

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 the honour to hereby transmit the reply of Viet Nam to the joint urgent appeal Ref. UA VNM 4/2019 dated 20 November 2019 from the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on freedom of religion or belief.

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, 27 March 2020



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

Reply of Viet Nam to the Joint Urgent Appeal sent by the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on freedom of religion or belief

Ref. UA VNM 4/2019 (dated 20 November 2019)

1. Allegations made in the above-mentioned appeal are inaccurate, mostly drawn from unsubstantiated sources and did not reflect the nature of these cases. In replies to previous communications sent by Special Procedures, Viet Nam provided comprehensive information on the legal basis for the arrest, prosecution, trial and the protection of legitimate rights of Nguyen Van Hoa and Le Dinh Luong. Concerning Nguyen Van Hoa, Viet Nam recalls 02 replies to the Communications dated 20 March 2019 and 22 May 2019 respectively and the reply to the Opinion dated 26 August 2019. For Le Dinh Luong, Viet Nam had replied to the Communication dated 18 April 2019 and to the Opinion dated 26 August 2019.

The arrest and trial of Nguyen Van Hoa and Le Dinh Luong were carried out on sound legal grounds, with full respect for Vietnamese law and consistent with international conventions to which Viet Nam is a party. *As such their arrests and trials cannot be alleged in any way as arbitrary detention.* During legal proceedings against Nguyen Van Hoa and Le Dinh Luong, including prosecution, trial and enforcement of court judgements, the respective competent authorities of Viet Nam have ensured legitimate rights of the accused and defendants according to Vietnamese law.

2. In Viet Nam, nobody is arrested, prosecuted or put on trial for exercising fundamental freedoms. Consistent policies and guiding legal principles of Viet Nam recognize, respect and promote human rights, including the rights to freedom of expression. The Vietnamese Constitution of 2013 expressly guaranteed that “*Citizens have the right to freedom of speech and freedom of the press, and have the right of access to information, the right to assembly, the right to association, and the right to demonstration. The exercise of those rights shall be prescribed by law.* (Article 25)”. The Constitution also provided that “*Human rights and citizens' rights may not be limited unless prescribed by a law solely in case of necessity for reasons of national defense,*

national security, social order and safety, social morality and community well-being” (Article 14.2). It is self-evident that these articles of the Constitution are fully compatible with Article 19.3 of the International Covenant on Civil and Political Rights (ICCPR).

3. The rights of detainees are totally recognized and protected as prescribed in the Law on Execution of criminal judgments, Law on Enforcement of custody and temporary detention. Article 48 of the Law on Execution of criminal judgments provides for a regime of health care for inmates, including initial health examination upon checking into detention facilities and regular quarterly medical check-ups. In addition, Government Decree No. 117/2011/ND-CP issued on 15 December 2011 elaborates on the management of prisoners and allowances for food, clothing, accommodation, health care and family visits, etc.... Furthermore, Ministerial Circular No. 07/2018/TT-BCA of the Ministry of Public Security issued on 12 February 2018 provided more concrete guidance on the conditions for and frequencies of family visits, sending care packages, correspondences and external communications.

The rights of detainees and prisoners are not only protected by relevant laws and legal documents but also respected and enforced with rigor in practice. When in detention, detainees and prisoners are not subjected to torture, discrimination and are ensured of their rights to food, family visit and health care... as prescribed by the laws of Viet Nam. Besides, Viet Nam attached due importance to providing education, consultation and vocational training to detainees to facilitate their transition to society. Detention facilities usually have radio, television broadcasting systems, libraries, adult literacy classes, general education programs, vocational training and career orientation to help detainees reintegrate into the community after serving the prison term.

4. On specific allegations in the case of Nguyen Van Hoa

4.1. Allegation that Nguyen Van Hoa was beaten and denied health care

The allegation that Nguyen Van Hoa was beaten by prison guards and thus suffered injuries to his head and to his ribs is not true. Since his first days in detention, Nguyen Van Hoa was able to receive all health care and medical checkups as prescribed by law. On 19 October 2018, Nguyen Van Hoa was sent to a General Hospital in North Quang Nam Province to undergo curative operations on the tumor in his left thigh.

