

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 with reference to the communication Ref. UA VNM 4/2018 dated 04 April 2018 from the Special Procedures, has the honour to hereby transmit the reply of Viet Nam.

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 United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 05 October 2018



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

## **REPLY OF VIET NAM TO THE COMMUNICATION**

**Ref. UA VNM 4/2018 (dated 04 April 2018)**

The allegations mentioned in the communication in relation to Nguyen Van Dai, Le Thu Ha, Pham Van Troi, Truong Minh Duc, Nguyen Trung Ton and Nguyen Bac Truyen are untrue and unfounded. Those allegations are based on false, groundless, unverified and one-sided information, which do not reflect the truth of the case. These individuals were arrested, investigated and prosecuted for their violations of law, not for the exercising of their rights and freedoms or for being 'human rights defenders' or 'pro-democracy campaigners'.

In any legal system, violations of law must entail responsibility. International human rights law, including the International Covenant on Civil and Political Rights, does not tolerate the acts of violating national security, public order, public health or morals or infringing upon rights and legitimate interests of organizations and other individuals.

### **1. Legal grounds for the arrest and trial of the six individuals**

In 2007, the Appellate Court sentenced Nguyen Van Dai to four years' in prison and four years of probation for the offence of "conducting propaganda against the Socialist Republic of Viet Nam" under Article 88 of the Criminal Code. After finishing his sentence in 2012, Mr. Dai had continued his acts against the State. On 16 December 2015, Nguyen Van Dai and his accomplice Le Thu Ha were arrested for investigation of charges against them under Article 88 of the Code. On 30 July 2017, the Investigation Security Agency of the Ministry of Public Security instituted criminal proceedings against these two individuals for the charges of 'conducting activities aiming at overthrowing the people's administration' under Article 79 of the Criminal Code.

On 05 April 2018, the People's Court of Ha Noi heard the case of Nguyen Van Dai, Le Thu Ha, Pham Van Troi, Truong Minh Duc, Nguyen Trung Ton and Nguyen Bac Truyen, who had been prosecuted by the Supreme People's Procuracy for their alleged violation of Article 79 of the Criminal Code of 1999.

According to the indictment, from March 2013 to July 2017, Nguyen Van Dai, Pham Van Troi, Nguyen Trung Ton and Nguyen Bac Truyen established the illegal 'Brotherhood for Democracy' group. They drafted the political program, the charter, rules and regulations governing organization and operation of the group and actually directed and managed activities of the

group. Nguyen Van Dai and his accomplices induced Truong Minh Duc, Le Thu Ha and other individuals to join the group. The group's political program stated that the organization is not subject to Vietnamese laws and regulations and does not need to register for operation under Vietnamese law. All documents drafted by this group emphasized the target of creating a group of persons confronting with the Government, going against the Vietnamese Constitution.

These persons associated with illegal groups and organizations in the country and sought for financial support from overseas to develop and organize plans to overthrow the Government. The 'Brotherhood for Democracy' group regularly wrote posts and made provocative statements during interviews which contains distorted and fabricated, untrue information about the socio-political situation of Viet Nam; organized training courses on how to radicalize people and to organize protests aiming at disturbing public order to disrupt the Government.

Nguyen Van Dai was the principal offender. He acted as the leader of the group, the second Vice Chairman of the 'Brotherhood for Democracy', drafted the political program of the group, recruited new members, developed plans of action and contacted organizations and individuals overseas to mobilize their financial support, which resulted in the financing of 71,726 USD and 9,161.31 for the group's activities. Among the financing organizations were the VOICE – Vietnamese Overseas Initiative for Conscience Empowerment and FVPOC – Former Vietnamese Prisoners of Conscience, which regularly conduct activities against the Government of Viet Nam. VOICE opens offices in many countries, using its cover as humanitarian organization for the purpose of mobilizing funds for the terrorist group of Viet Tan.

Pham Van Troi was the founding member and Chairman of the 'Brotherhood for Democracy' from 26 April 2015 until December 2016 when he withdrew his membership. During this period, he was responsible for the group's activities in the North of Viet Nam, directed its members to disrupt the National Assembly election in May 2016 and disseminated false, unverified information to radicalize people. Though Truong Minh Duc and Le Thu Ha were not founding members, they were very active in conducting illegal acts of the group.

Based on the open, transparent and fair adversarial hearings and the evidences, the People's Court of Ha Noi found that acts of the defendants are of

very serious nature, directly endangering national security, that they committed the offence of ‘Conducting activities to overthrow the people’s administration’ under Article 79 of the Criminal Code. The Court sentenced Nguyen Van Dai to 15 years in prison and 5 years under mandatory supervision, Pham Van Troi: 7 years in prison and 1 year under mandatory supervision, Nguyen Trung Ton: 12 years in prison and 3 years under mandatory supervision, Truong Minh Duc: 12 years in prison and 3 years under mandatory supervision, Nguyen Bac Truyen: 11 years in prison and 3 years under mandatory supervision, and Le Thu Ha: 9 years in prison and 2 years under mandatory supervision.

Pham Van Troi, Nguyen Trung Ton, Nguyen Bac Truyen and Truong Minh Duc lodged appeals against the judgment. On 04 June 2018, the High Court of Ha Noi heard their appeals and upheld the decision of the first-instance court. The sentences against these individuals became legally effective.

Le Thu Ha and Nguyen Van Dai did not appeal. Their sentences were temporarily suspended and they left for Germany on 07 June 2018 for humanitarian reasons.

Article 79 of the Criminal Code does not prevent people from exercising their freedom of expression and speech or right to assembly. It solely regulates the acts aiming at overthrowing the people’s administration, endangering national security.

Viet Nam rejects the allegation of a ‘general crack-down on civil society, aiming at dissuading any dissent and muzzling people’s right to freedom of expression’. We kindly request the Special Procedures to be careful in processing information received to avoid using unverified information to make unobjective observations about human rights in Viet Nam. Vietnamese legislation provides for punishments against those who break the laws, infringing upon the rights and legitimate interests of others in the name of exercising human rights. In any case, the criminal procedures are strictly adhered to, the trials are fair, transparent and public, the defendants are ensured their rights to appeal, etc.

## **2. Ensuring rights of Nguyen Van Dai and his accomplices**

During detention, all the rights these individuals are entitled to under national legislation are fully ensured. In line with the Law on Temporary Detention and Custody of 2015, their rights to counsel, to medical care, to meet and stay in touch with family are enabled. Contrary to the allegations mentioned

in the communication, they were never subject to torture, extortion or any other forms of corporal punishment.

At the trial, the rights of defendants and their counsels are fully realized as required by law. The trial was a public one carried out in accordance with applicable law and regulation. At the first-instance court, there were six counsels defending the six defendants. Their family members and most of the witnesses were present at the trial. The proceedings were carried out in accordance with national law and regulations. There were adversarial hearings where defendants and their counsels both have the opportunity to speak for the former. Local and foreign reporters as well as representatives from Embassies based in Ha Noi were allowed to attend and report about the trial.