

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



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

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The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations Office, the World Trade Organization and Other International Organizations in Geneva presents its compliments to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights and has honour to hereby transmit the Replies of Viet Nam to the Communications of the Special Procedures of the Human Rights Council (07 attachments).

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations Office, the World Trade Organization and Other International Organizations in Geneva avails itself of this opportunity to renew to the Special Procedures Branch of the Office of the UN High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 13 April 2017



Special Procedures Branch
Office of the United Nations High Commissioner for Human Rights
GENEVA

REPLY OF VIET NAM TO THE COMMUNICATION UA VNM 1/2015

Regarding the information and allegations that Special Procedures received and mentioned in the letter UA VNM 1/2015 of the Special Procedures Branch dated 30 October 2015 in relation to the cases of Mr. Le Van Manh, Mr. Dó Dang Du and Mrs. Do Thi Mai, your kind attention is drawn to the reply from the relevant authorities of Viet Nam as follows:

1. With regards to the case of Mr. Le Van Manh

i. General information about Le Van Manh

Le Van Manh was born in 1982, usually resides in Yen Dinh Commune, Yen Dinh District, Thanh Hoa Province.

ii. Legal grounds for the prosecution of Le Van Manh's acts

In 2003, Le Van Manh and [REDACTED] committed robbery and escaped. Dong Nai Province's Police issued a nationwide Arrest Warrant against Le Van Manh. On 24th May 2015, Le Van Manh was arrested by Thanh Hoa Police Department.

After investigations, authorities have collected enough evidence to prove that Le Van Manh is the author of the murder and rape of the girl named [REDACTED] (born in 1991, 14 years old when she was raped and murdered).

The authorities decided to merge two cases of robbery and murder, rape for trial. At the trial of 29th July 2005, after reviewing evidence and impeachment, the People's Court of Thanh Hoa Province sentenced Le Van Manh to death penalty for three counts of "murder, child rape and robbery".

iii. Ensuring the right to a fair trial of Le Van Manh

Between 27th July 2005 and 25th November 2008, Le Van Manh has experienced seven trials (three trials of first instance, three appeal trials and one cassation trial). Details of this trial process are as follows:

- At the trial of 29th July 2005, the People's Court of Thanh Hoa Province sentenced Le Van Manh to eight years of imprisonment for "robbery", 10 years of imprisonment for "child rape" and death penalty for "murder". Total penalty for all three counts of crimes is death penalty.

- At the appeal trial of 27th October 2005, the Appeal Chamber of the Supreme People's Court in Ha Noi decided to cancel the first instance verdict of 29th July 2005 and handed over the dossier to the People's Court of Thanh Hoa Province to reinitiate the proceedings from the investigation stage to review Le Van Manh's application for appeal and his testimony at the first instance trial.

- After re-investigations, at the re-trial of 13th March 2006, the People's Court of Thanh Hoa Province sentenced Le Van Manh to 10 years of imprisonment for "child rape" and death penalty for "murder".

- At the trial of 26th July 2006, the Supreme People's Court in Ha Noi, decided to reject Le Van Manh's application appeal and upheld the first-instance criminal verdict of 13th March 2006.

- On 4th June 4 2007, the Judges' Council of the Supreme People's Court held a trial of cassation to review of criminal case against Le Van Manh. After the examination of the dossier, the Court found procedural flaws in legal proceedings of the case and decided to cancel the Appeal Judgment of 26th July 2006 and the first instance Verdict of 13th March 2006. The Judges' Council of the Supreme People's Court also decided to hand the case to the Supreme People's Procuracy for re-investigation in accordance with general procedure.

- After the re-investigation of second time, the People's Court of Thanh Hoa Province re-opened the first instance trial on 29 July 2008 and sentenced Le Van Manh to 08 years of imprisonment for "child rape" and the death penalty for "murder".

