



Some regulations on decentralization, delegation of power and determination of authority in the field of environment, nature and biodiversity conservation

1. INTRODUCTION

In the context of strong reform of the state administrative apparatus towards streamlining, effectiveness and efficiency, clear determination of authority and responsibility between levels of government, especially at the local level, has become an urgent requirement. Resolution No. 60-NQ/TW dated 12th April 2025 of the 11th Conference of the 13th Party Central Committee clearly defined the policy of building a two-tier local government model (provincial level and communal level), and at the same time ending the operation of district-level administrative units from 1st July 2025. On that basis, ministries and sectors are assigned the task of reviewing and adjusting the legal system to suit the new organizational model, ensuring that state management activities are not interrupted, especially in interdisciplinary and far-reaching areas such as environmental protection and biodiversity conservation.

To implement this policy, the Ministry of Agriculture and Environment (MAE) has submitted to the Government two important draft Decrees: (i) Draft Decree stipulating decentralization and delegation of power in the field of agriculture and environment, in which the key content is to transfer part of the authority from the Government, the Prime Minister and the Minister to the local government, in accordance with practical capacity and management requirements at the grassroots level; (ii) Draft Decree stipulating determination of authority of the two-tier local government in the field of state management of the Ministry to specify the two-tier government model and promptly handle legal gaps arising when abolishing the district level.

On that basis, on 12th June 2025, the Government issued Decree No. 136/2025/ND-CP stipulating decentralization and delegation of power in the field of agriculture and environment (Decree No. 136/2025/ND-CP) and Decree No. 131/2025/ND-CP stipulating determination of authority of the two-tier local government in the field of state management of the MAE (Decree No. 131/2025/ND-CP) creating a legal foundation for decentralization, delegation of power and determination of authority in accordance with the new government model, ensuring unified management from the Central Government and promoting the

proactive role of the local government. This article will analyse the core content of the two documents above in the field of environmental protection, nature and biodiversity conservation, clarify the legal basis and new regulations for effective implementation in the coming time.

2. LEGAL AND POLITICAL FOUNDATION OF DECENTRALIZATION, DELEGATION OF POWER

Decentralization, delegation of power and determination of authority in the field of agriculture and environment are not only technical management requirements, but first of all the result of a strategic, comprehensive and consistent policy-making process from the Central Government. Since 2017, Resolution No. 18-NQ/TW of the 6th Conference of the 12th Party Central Committee has laid the foundation for new thinking in organizing the apparatus, emphasizing requirements for innovation, streamlining and efficiency in the operation of the political system. By 2025, Central Government's documents continue to specify that policy in new conditions, especially the requirement to reorganize the local government in a two-tier direction (provincial level and communal level), in accordance with modern governance trends and practical conditions in Vietnam.

Environment, nature and biodiversity conservation are directly affected by socio-economic activities, highly dependent on geographical and ecological conditions and have specific inter-regional and inter-sectoral management characteristics, so delegation of power to the local government is a breakthrough step. The local government is the place that directly receives and handles environmental issues, as well as manages and protects indigenous ecosystems. Therefore, decentralization and delegation of power not only help improve operational efficiency but also ensure timely and flexible responses to risks of environmental degradation and biodiversity loss.

The legal basis for this is clearly established in legal documents and implementation plans. The Law on Government Organization and the Law on Local Government Organization 2025 stipulated the principle of determination of authority between the Central level and the local level in the direction of "strong and reasonable delegation of power, linking



The environment is a sector directly affected by socio-economic development activities

power with responsibility”, especially from Article 6 to 9 and from Article 11 to 14. Resolution No. 60-NQ/TW dated 12th April 2025 of the 13th Central Executive Committee emphasized the requirement to organize the two-tier local government, in which maximum power is delegated to the grassroots level, with people at the center. Conclusion No. 155-KL/TW dated 17th May 2025 of the Politburo clearly states principles: Central management is at the macro level, local government is responsible for implementation; decentralization and delegation of power are clear and non-overlapping; promote administrative procedure reform; specifically define between the general authority of the People’s Committee and the specific authority of the Chairman of the People’s Committee. Plan No. 447/KH-CP dated 17 May 2025 and Decision No. 758/QD-TTg dated 14th April 2025 of the Government assigned the MAE to preside over the development of two Decrees related to decentralization, delegation of power and determination of authority within the scope of its management.