4.2. Allegation that Nguyen Van Hoa was placed in solitary confinement

- During his time in prison, Nguyen Van Hoa did not observe seriously the rules of the detention facility, committed multiple violations of these rules and thus got poor ratings. On 09 May 2019, An Diem Detention Center issued a warning to Nguyen Van Hoa for showing disrespect for order. On 11 May 2019, Nguyen Van Hoa committed repeated violation and therefore was placed in a disciplinary cell of the detention center for 10 days in accordance with Article 43 of the Law on Execution of criminal judgments.

- After this 10-day in disciplinary cell, due to multiple violations of internal rules of the detention facility in such a short period, Nguyen Van Hoa was transferred to a separate designated detention area with 03 other inmates in An Diem Detention Center for 06 months, starting from 23 May 2019 with a view to facilitating his rehabilitation and education. This move was consistent with the Ministry of Public Security's Circular 37/2011/TT-BCA dated 03 June 2011 on grading of inmates and assigning detention locations and Circular 36/2011/TT-BCA dated 26 May 2011 on internal rules of detention facilities. Specifically, inmates breaking internal rules of detention centers shall be kept in a separate area and these placements are under monthly supervision of the People's Procuracy of the same administrative level.

- After nearly 04 months, on 14 September 2019, Nguyen Van Hoa recognized his mistakes and filed a petition to be transferred from the separate detention area to his former cell in the detention center. After receiving this petition, An Diem Detention Center accepted it and allowed Nguyen Van Hoa to return to the former cell.

4.3. On his right to family visits

- Nguyen Van Hoa has also been guaranteed of his right to family visits. His family has visited him while in detention a number of times and each visit was of sufficient duration as legally allowed. *The allegation that family members were denied access to the prison by guards when they attempted to meet with Nguyen Van Hoa on 14 June 2019 and their next visit took place on 25 July 2019 is not accurate.* Indeed, on 14 May 2019, An Diem Detention Center refused his family's request for visit because Nguyen Van Hoa was serving disciplinary measures in a separate designated detention area in accordance with Article 43.2 of the Law on Execution of criminal judgments. Additionally, guided by Article 7 and Article 13 of the Ministry of Public

Security's Circular No. 07/2018/TT-BCA dated 12 February 2018, arranged family visits were under the watch of personnel of An Diem Detention Center to ensure full respect for internal rules and preserve overall order and security of the detention center. Family visits to Nguyen Van Hoa while in detention were not cut short at all.

4.4. Allegation that complaints filed by Nguyen Van Hoa went unanswered

- On 09 April 2019, Nguyen Van Hoa filed a complaint addressed to the Minister of Public Security and the Police of Ha Tinh Province about harsh physical treatment suffered in 2017 and beatings suffered in May 2019. Afterwards, the Police of Ha Tinh Province sent a written reply No. 405/CAT-PA09 dated 22 March 2019 to this complaint and the reply was later transferred to him by An Diem Detention Center in accordance with relevant laws. Since then Nguyen Van Hoa has not lodged any further complaint with the authority on this matter.

4.5. Allegation that Nguyen Van Hoa went on hunger strike

- From 22 February 2019 to 05 March 2019, Nguyen Van Hoa refused to take food provided by the detention center and ignored requests sent by staff of the detention center for meeting with him at a designated office. His disregard for meeting requests, thus breaking Article 01 of the internal rules of the detention center, prompted the detention center to issue citations with the witness of 02 fellow inmates in the same ward. *Nguyen Van Hoa did not go on hunger strike and continues to buy food from the canteen and get care packages from his family.*

4.6. On the conditions of detention and health of Nguyen Van Hoa

- Nguyen Van Hoa is not subjected to harsh treatment; he is guaranteed of his rights as a detainee and ensured of his allowances for food, accommodation, health care, family visits and other general living conditions as legally provided for by laws. Specifically, Nguyen Van Hoa is kept in Ward 1 of An Diem Detention Center (Quang Nam Province) with the total area of 150 m². Ward 1 consists of 05 cells and is home to 07 inmates. Nguyen Van Hoa is the sole inmate in his cell of 15 m², which is equipped with a TV, an electric fan, an enclosed WC and a bed of 09 m². Everyday inmates are allowed to go outside of their cell for morning physical exercise, lunch and afternoon activities, each time lasting from 01 to 02 hours.