- According to the Appeal Criminal Judgment No. 874/2008/HSPT dated 25th November 2008, the Appeal Chamber of the Supreme People's Court decided not to accept the application for appeal of Le Van Manh and uphold the first instance verdict. The Court sentenced Le Van Manh of 08 years of imprisonment for "child rape" and death penalty for "murder" in addition to his sentence of 8 years' imprisonment for robbery under the first instance judgment No. 188/2005/HSST dated 20th July 2005. The defendant was convicted and obliged to execute the capital punishment.

- On 14th October 2015, the People's Court of Thanh Hoa Province issued Decision 02/2015/QD-CA on execution of death penalty against Le Van Manh for crimes of "murder, rape and robbery" and assigned to the Council of execution of death sentences the enforcement in accordance with the law.

As such, the trial of Le Van Manh has been thoroughly reviewed by judicial authorities in order to ensure that all criminal proceedings are conducted in full compliance with applicable laws (during two of 07 court hearings, the Court has decided to re-investigate the case to ensure all constitutional rights for Le Van Manh). Currently, the Court has not yet decided the execution date of the death sentence against Le Van Manh. The case continues to be thoroughly reviewed by the Supreme People's Court and other competent judicial authorities of Viet Nam.

iv. Ensuring the access to defense lawyer for Le Van Manh

In seven court hearings mentioned above, the People's Courts of all levels have guaranteed the access to defense lawyers for Le Van Manh according to the provisions of the Criminal Procedure Code:

- At 03 first instance hearings, Le Van Manh's defense lawyer was Attorney [REDACTED] of Thanh Ky Law Office (Bar Association of Thanh Hoa Province).

- At the appeal hearing held on 26th July 2006 at the Appeal Chamber of the Supreme People's Court of Ha Noi, the defense counsel for Le Van Manh was Attorney [REDACTED] of Viet Hoa Law Office (Bar Association of Thanh Hoa Province).

- At the trial of 29th July 2008, the defense counsel for Le Van Manh was Attorney [REDACTED] of Phan Thuy Law Office (Bar Association of Thanh Hoa Province).

- On 17th October 2008, prior to the appeal hearing of the Supreme People's Court of Ha Noi, Attorney [REDACTED] went to Thanh Hoa Police's Detention Center to meet with Le Van Manh to explain to him the right to have, change or refuse defense lawyer under Article 57 of the Criminal Procedure Code.

Le Van Manh refused to have defense lawyer on the grounds that "defense lawyers cannot fabricate good innocent evidence for Manh and do not ensure Manh's rights and interests".

According to The Minutes of the Meeting between the lawyer and Le Van Manh: "Manh does not wish to ask the Court to invite another lawyer and will refuse any lawyer assigned by the Court. Manh wish to invite Attorney [REDACTED]'. However, at that time, Attorney [REDACTED] was suspended due to her violations of law. Therefore, at the trial of 25th November 2008 of the Appeal Chamber of the Supreme People's Court of Ha Noi, Attorney [REDACTED] of Phan Thuy Law Office (Bar Association of Thanh Hoa Province) continued to defend the rights of Le Van Manh..

v. In relation to the health conditions and the safeguard of Le Van Manh's rights in detention center

During the temporary detention for investigation, Le Van Manh was not beaten by investigators, prison guards or his cellmates. Le Van Manh's confession did not result from torture or extortion.

Officers of the Thanh Hoa Police's Detention Center always do all the necessary to ensure the rights for Le Van Manh as well as other detainees in accordance with the law.

On the basis of foregoing information, the allegations mentioned in the appeal that Le Van Manh was not guaranteed a fair trial as required by due process of law and the access to legal counsel and that he was beaten or tortured by prison officers are unfounded.

During his detention for investigation purpose, Le Van Manh was fully guaranteed the rights of detainees. Therefore, Viet Nam strongly requests the Special Rapporteurs to dismiss this case.