Thus, the promulgation of Decree No. 136/2025/ND-CP on decentralization and delegation of power from the Central government to the local government and Decree No. 131/2025/ND-CP on determination of authority between the two levels of government -

not only has a practical basis but also a high consensus from high-level political decisions. This is the step to synchronously institutionalize policies of the Party and the State, laying a clear and transparent legal foundation to reorganize state management in key areas, in which environmental protection and biodiversity conservation are top priorities.

3. CONTENTS OF DECENTRALIZATION, DELEGATION OF POWER IN THE FIELD OF ENVIRONMENT, NATURE AND BIODIVERSITY CONSERVATION

Decree No. 136/2025/ND-CP was issued to decentralize and delegate power of the Government and the Prime Minister to the Minister of MAE and the local government or power of the Minister to the local government according to the Party’s policy, ensuring the principles of determination of authority stipulated in the Law on Government Organization 2025, the Law on Local Government Organization 2025, ensuring the initiative of the local government in deciding on their local issues. According to Decree No. 136/2025/ND-CP, contents related to environmental protection, nature and biodiversity conservation are clearly stated in Chapter XI and Chapter XIII, with many new breakthroughs in the approach to local governance.

3.1. Contents of decentralization, delegation of power in the field of environment



According to Decree No. 136/2025/ND-CP, the Prime Minister decentralized and delegated power to the Minister of MAE with following outstanding tasks and powers: Issuing criteria on environmental protection in rural building and development; approving the National environmental monitoring master plan; issuing environmental criteria and certifying projects granted green credit, issuing green bonds according to regulations.

For the local government, the Prime Minister delegated power to the provincial-level People's Committee to issue plans to handle, remediate and restore particularly serious soil contamination in cases specified in Clause 3, Article 15 and in Point c, Clause 1, Article 19 of the Law on Environmental Protection (LEP) and Clause 1, Article 18 of Decree No. 08/2022/ND-CP.

In addition, the Minister of MAE delegated power to the local government to perform a number of notable tasks, powers including: Developing plans to handle, remediate and restore particularly serious soil contamination; directing, organizing the management of dredged mud from canals, ditches and irrigation works under the local management authority to meet environmental protection requirements; stipulating economic and technical norms for the collection, transportation and treatment of domestic solid waste in the province; appraising environmental impact assessment reports, granting environmental licenses (if subject to environmental licensing) for investment projects under the authority of the MAE to appraise environmental impact assessment reports as specified in Clause 1, Article 35 of the LEP. However, this licensing power does not apply to following cases: Investment projects that have investment policy decided and approved by the National Assembly or the Prime Minister; investment projects under the authority of the MAE to grant mineral exploitation licenses, water resource exploitation and use licenses, sea dumping licenses, and decide on assignment of sea areas; investment projects to build and operate infrastructure of concentrated production, business and service areas; investment projects with large land use scale, land with large water surface (excluding hydropower projects, projects with only one or more objectives: planting annual crops, planting perennial crops, propagating and caring for agricultural seedlings)...

3.2. Contents of decentralization, delegation of power in the field of nature and biodiversity conservation

Decree No. 136/2025/ND-CP clearly stipulates decentralization, delegation of power between management levels from the central level to local level.

Fordelegation of power

The Government assigned the Minister of MAE to perform many important tasks such as: Specifying criteria for determining species and management and protection regimes for species in the List of endangered, precious and rare species prioritized for protection; promulgating the List of endangered, precious and rare species prioritized for protection; specifying the order and procedures for appraising dossiers of proposals for inclusion or removal from the List of endangered, precious and rare species prioritized for protection; deciding on species to be included or removed from the List of endangered, precious and rare species prioritized for protection; specifying the authority, order and procedures for bringing species in the List of endangered, precious and rare species prioritized for protection into biodiversity conservation facilities or releasing them into their natural habitats; specifying the authority, order and procedures for granting licenses to access genetic resources; providing information on genetic resources... In addition, the Prime Minister also delegated power to the Minister to decide to establish a national conservation reserve with the entire area located in two or more provinces or centrally run cities and promulgate regulations on the management of conservation reserves and buffer zones.

