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MISSION OF VIETNAM

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PERMANENT MISSION OF THE
SOCIALIST REPUBLIC OF VIETNAM
to the United Nations Office,
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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: 625/VNM.2013

Geneva, 30 December 2013

Dear Mr. Special Rapporteur,

We thank you for your letter Ref. AL G/SO 214 (67-17) VNM8/2013, regarding the information you received concerning Mr. Dinh Nhat Uy, and would like to convey to you the following information and response.

Concerned authorities in Viet Nam have seriously looked into the information provided in your letter. However, these claims and comments therein have been found to be ungrounded deductions that might have arisen from ill intentions. We would like to hereby provide genuine information regarding the case.

1. Mr. Dinh Nhat Uy was arrested, prosecuted and tried due to his violation of Viet Nam's Penal Code, not as having exercised the freedoms of expression and opinion on Internet.

As evidently proved through due legal process, from 21.11.2012 to 15.06.2013, Mr. Dinh has made 58 entries on his Facebook account and made several press interviews which carry distorted information, infringing upon the prestige and interests of individuals and entities, both in public and private sectors. The targets of these posts and interviews are, to name but a few, Mdm. Nguyen Thi Tham, his neighbor and the vice chairwomen of the local Women Union, two telecommunication groups of Viettel and VNPT, the Police Department of Long An Province, etc.

Mr. Dinh also made posts that encouraged terrorist-linked criminals who were serving their sentences, including Ms. Ta Phong Tan and Mr. Nguyen Van Hai (these two persons, under the instructions and with sponsorship of the foreign-based terrorist organization of Viet Tan, have carried out activities to incite violence and hatred in the country, aiming at overthrowing the government by violence). Some other posts of Mr. Dinh propagandized the activities of distributing leaflets in Long An Province of the "Tuoi tre yeu nuoc" (Patriotic Youth group, another foreign-based group aiming at overthrowing Viet Nam's government by violence). These leaflets, as propagandized by Mr. Dinh's posts, explicitly called for violence to overthrow the government and to kill members of the ruling party.

Mr. Frank La Rue,

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

Other posts of Mr. Dinh called for actions to illegally undermine the nationwide survey on the possible amendments to the 1992 Constitution of Viet Nam which is a publicly open and democratic process.

Mr. Dinh's acts fully consisted of elements constituting the offense of "Abusing democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens", as stipulated in Article 258 of the Penal Code of Viet Nam.

2. Detailed information on the legal processes on the case of Mr. Dinh Nhat Uy and their conformity with international standards and norms on freedoms of expression and opinion

Due legal processes, including arrest, detention, prosecution and a fair trial, were applied on the case of Mr. Dinh. On 12.06.2013, upon the approval of the Procuracy of Long An province, the Investigation Authority of Long An province's Police Department has issued the decisions of introducing prosecution on the case of Mr. Dinh and putting him on remand for investigation, according to the Article 258 of the Criminal Code of Viet Nam which regulate activities of "Abusing democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations or citizens". Throughout these processes, all rights of Mr. Dinh as recognized by Viet Nam's laws and regulations are respected. During the detention and investigation period, he enjoyed indiscriminately treatments and conditions applied to all pre-trial detainees. On 29.10.2013, a fair trial was held by the People's Court of Long An Province where Mr. Dinh was sentenced 1 year and 3 months of probation and 1 year and 9 months of a subsequent test period for the afore-mentioned crime

The Constitution and laws of Viet Nam always recognize, respect and ensure human rights and fundamental freedoms, including those of opinion, expression, association and assembly, as set out in the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights. The Article 23 of the 2013 Amended Constitution of Viet Nam reads "Citizens enjoys the freedoms of opinion, press, information access, assembly, association and protest. The exercise of these freedoms is regulated by laws." This is the Constitution of which the open and democratic amending process has been the target of Mr. Dinh's illegal activities.

International human rights laws, while enshrining fundamental freedoms, including those of opinion and press, confirm that the exercise of these freedoms must be attached with responsibilities and obligations for the sake of public security and order, legitimate interests of the community and other individuals and entities. As it is set out in the Article 29 of the UDHR, "in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society". The Article 19 of the ICCPR confirms that "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 (order public), or of public health or morals”.

As in any other country in the world, the exercise of these freedoms in Viet Nam has never been without any restriction, but always with certain obligations and responsibilities. Viet Nam's laws prohibits the abuse of freedoms of opinions and expression to incite hatred, violence, terrorism and war, to undermine national security or disrupt public order, to slander or infringe upon legitimate dignity, prestige or interests of other individuals or entities. The abuse as such is also a violation to international laws, including those of human rights, and the objectives and principles of United Nations Charter.

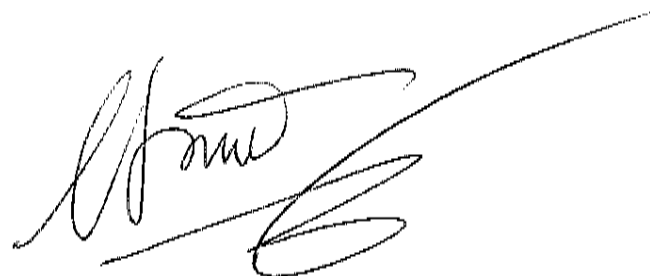
As these legal processes had been duly applied, Mr. Dinh's activities is judged as an abuse of freedoms of expression to infringe legitimate prestige and interests of relevant individuals, entities and authorities and to incite activities that disrupt public security and order. With due consideration, the Court has issued a probation sentence.

3. With regard to complains logged by Mr. Dinh Nhat Uy and his family.

When investigating and prosecuting the case of Mr. Dinh, legal institutions of Long An Province did not receive any petition, complain or denunciation from Mr. Dinh and his family. After his first instance trial, Mr. Dinh had filed a written appeal. The case has now been transferred to the Court of Appeal of the People's Supreme Court for re-handling in accordance with the effective laws.

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

Please accept the assurances of our highest consideration./.



PHAM QUOC TRU
Minister, Deputy Permanent Representative
Charge d'Affairs a.i.