

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 COMMUNICATIONS UA VNM 6/2016
and AL VNM 7/2016**

Regarding the information and allegations that Special Procedures received and mentioned in the letters UA VNM 6/2016 and AL VNM 7/2016 of the Special Procedures Branch, your kind attention is drawn to the reply from the relevant authorities of Viet Nam as follows:

1. General information about Ms. Can Thi Theu

Ms. Can Thi Theu (born in 1962, native of Thach That District, Ha Noi City) usually resides at [REDACTED]. In April 2014, Ms. Thi Theu Can had been arrested, investigated and tried for act of "resisting persons in performance of their official duties" under Article 257 of the Penal Code. She had been sentenced to 15 months of imprisonment and already finished serving the prison sentence in July 2015.

On June 9th 2016, Investigation Division of the Police of Dong Da District, Ha Noi City initiated criminal case to prosecute the accused and issued the arrest warrant for investigation purpose against Ms. Can Thi Theu for act of "causing public disorder" under Article 245 of the Penal Code.

On September 20th 2016, the People's Court of Dong Da District (Ha Noi City) opened the trial of first instance of Ms. Can Thi Theu. After hearings, the Court sentenced her to 20 months of imprisonment for act "disturbing public order" pursuant to paragraph 1, Article 245 of the Penal Code.

2. Legal grounds for the arrest and detention of Ms. Can Thi Theu

The arrest of Ms. Can Thi Theu on June 10th 2016 for act of "causing public disorder" was fully in compliance with relevant laws of Viet Nam and with relevant provisions of law international on human rights, including the principle of *ne bis in idem*. Her detention is not as arbitrary in any case.

The offense committed by Ms. Can Thi Theu was a self-evident fact. The arrest and detention for investigation purpose is public, transparent for the following reasons:

- After finishing her prison sentence, from July 25th 2015 to June 10th 2016, Ms. Can Thi Theu has organized, enticed and provoked petitioners for 25 times to conduct marches and illegal demonstrations which caused insecurity and disorder at the offices of State's agencies at different localities of Ha Noi City. Ha Noi City's Police made records of administrative sanction for act of "causing public disorder" for 04 times because of the above-mentioned activities of Ms. Can Thi Theu.

- Even though she had repeatedly been administratively sanctioned by competent authorities, on April 8th 2016, Ms. Can Thi Theu continued to organize,

together with some citizens from Duong Noi Ward, Ha Dong District and other provinces and cities, a demonstration to file a complaint at "Meeting People" Office of the Ministry of Natural Resources and Environment (at Nguyen Chi Thanh Street, Dong Da District, Ha Noi City). Ms. Theu was received by the official in charge of the Ministry of Natural Resources and Environment. But right afterwards, Ms. Can Thi Theu stretched along some banners and slogans, shouted and rushed down to the street, lied down on street lanes. By doing so, her group prevented people from freely circulating on the road and seriously obstructed traffic along Nguyen Chi Thanh Street for hours. Ms. Can Thi Theu's actions constitute the elements of the offence "causing public disorder" as defined in Article 245 of the Penal Code.

- After conducting investigations, on June 9th 2016, Investigation Division of the Police of Dong Da District, Ha Noi City initiated criminal case, prosecuted the accused and issued the arrest warrant and detention order for investigation purpose against Ms. Can Thi Theu for act of "causing public disorder" under paragraph 1, Article 245 of the Penal Code.

- On June 10th 2016, Investigation Division of Dong Da District's Police (Ha Noi City) arrested Ms. Can Thi Theu in the village of Kim Quan, Yen Thuy District, Hoa Binh Province. The seizure of the mobile phone of Ms. Can Thi Theu was witnessed by representatives of local authorities and was recorded in writing according to due process to serve as evidence for the investigation process.

Thus, the arrest and detention of Ms. Theu for investigation purpose resulted from her violations of law and was completely unrelated to her activities on land ownership or her exercise of the right to freedom of assembly, association as claimed in the communications.

3. Ensuring the rights of Ms. Can Thi Theu during the temporary detention for investigation purpose and her health conditions

During the temporary detention, Ms. Can Thi Theu was guaranteed all the rights of detainees. Detention authorities have fully implemented laws and regulations related to detention conditions, including ensuring safety as well as physical and mental health of the detainee.

When Ms. Can Thi Theu refused to receive meals provided by the Detention Center to protest her arrest and asked to meet with a lawyer, representative of competent authorities came to meet and explain to her applicable regulations on temporary detention. Medical staff was sent to examine and check her health conditions every day.

On June 22nd 2016, Ms. Theu had an audition with investigating authorities with the presence of her two counsels. -

During this meeting, Ms. Theu was cooperative, answered to questions of police officers. Since then, she received all eating rations provided by the Detention Center.

Her health was in normal conditions and good enough to participate in all stages of criminal proceedings.

4. Ensuring the right to a fair trial for Ms. Can Thi Theu

The right to a fair trial of Ms. Can Thi Theu has been fully ensured, all steps of required procedure have been undertaken in full compliance with the law:

- On August 5th 2016, Investigation Division of Dong Da District's Police served the conclusions of the investigation No. V/DTHS for Ms. Can Thi Theu and her defense lawyers.

- On September 5th 2016, the People's Court of Dong Da District issued the Decision No. QD-HSST to bring Ms. Can Thi Theu to criminal trial of first instance.

- On September 20th 2016, the People's Court of Dong Da District opened the first-instance trial of Ms. Can Thi Theu. All the hearings were held publicly according to prescribed procedures. The two lawyers, participated in all hearings to defend Ms. Theu's rights. After an adversarial process, the Court concluded that the behaviors of Ms. Theu caused serious disorder, obstructed traffic and impeded the normal operation of the State's agencies in the locality. This is also a case of recidivism; therefore, the Court sentenced Ms. Theu to 20 months of imprisonment for "causing public disorder" pursuant to paragraph 1 of Article 245 of the Penal Code.

On the basis of the foregoing, it is clear that the process of arrest, investigation and trial of Ms. Theu has been conducted in accordance with prescribed laws and procedures. Ms. Theu has been guaranteed all the rights of the detainees. Ms. Theu's trial was held publicly; her two defense counsels defended her rights at court hearings. The information sent to special procedures of the Human Rights Council is untrue with a view to distorting actual situation in the country and falsely accusing Vietnamese authorities of human rights violations.