The Prime Minister delegated power to the Chairman of the provincial-level People's Committee to decide to establish a national conservation reserve with the entire area located in a province with following procedures: Surveying, assessing the current status of biodiversity where the conservation reserve is expected to be established and establishing a project for the national conservation reserve with the entire area under their management; organizing public consultation with the community of residents legally living in or adjacent to the area; establishing an interdisciplinary appraisal council and appraising the project for the national conservation reserve with the entire area under their management...

Fordecentralization

The Prime Minister decentralized to the Minister of MAE following tasks and powers: Approving the conservation program for wild animals and wild plants in the List of species prioritized for protection; approving the conservation program for plant varieties, livestock breeds, microorganisms and fungi in the List of species prioritized for protection; deciding to establish a national wetland conservation reserve with the entire area located in two or more provinces or centrally run cities; recognizing a national natural



The Prime Minister delegates authority to the Chairmans of provincial People's Committees to decide on the establishment of national-level wetland reserves entirely located within their respective localities

heritage located in two or more provinces or centrally run cities or in sea areas where the administrative management responsibility of the provincial-level People's Committee has not been determined; approving the policy of nominating international organizations to recognize international titles for natural heritages.

The Prime Minister decentralized to the Chairman of the provincial-level People's Committee to decide to establish a national wetland reserve having the entire area under their management with following procedures: Organizing survey and assessment of the current status of biodiversity, environment, economy, culture and society of the wetland area where the national wetland reserve is expected to be established; establishing a project for the national wetland reserve; organizing public consultation with the community of residents legally living in or adjacent to the area; establishing an interdisciplinary council and organizing appraisal of the project dossier to establish the national wetland reserve...

In addition, the Chairman of the provincial-level

People's Committee also has the authority to recognize a national natural heritage if the entire area is located within the locality with the following procedures: Organizing survey and assessment of the area expected to establish the natural heritage; developing a project for the natural heritage; organizing public consultation on the project to establish the natural heritage; establishing an appraisal council and organizing appraisal of the project dossier to establish the natural heritage...

Finally, the Minister of MAE also decentralized to the Chairman of the provincial-level People's Committee a number of specific tasks such as granting, extending and revoking licenses to access genetic resources; registering access to genetic resources and allowing the transfer of genetic resources abroad for study and research purposes only, not for commercial purposes; stipulating the organization and operation of the council for appraisal of licenses to access genetic resources; establishing the council for appraisal and conducting appraisal of dossiers for licenses to exploit wild animals and wild plants in the List of species



prioritized for protection; granting licenses to exploit wild animals and wild plants in the List of species prioritized for protection...

4. DETERMINATION OF AUTHORITY OF TWO-TIER LOCAL GOVERNMENT IN THE FIELD OF STATE MANAGEMENT OF THE MINISTRY OF AGRICULTURE AND ENVIRONMENT

In the context of reorganizing the local government apparatus according to a model without the district level, clear determination of authority between the provincial level and the communal level is of decisive significance for the effectiveness of state management at the local level. Decree No. 131/2025/ND-CP was issued to ensure the legal basis for the normal, continuous and smooth operation of agencies; to avoid work interruptions, overlaps, duplications or omissions of functions, tasks, fields, areas, etc.

4.1. Determination of authority in the field of environment

The provincial-level People's Committee has the authority to invest in the construction of environmental protection infrastructure works for industrial clusters in cases where there is no investor in the construction and business of industrial cluster infrastructure. The provincial-level People's Committee also has the right to request compensation for damages and organize the collection and appraisal of data and evidence to determine environmental damage caused by pollution and degradation in the area of 02 or more communal-level administrative units; organize the collection and appraisal of data and evidence to determine environmental damage caused by pollution and degradation at the request of the communal-level People's Committee according to regulations. In addition, the provincial-level People's Committee also receives reports on craft villages, approves the environmental protection plan for craft villages of the communal-level People's Committee according to regulations.