2. With regards to the cases of Mr. [REDACTED] and Mrs. Do Thi Mai

i. Legal grounds for the arrest and detention of Do Dang Du

[REDACTED] 17 years old, was arrested on 5th August 2015 by Ha Noi Police for charges of robbery (stealing 2 million Viet Nam Dong in cash, a computer and a telephone). He was temporarily held in custody for investigation purpose for 02 months, starting from 7th August 2015 with the approval of the Procuracy.

ii. Ensuring the rights of [REDACTED] during his temporary detention

On 13th August 2016, [REDACTED] was transferred to Detention Cell C15 along with three other juvenile delinquents (under 18 years). On 4th October 2015, due to personal friction with [REDACTED] (one of his cellmates), [REDACTED] was beaten by [REDACTED] and had serious injuries. [REDACTED] was immediately moved to emergency of Ha Dong General Hospital and then transferred to Bach Mai Hospital for treatment. However, [REDACTED] died on 10th October 2015 at Bach Mai Hospital.

Through investigation, [REDACTED] has admitted for having beaten [REDACTED] and causing the latter's death. On 15th October 2015, the People's Procuracy of Ha Noi City issued Decision to prosecute [REDACTED] for "intentionally causing injury".

On 22nd September 2016, the People's Court of Ha Noi opened the trial of [REDACTED] for charges of intentionally inflicting injuries, leading to the death of [REDACTED]. Based on the results of the investigation and the fact that the defendant pleaded guilty, the Court convicted and sentenced [REDACTED] to 10 years' imprisonment under Article 20 of the Penal Code.

Officers of Detention Center completely did not participate in the beating of [REDACTED]. However, the investigating body has transferred the dossier to the appropriate authorities to consider the responsibility and the extent of law violation by the managers of Detention Center and the direct staff (Deputy Supervisor [REDACTED] and prison guard [REDACTED]) to handle in accordance with the law if necessary.

iii. The autopsy of the body of [REDACTED]

At the request of Mrs. Do Thi Mai (mother of [REDACTED]) and the family's Attorney - Mr. [REDACTED] the Military Forensic Institute carried out the autopsy of [REDACTED]'s body and adopted the autopsy report. Attorney [REDACTED], after witnessing the autopsy, refused to sign the autopsy report on the grounds that the autopsy report did not specify the internal examination and the cause of the death. The autopsy council explained to him that the

internal examination and the cause of the death will be separately explained in the forensic examination conclusions. However, Attorney [REDACTED] left the Forensic Institute without signing the autopsy report.

iv. In relation to the allegation that Mrs. Do Thi Mai has been subject to death threats

The police did not harass or threaten Mrs. Do Thi Mai due to her complaint to UN human rights mechanisms. During the investigation process, the Investigation Division of Ha Noi City Police received many letters under the name of Mrs. Do Thi Mai accompanied by applications from different law offices and law firms in Ha Noi for defense certificate in order to represent Mr. [REDACTED] (the son of Mrs. Do Thi Mai).

In order to ensure that these correspondences are true of Mrs. Do Thi Mai, the competent authorities have repeatedly summoned Mrs. Do Thi Mai to their offices, but Mrs. Mai did not come to the appointments. For this reason, the competent authorities did not have enough evidence to issue defense certificate for requesting lawyers.

On 18th November 2015, upon the request of Mrs. Do Thi Mai, the Investigation Division of Ha Noi City Police issued defense certificates for following lawyers: [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED].

In conclusion, the arrest and detention of [REDACTED] for investigation have been conducted in full compliance with Vietnamese laws. [REDACTED] was fully guaranteed the rights of detainees. After thorough verification, it needs to reaffirm that [REDACTED] has never been beaten by investigator or police officer. The responsibility of all those involved in [REDACTED]'s death has been investigated and dealt with in accordance with Vietnamese laws. The forensic examination was done at the request of Do Thi Mai ([REDACTED]'s mother). Moreover, Do Thi Mai was not harassed or threaten by police as claimed in the communication.

The information sent to the Special Rapporteurs is completely untrue. On this basis, Viet Nam strongly requests concerned Special Procedures to discontinue the consideration of the case.