

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 03/2015

Regarding the information and allegations that Special Procedures received and mentioned in the letter UA VNM 03/2015 of the Special Procedures Branch in relation to the cases of Mr. Nguyen Van Dai, Mr. Vu Van Minh, Mr. Ly Quang Son and Mr. Le Manh Thang, your kind attention is drawn to the reply from the relevant authorities of Viet Nam as follows:

*1. With regards to the allegation that "Police of Nam Dan District, Nghe An Province prevented these individuals from organizing a human rights workshop on 06<sup>th</sup> December 2015.*

On 6<sup>th</sup> December 2015, Mr. Nguyen Van Dai and Mr. Vu Van Minh, Mr. Ly Quang Son and Mr. Le Manh Thang organized a workshop on human rights in Nam Loc Commune, Nam Dan District, Nghe An Province. The workshop normally held its proceedings and terminated in the afternoon. No one was prevented from organizing or attending the workshop by Nghe An Police. Therefore, the allegations stated in the Appeal are unfounded, distorted the truth.

*2. In relation to the allegation that "plainclothes police officers attacked Mr. Nguyen Van Dai and robbed his property on 6<sup>th</sup> December 2015"*

On 11<sup>th</sup> December 2015, Nghe An Police received a letter sent by post from Mr. Nguyen Van Dai

Around 5pm on 6<sup>th</sup> December 2015, in Quan Hanh Town, Nghi Loc District, Nghe An Province, Mr. Nguyen Van Dai and some individuals were attacked by about 20 strangers, robbed of papers, telephones and money (about 10 million Viet Nam Dong).

After receiving the petition, Nghe An Police organized a thorough verification in the area and concluded that: from 6<sup>th</sup> December 2015 to 11<sup>th</sup> December 2015 (the date of receipt of Nguyen Van Dai's letter), in Nghe An Province, the authorities have not registered or have been made known of any case as described in Nguyen Van Dai's petition. Since the letter of Mr. Nguyen Van Dai clearly states its purpose of "notification of the facts" and on the basis of the verification, pursuant to paragraph 1, Article 107 of the Criminal Procedure Code, on 2<sup>nd</sup> February 2016, competent authorities decided not to institute a criminal case and terminated the settlement of criminal denunciation and immediately notified this decision to Mr. Nguyen Van Dai.

**3. Legal grounds for the arrest and detention of Mr. Nguyen Van Dai**

On 15<sup>th</sup> December 2015, the Investigation Agency of the Ministry of Public Security issued Decision to prosecute the accused, Arrest warrant against the accused and search warrant against Mr. Nguyen Van Dai on charges of "propaganda against State of the Socialist Republic of Viet Nam" under Article 88 of the Criminal Code. On 16<sup>th</sup> December 2015, the Investigation Agency enforced the arrest warrant and search warrant against Mr. Nguyen Van Dai.

- The prosecution and detention of Mr. Nguyen Van Dai were initiated by the relevant authorities in accordance with Vietnamese law (the arrest warrant and search warrant against Mr. Nguyen Van Dai were duly approved by the Supreme People's Procuracy) and in accordance with international law. During the search, the authorities have seized a number of objects and documents related to the case to serve the investigation.

- International law in general and Vietnamese law in particular recognize and protect the rights to freedom of speech and assembly, but also prohibit acts of abuse of these rights to infringe upon national security, public order, social morality or interests of the community and rights of other persons. This is reflected in Paragraph 3 of Article 19 of the International Covenant on Civil and Political Rights (ICCPR): "the exercise of the rights (freedom of expression) 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"

- The arrest and detention of Mr. Nguyen Van Dai have been conducted in full compliance with fundamental principles of law, including the following provisions:

"Every one shall enjoy inviolability of the person". "No one shall be arrested in the absence of a decision by the People's Court, a decision or sanction of the People's Procuracy except in case of flagrant offences" (Article 20 of the Constitution of 2013, Article 6 of the Criminal Procedure Code of 2003 and Article 10 of the amended Criminal Procedure Code of 2015 (not yet effective)).

"No one shall be found guilty and shall be subject to penalties without a legally effective judgment of the court" (Article 8 of the Criminal Procedure Code 2003). "A person charged with a criminal offense shall be presumed innocent until proven guilty according to a legally established procedure and a legally binding judgement of the court"(Paragraph 1 of Article 31 of the Constitution 2013, Article 13 of the amended Criminal Procedure Code of 2015 (not yet effective)).

Currently, the case is under investigation, the competent authorities will bring it to trial in accordance with due process of law. Throughout the proceedings, the fundamental rights of Nguyen Van Dai (gifts, family visits, health care, etc...) are guaranteed in accordance with the law. Therefore, the allegations mentioned in the appeal are unfounded.

On the basis of the foregoing, Viet Nam requests the Special Procedures not to continue the consideration of the cases of Mr. Nguyen Van Dai, Mr. Vu Van Minh, Mr. Ly Quang Son and Mr. Le Manh Thang.

