietnam's online public service provision system is recommended to operate according to the principles of supply and demand of the market mechanism. It means that instead of the hierarchical and position-based mechanism of result distribution, the market mechanism enables those who are able to address as many of their customers' practical needs as possible the chance to enjoy more achievements. The marketization and commercialization of e-commerce activities in the online public services sector is therefore also considered a very promising direction for Vietnam's current public administration.

3. Conclusion

To conclude, despite their shortage of experience and instable operation, Vietnam's e-commerce activities in the online public service sector have progressed significantly. One of the factors contributing to the rapid development of the marketization of Vietnam's online public service provision activities in recent years is the relatively complete and

¹⁵⁸⁶ *Id.*

comprehensive legal framework. More specifically, a legal corridor in information technology application and e-Government development has been gradually established.¹⁵⁸⁷ Since the early years of the twenty-first century, Vietnam has proactively issued many policies and promulgated a number of regulations as a legal corridor for the establishment and development of the e-commerce market in the online public service sector. This system of legal documents has so far basically adjusted almost all activities of the e-commerce market in the online public service sector. This success, of course, comes in part from the very high political determination of Vietnam's agency leaders, but the civil service provision capacity of the public apparatus plays a decisive role. However, the modernity and synchronization of the infrastructure system is an indispensable factor, while users' capacity of using online public services is also an inevitable component in the implementation of e-commerce activities in the online public service sector. As a result of all of these efforts, Vietnam's public administration has saved significant sources of expense, while the national economy has also been operated at higher speeds. Nevertheless, Vietnam's proportion of people in use of online public services remains fairly limited, while many basic elements in Vietnam's online public services platform have not yet been sufficient and have functioned effectively. However, the operational capacity of the public apparatus, the quality of the human resources, and the issues of cyber security are the biggest obstacles to the development of Vietnam's e-commerce activities in the online public service sector over the past few years. In such a situation, the continuous supplementation and completion of the system of legal documents to create a stable legal corridor for e-commerce activities in the online public service sector is considered as a top prioritized solution, the commercialization of the public administration's operations according to the fundamental principles of the market mechanism is really decisively significant. In addition to market solutions and documentary ones, it is important to improve the operational capacity and operational quality of the public administration system, while stakeholders' awareness is also in need of further improvement. Nevertheless, no solution can completely solve all the problems related to Vietnam's current e-commerce activities in the current online public service sector other than human ones. The improvement of the labor productivity and the enhancement of the quality of human resources of the national public administration system in accordance with the fundamental principles of the market mechanism and specific provisions of the current

¹⁵⁸⁷ Mai Tiến Dũng, *supra*.



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administrative law are therefore viewed as the key to the success of the e-commerce market of Vietnam's online public service sector in the years to come.

