

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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Ref: 43 /HR.VNM.2019

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 communications Ref. UA VNM 6/2018 dated 17 July 2018 and Ref. UA VNM 9/2018 dated 31 August 2018 from the Special Procedures, has the honour to hereby transmit the reply of Viet Nam (02 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 United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 25 April 2019



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

REPLY OF VIET NAM TO THE COMMUNICATION

Ref. UA VNM 6/2018 (dated 17 July 2018)

The allegations in relation to the case of Nguyen Van Tuc mentioned in the communication are untrue and do not reflect the truth of the case. Nguyen Van Tuc was arrested and tried for his violations of law, not for the exercise of the rights to freedom of expression or freedom of association.

Vietnamese law recognizes and protects all human rights and fundamental freedoms. The limitations to the exercise of human rights, in line with international human rights treaties that Viet Nam is a party to, are determined by law only and solely for the purpose of promoting the general welfare in a democratic society including protection of the rights and freedoms of the others. Any violations of law must entail responsibility.

1. Legal grounds for the arrest, detention and trial of Nguyen Van Tuc

Nguyen Van Tuc, born [REDACTED] resides at [REDACTED] [REDACTED] Dong Hung District, Thai Binh Province. He was a member of the "Brotherhood for Democracy" group, aiming at overthrowing the people's administration. He was Deputy Head of the Executive Board, then Deputy Head of the Representative Board, and later First Vice President of the northern branch of Brotherhood for Democracy. Nguyen Van Tuc disseminated distorted information, conducting propaganda against the State, inducing supporters to form a political organization which is in contravention of Vietnamese legislation. He was tasked with training the members of the group on skills to disturb public order and security, organizing and leading illegal gatherings and conducting propaganda against the State with the ultimate aim of overthrowing the people's administration.

The competent authorities have carried out investigations and collected sufficient evidences of Nguyen Van Tuc's illegal acts. His acts constitute the offence of "Conducting activities to overthrow the people's administration" under Article 79 of the Criminal Code.

After completing military service in 1985, Nguyen Van Tuc returned to his locality. Since 1997, Nguyen Van Tuc had been incited by some individuals to

participate in activities aiming at overthrowing the Government. As from 2006, Nguyen Van Tuc has joined numerous illegal organizations, such as the "Đảng Dân chủ 21" (Democratic Party 21), "Hội Dân oan" (Vietnamese Victims of Injustice), "Nhóm Dân chủ" (Democratic Group), "Khối 8406" (8406 Bloc), etc. He had been financed by these illegal organizations to conduct activities against the State.

In December 2017, Nguyen Van Tuc participated in a demonstration in Ha Noi and disseminated distorted information on the Internet. On 16 August and 07 September 2008, together with some other individuals, he hanged anti-State slogans and distributed anti-State leaflets in Hai Phong and Hai Duong provinces.

On 10 September 2008, the Investigation Security Agency of the Ministry of Public Security arrested Nguyen Van Tuc and initiated the criminal proceedings against him for the charge of "conducting propaganda against the Socialist Republic of Viet Nam". He was later sentenced to 04 years of prison and 03 years of mandatory supervision by the People's Supreme Court at Ha Noi.

In September 2012, Nguyen Van Tuc returned to his locality under the mandatory supervision of 3 years. He continued using the Internet to disseminate distorted information, to contact other dissidents. He violated the rules of mandatory supervision, leaving his hometown without permission from the authority, participating in numerous demonstrations in Ha Noi.

Since February 2014, Nguyen Van Tuc participated in the "Brotherhood for Democracy" group which is an illegal organization aiming at overthrowing the Government and changing the State's political regime. In this group, Nguyen Van Tuc first was head of section in Thai Binh, then Deputy Head of the Executive Board, Deputy Head of the Representative Board, and later First Vice President of the northern branch of Brotherhood for Democracy.

On 01 September 2017, the Decision to initiate criminal proceedings, the Arrest and Search Warrants were issued against Nguyen Van Tuc for the charge of 'conducting activities to overthrow the people's administration' under Article 79 of the Criminal Code. These decisions of the Investigation Agency were approved by the People's Procuracy of the same level and executed in compliance with the procedures required the law.

On 10 April 2018, the People's Court of Thai Binh Province as the first-instance court heard the case of Nguyen Van Tuc in a public trial. Based on the evidences, the mitigating and aggravating factors, the Court ruled that Nguyen Van Tuc committed the offense of 'conducting activities to overthrow the people's administration' under Article 79 of the Criminal Code and sentenced him to 13 years imprisonment and 05 years under mandatory supervision at his locality where he resided before.

On 14 September 2018, the People's High Court at Ha Noi heard the appeal of Nguyen Van Tuc. The Court upheld the first-instance judgment and the sentence of 13 years imprisonment and 05 years under mandatory supervision.

2. Information on Nguyen Van Tuc's health and detention conditions

At the execution of the Arrest Warrant, Nguyen Van Tuc was detained in the Detention Center of the Public Security Department of Thai Binh Province. During this period, all his rights as a suspect were fully ensured. He was accorded with standard treatments as required by law, including diet, health care, family visit, personal safety and security, being free from torture, extortion or any form of corporal punishment. His detention room was kept clean, well-ventilated, safe, meeting health requirements.

Since the date of his arrest, he receives health care and check-up 17 times, family supplies 32 times and 06 family visits.

Regarding the access to legal counsel, due to the nature of the case which concerns national security, the People's Procuracy of Thai Binh Province, in accordance with Article 58 paragraph 1 of the Criminal Procedures Code, decided to allow Nguyen Van Tuc to meet his counsel after the investigation phase. His counsel met him 3 times at the Detention center and made no complaints or suggestions. These meetings with his counsel were noted in the case dossiers, which were presented to the Court during the first-instance and appellate trials.

3. Information on the environment for 'human rights defenders'

Viet Nam is strongly committed to the promotion and protection of human rights, and at the same time recognizes and encourages the contribution of individuals in this regard.

Every Vietnamese citizen, regardless of their race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, is ensured a safe and enabling environment to lead their life. This view is reflected in Viet Nam's Constitution, laws and regulations. Accordingly, any acts of harassment, assault or violation of others' rights and freedoms shall be sanctioned in accordance with applicable laws and regulations. Depending on the nature and severity of the violations, the sanctions may range from administrative fines to criminal prosecution.

A whole Chapter of the Criminal Code of 2015 provides for eleven offences against human rights and citizens' rights, including illegal arrest, detention of a person (Article 157), intrusion into private residence (Article 158), violation of the right to assembly and association (Article 163), infringement upon the right to complain and/or denounce (Article 166), infringement upon freedom of speech, freedom of the press, the right of access to information and the right to protest (Article 167), etc. Besides legislative measures, Viet Nam has been actively disseminating information on human rights on the media with a view to raising people's awareness in the field of human rights and citizens' rights and the exercise of these rights in a manner that respects other people's rights and legitimate interests. Workshops and training courses have been organized to enhance capacity and knowledge of enforcement officers with regard to human rights aspects of their duties. The abuse of powers to infringe upon others' rights and freedoms are strictly prohibited and shall entail personal responsibility.

Viet Nam respectfully requests the Special Procedures Mandate Holders to take due note of information given by Viet Nam in this reply, evaluate the cases concerning Viet Nam in an objective, balanced and comprehensive manner and not to rely solely on one-sided, unverified information.