Like other inmates, Nguyen Van Hoa is entitled to the same allowances for food and clothing as prescribed by law, including receiving 06kg's worth of postal packages and maintaining external communications such as receiving and sending monthly mails, making 01 phone call per month to family and having access to bible study.

- Since undergoing operations on the tumor in his thigh, Nguyen Van Hoa did not take part in common work required of inmates; his health is in normal conditions.

5. On specific allegations in the case of Le Dinh Luong

5.1. On his right to family visits and allegation that the authority hampered family visits

- The rules for family visits, external communications and receiving care packages are applied consistently for all inmates according to the laws and Le Dinh Luong is no exception. Concretely, Article 52 of the Law on Execution of criminal judgments stated that "Inmates are allowed to receive family visit once a month, with each visit not exceeding an hour." During family visits to Le Dinh Luong and his external communications, Nam Ha Detention Center assigned staff members to monitor to ensure full observance of internal rules and maintain order and security of the detention center as provided for in Article 7 and Article 13 of the Ministry of Public Security's Circular No. 07/2018/TT-BCA dated 12 February 2018. Since Le Dinh Luong began serving his criminal sentence at Nam Ha Detention Center, his family has paid him 14 visits (in which they sent care packages 07 times) and twice sent him books.

- On the use of electric vehicle at Nam Ha Detention Center: In order to facilitate family visits and ensure the safety and security for family members during such visits, Nam Ha Detention Center employs a fleet of electrical vehicles to transport visitors from the welcome gate to wards in the detention center and assesses a fee of 5,000 Vietnamese dong (approximately 20 U.S. cents) per person per trip. The fee is used to maintain the fleet of electric vehicles in good conditions. For families of lesser means, Nam Ha Detention Center waives this fee and provides family transport service free of charge.

- On 06 August 2019, Ms. [REDACTED] a family member of Le Dinh Luong attempted to make an unauthorized entry into Nam Ha Detention Center. She was later cited by the staff for this action and turned away for the

safety and security of the detention center. Contrary to accusations made in the joint urgent appeal, the agency in charge of managing detention centers so far has not received any complaint from the family of Le Dinh Luong.

5.2. Disciplinary action against Le Dinh Luong

- On 30 April 2019, Le Dinh Luong induced a number of inmates to break the rules of the detention center, prompting Nam Ha Detention Center to issue a warning to him, effective from 31 May 2019. Due to Le Dinh Luong's repeated violations of the rules of the detention center, Nam Ha Detention Center decided to impose on him a two-month restriction on allowances for correspondences, phone calls and the purchase of goods from canteens, which is in compliance with Articles 9, 12 and 13 of Circular No. 07/2018/TT-BCA dated 12 February 2018 of the Ministry of Public Security.

5.3. Allegation that his family was not allowed to send him care packages and Le Dinh Luong was prevented from exercising his faith

- During his time in Nam Ha Detention Center, Le Dinh Luong received biblical books from his family 04 times and borrowed books from the library of the detention center for his own study. *The allegation that Nam Ha Detention Center restricted Le Dinh Luong from exercising his faith, confiscated religious books and denied him access to biblical books is not accurate.*

- As prescribed by law, Nam Ha Detention Center did not accommodate requests made by pastors for visit to Le Dinh Luong for pastors are not his family members.

5.4. Health care of Le Dinh Luong

- Since Le Dinh Luong started his prison term at Nam Ha Detention Center, medical personnel have monitored his health. Le Dinh Luong has pre-existing conditions of high blood pressure, shoulder and neck pain, degenerative spine and disc. Medical personnel of the detention center has regularly examined his health, given advices on drugs provided by the dispensary and his family. They also provided prescription drugs and health consultations for 72 times, each time with Le Dinh Luong signing the minutes. During his time in detention, Le Dinh Luong has never made a request for HIV tests. As such, the allegation that Nam Ha Detention Center rejected his request for HIV tests is groundless.

5.5. On detention conditions and his health

- Nam Ha Detention Center ensures legitimate rights of Le Dinh Luong when he is kept there and fully observes policies on the treatment of inmates as mandated by law. Currently, Le Dinh Luong's health is in normal conditions./.