The Chairman of the provincial-level People's Committee has the responsibility to grant environmental licenses according to provisions of Clause 4, Article 41 of the LEP for investment projects and establishments belonging to groups I, II, III specified in Appendices III, IV and V issued together with Decree No. 08/2022/ND-CP dated 10 January 2022 of the Government detailing a number of articles of the LEP, as amended and supplemented by Decree No. 05/2025/ND-CP dated 6th January 2025 of the Government, that must prepare a dossier applying for environmental license according to provisions of

Article 39 of the LEP when falling into one of following cases: Having domestic wastewater discharged into the environment that must be treated with a total flow rate of 50 m³/day or more; having industrial wastewater discharged into the environment that must be treated for projects and establishments that pose a risk of causing environmental pollution; having industrial wastewater discharged into the environment that must be treated with a total flow rate of 10 m³/day or more; having domestic wastewater and industrial wastewater discharged into the environment that must be treated with a total flow rate of 50 m³/day or more... In addition, the Chairman of the provincial-level People's Committee also has the responsibility to grant, adjust, re-grant, and revoke environmental licenses according to provisions of Point b, Clause 2, Article 168 of the LEP.

The communal-level People's Council has the responsibility to arrange funds to carry out environmental protection tasks according to the current budget decentralization prescribed in Point h, Clause 2, Article 168 of the LEP.

The communal-level People's Committee has the responsibility to make a list of industrial clusters without centralized wastewater collection, drainage and treatment systems in the area and report to the provincial-level People's Committee; synthesize budget needs for environmental protection activities in craft villages according to regulations; direct and implement environmental protection models in craft villages; invest in the construction and organize the operation of solid waste collection and treatment models, on-site wastewater treatment systems that meet environmental protection requirements invested by the State from construction investment funds, environmental expenditure sources and contributions from organizations and individuals according to regulations; manage production, business and service activities to ensure compliance with environmental protection regulations according to approved planning; manage waste collection and treatment at the communal level; invest in and upgrade waste water drainage and treatment systems, collect and treat solid waste in rural areas...

The Chairman of the communal-level People's Committee has the authority to receive environmental registration for projects and establishments subject to regulations; direct incident response, mobilize forces, equipment, and means to respond to environmental incidents, and appoint a commander and a spokesperson for communal-level environmental incidents occurring in the area; establish an unannounced inspection team

according to regulations; identify waste incidents, direct response to waste incidents; establish a working group to determine the cause of waste incidents at the communal level immediately after the incident occurs according to regulations

4.2. Determination of authority in the field of nature and biodiversity conservation

The communal-level People's Committee has the authority to send representatives to participate as members of the council for appraisal of projects for provincial-level wetland reserves; send representatives to participate as members of the council for appraisal of projects for provincial-level natural heritages according to regulations.

The Chairman of the communal-level People's Committee has the authority to decide on self-defence plans to protect people's lives and limit damage to wild animals according to regulations.

5. CONCLUSION

In short, the simultaneous development and promulgation of two Decrees on decentralization, delegation of power and determination of authority is a necessary and timely step in the context of Vietnam's transition to a two-tier local government model. This is not only a technical adjustment in administrative management but also demonstrates a profound institutional reform mindset, aiming to build a service-oriented administration, focusing on governance efficiency as the center, and placing people and communities in the position of participating subjects.

Provisions in the two Decrees show a significant change in the way state power is organized at the local level, shifting from formal decentralization to substantive decentralization, from a centralized management model to a multi-center governance model. In which, the highlight is the individualization of the responsibility of the head, clearly defining roles between the provincial level and the communal level, and at the same time creating favourable conditions for the local government to be more proactive, flexible and connected to the socio-ecological realities of each region.

For the field of environment, nature and biodiversity conservation, that requires quick, practical responses and is directly affected by the community - decentralization, delegation of power and determination of authority clearly can bring about strong changes, from reforming administrative procedures to increasing the effectiveness of monitoring, management and conservation. However, for these regulations to be effective, synchronous

support in terms of legislation, human resources, finance and technology is needed, along with the involvement of the entire political system and the active participation of the people.

In the international context of increasing pressure on countries on environmental protection and biodiversity conservation, improving national institutions through above Decrees is a prerequisite for Vietnam to affirm its role and responsibility as a developing country with strong determination for the global sustainable development program ■

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