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MISSION OF VIETNAM

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PERMANENT MISSION OF THE
SOCIALIST REPUBLIC OF VIETNAM
to the United Nations Office,
the World Trade Organization
and Other International Organizations at Geneva



MISSION PERMANENTE DE LA
REPUBLIQUE SOCIALISTE DU VIETNAM
auprès de l'Office des Nations Unies,
de l'Organisation Mondiale du Commerce
et des autres Organisations Internationales à Genève

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Ref: 376 /VNM.2014

Geneva, 24 October 2014

Dear Special Rapporteurs,

We thank you for your letter Ref UA VNM 9/2014, and your valuable dialogue and consultation with Viet Nam on matters of mutual concern.

Regards the information you received and mentioned in the letter, your kind attention is drawn to the replies from the relevant authorities of Viet Nam as follows:

1. Legal grounds for the arrest and detention of Mr. Truong Duy Nhat.

Mr. Truong Duy Nhat was born in 1964, residing in Da Nang City. During the long period from 2009 to 2013, Mr Truong Duy Nhat drafted and propagated a lot of false, slanderous, inflated information for defaming individuals, affecting their rights and legal interests. At the same time, much of the information of Mr. Truong Duy Nhat contained the content that distorted the Vietnamese guidelines, policies and laws, affected the reputation and infringed upon the interests of the government of Viet Nam.

On 31.5.2013, with the approval of the People's Procuracy of Viet Nam, the investigation security agency has prosecuted and detained Mr. Truong Duy Nhat to investigate the abuse of the right to freedom of speech and expression, the infringement of the legal interests of organizations and individuals in accordance with Article 258 of the Penal Code.

On 04.3.2014, the People's Court of Da Nang City held an instance trial and sentenced Mr. Truong Duy Nhat 02 years in prison under article 258 of the Penal Code. On 26.6.2014, the appellate court of the Supreme People's Court in Da Nang held an appellate trial and declared same as the first instance.

During the detention, investigation and trial period, Mr. Truong Duy Nhat met relatives, enjoyed diet and medical care in accordance with the regulations. Mr. Truong Duy Nhat also had a right to meet a lawyer and enjoyed a legal support during the investigation and trial process. During the first declaration after his arrest and the first interrogation, Mr. Truong Duy Nhat was explained about the rights and obligations, including the right to

Mr. Mads Andenas,
Chair-Rapporteur of the Working Group on Arbitrary Detention.

Mr. David Kaye,
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

Mr. Michel Forst,
Special Rapporteur on the situation of human rights defenders.

Ms. Gabriela Knaul,
Special Rapporteur on the independence of judges and lawyers.

defence. On 19.9.2013, Mr. Tran Vu Hai (lawyer of the Ha Noi Law Firm) had been issued the certificate of defending for Mr. Truong Duy Nhat. At the interrogation of Mr. Truong Duy Nhat, Mr. Tran Vu Hai had been noticed and asked to participate in accordance with regulations. At the instance and appellate court, the trial panel facilitated the participation of the lawyer in the interrogation and debate process for protecting the legal rights and interests of Mr. Truong Duy Nhat.

The arrest, detention, investigation, trial and sentencing of Mr. Truong Duy Nhat were complied with the provisions of the law of Viet Nam and in conformity with international norms on human rights. The infringement of the rights and the legal interests of organizations and individuals in accordance with the provisions of Article 258 of the Penal Code was the reason for Mr. Truong Duy Nhat's arrest, detention, investigation, trial and sentence. These measures were also reflected in the international law on human rights and clearly highlighted in Article 19.3 of the International Covenant on Civil and Political Rights which reads "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". Meanwhile, the public, fair and independent trial was a normal operation in ensuring the integrity of the law and the rule of law, in which people are equal and no one is beyond the law.

The allegations raised in the letter are inaccurate, entirely groundless, based on the one-sided, ill-intended information, aimed at distorting and exaggerating facts (such as Mr. Truong Duy Nhat could not communicate with his counsel, the lawyer was not entitled to equitable proceedings at trial, or Mr. Truong Duy Nhat's trial might lead to intimidating and deterring others from exercising their right to freedom of opinion and expression in Viet Nam).

2. Regards the right to freedom of opinion and expression in Viet Nam

Viet Nam reaffirms its consistent policy of respecting and promoting all human rights and fundamental freedoms, including freedom of opinion and expression. Article 25 of Viet Nam's 2013 Constitutions stipulates that "the citizen shall enjoy the right to freedom of opinion and speech, freedom of press, to access to information, to assemble, form associations and hold demonstrations. The practice of these rights shall be provided by the law".

On that basis, the right to freedom of opinion and expression has progressively ensured. Discussions and hearings on guidelines and policies, seminars and debates on the State's policies by the National Assembly as well as national debates covered nation-wide on all spheres of the political, economic and social life of the country with the participation of all political and social organizations and the people take place in fact daily for all Vietnamese. The input-seeking public process for Constitution amendments received more than 26 million comments from the people. This is a strong indication for the people's freedom of expression and opinion in important matters of the country...

Especially, with the development of the press, the right to freedom of opinion and expression of the people are significantly improved and promoted. Newspapers have become the fora for many social and civil organizations and important instruments to protect the society, freedoms of the citizens. They also play an important role in examining and monitoring the realization of policies and the implementation of State's laws. All citizens have the right to voice their aspirations, express their political opinions or make contributions to all political, socio-economic and cultural matters through different means of mass media; and many press agencies have been proactively in supporting the people to raise the negative manifestations, violations of human rights, civil rights, corruption...

Along with the development of the press, the State of Viet Nam encourages the use of internet to serve the need for socio-economic and cultural development, to support administrative reform, and to improve living standards and fundamental freedoms of the people. Currently, the number of Internet users in Viet Nam is 30.8 million, accounting for 34% of the population. There are about 3 million people having personal blogs with diversity of ages, occupations and activities in various fields. According to the ranking of the International Telecommunication Union (ITU), Viet Nam ranks the 3rd in the Southeast Asia and the 8th in Asia regarding the number of Internet users.

In Viet Nam, no one, who exercises the right to freedom of opinion and expression, is under any form of detention, investigation, prosecution, judgement, harassment. This is the constitutional right of every citizen of Viet Nam. On the other hand, like other individual rights and freedom, the implementation of the right to freedom of opinion and expression... must comply with the provisions of the law and not affect the rights and legal interests of others, security and social order. The articles 19, 21 and 22 of the International Covenant on Civil and Political Rights also stipulate the exercise of the right to freedom of opinion and expression... with duties and responsibilities, including the protection of national security or of public order and may therefore be subject to certain restrictions. Practice in many countries also shows that the right to freedom of opinion and expression is limited, especially when it may incite violence or threat to the life and property of the people.

We hope that the above information would help to further clarify the questions of your concerns./.



THANH T. NGUYEN
Ambassador, Permanent Representative