



**PERMANENT MISSION OF THE
SOCIALIST REPUBLIC OF VIET NAM
TO THE UNITED NATIONS OFFICE,
WORLD TRADE ORGANIZATION AND
OTHER INTERNATIONAL ORGANIZATIONS IN GENEVA**

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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 latter's Joint Communication AL VNM 3/2020 (dated 17 September 2020) concerning Pham Chi Dung, Nguyen Tuong Thuy, Le Huu Minh Tuan, Le Anh Hung, Pham Thi Doan Trang and Ho Sy Quyet.

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./.



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

**Reply of Viet Nam to the Joint Communication
sent by Special Procedures concerning Pham Chi Dung, Nguyen Truong Thuy,
Le Huu Minh Tuan, Le Anh Hung, Pham Doan Trang and Ho Sy Quyet**

Ref. AL VNM 3/2020 (dated 17 September 2020)

1. The allegations made in the Joint Communication were not accurate, mostly drawn from unverified sources and did not reflect the nature of these cases. Vietnamese competent authorities investigated and prosecuted against Pham Chi Dung, Nguyen Tuong Thuy, Le Huu Minh Tuan, Le Anh Hung, Pham Thi Doan Trang and Ho Sy Quyet because they violated Vietnamese law, not for the exercise of the fundamental freedoms. Legal proceedings were carried out on sound legal grounds, with full respect for Vietnamese law and in consistence with international conventions to which Viet Nam is a party.

2. In Viet Nam, the rights to freedom of expression, freedom of peaceful assembly and association are protected, nobody is “extorted and harassed” for the exercise of these rights. Article 25 of 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*”. To concretize the Vietnamese Constitution of 2013, the legal framework of Viet Nam has detailed and clear provisions on the right to freedom of speech and freedom of the press, the right to assembly, and the right to association. In particular, Chapter II of the Press Law of 2016 provides concrete stipulations on citizens’ freedom of the press, speech freedom on press; the Civil Code of 2015 (Articles from 230 to 232) provides that laws will recognize legally established associations and protect the ownership rights with respect to their properties; Chapter XV of the Criminal Code of 2015 provides rules on dealing with criminal offences against personal liberty and citizens’ rights to freedom, including Article 167 which elaborates on infringement upon freedom of speech, freedom of the press, the right of access to information and the right to protest of citizens and Article 163 which provides stipulations on infringement upon citizens' right to association; the Law on Complaints of 2011 and the Law on Denunciations of 2018 and many other relevant laws protect the rights of citizens when their rights are infringed upon, including by acts of harassment or menace...

In practice, debates and deliberations at the National Assembly on national policies; seminar, discussions and multi-dimensional reporting on

socio-economic and political issues with broad participation by social, political organizations and the people... happen on a daily basis. Through the media, people can petition, express political opinion, and contribute to public discourse on all cultural, socio-economic and political issues. Viet Nam is home to 64 million internet users (66% of the population), 62 million social network users (64% of the population). In addition to using the internet and press for the purpose of education and business, the Vietnamese often use these tools to express their opinions on social issues and on draft legal documents.

In addition, Viet Nam has nearly 70.000 associations which are operating, including organizations and associations of the youth, women, workers, farmers, the elderly, persons with disabilities, charitable associations, scientific and vocational organizations, non-governmental organizations. The associations in Viet Nam have developed and spoken up on political, and social policies as well as policies in the relevant sectors. Building and developing associations, particularly community organizations in poor areas, has become one of the methods which help exercise the rights of the poor and other vulnerable groups. The State of Viet Nam would like to promote the participation of associations in the work in localities and build dialogue relationship and partnership between the competent authorities and organizations and associations.

As in any rule-of-law state, the exercise of the right to freedom of expression carries with it the responsibility and respect for the law of the country and the rights and legitimate interests of individuals, organizations and society. These are consistent with international conventions in the field of human rights to which Viet Nam is a party, including International Covenant on Civil and Political Rights (ICCPR) (Articles 19, 21 and 22.2). Viet Nam only prosecutes and puts on trial those breaking the law, not those exercising their legitimate rights to freedom of expression and assembly. The detention and trial of violators of the law follow due process of Vietnamese laws.

3. Cases of Pham Chi Dung, Nguyen Tuong Thuy, Le Huu Minh Tuan

- Pham Chi Dung (was born in 1966, registered his residence in Ho Chi Minh City), Nguyen Tuong Thuy (was born in 1950, registered his residence in Ha Noi City), Le Huu Minh Tuan (was born in 1989, registered his residence in Quang Nam Province) are being temporarily detained in Chi Hoa Detention Center, Ho Chi Minh City, facing the charge of “Creating, storing, distributing or propagating information, documents and materials against the State of the

Socialist Republic of Viet Nam” according to Article 117 of the Criminal Code. Their health is in normal conditions.

- Initial investigations by the police suggested that Pham Chi Dung, Nguyen Tuong Thuy, and Le Huu Minh Tuan posted many articles that distort the truth, incite individuals to rise up and overthrow the people’s government, incite hatred and extremism, mislead people on the socio-economic situation with a view to causing public anxiety and social instability.

- On 18 November 2019, Ho Chi Minh City Police filed criminal charges, issued a temporary detention warrant and a search warrant against Pham Chi Dung for “creating, storing, distributing or propagating information, documents and materials against the State of the Socialist Republic of Viet Nam” according to Article 117 of the Criminal Code. On 20 November 2019, the People’s Procuracy of Ho Chi Minh City approved these criminal charges and warrants. On 21/11/2019, the relevant authorities of Viet Nam executed these warrants. The arrest and detention of Pham Chi Dung and the search of his home observed due process of criminal proceedings set forth in the law of Viet Nam; the minutes of proceedings were signed by all parties concerned such as the police, witnesses and Pham Chi Dung himself.

- Through broadened investigations, the investigative agency of Ho Chi Minh City Police filed criminal charges, issued a temporary detention warrant and a search warrant against Nguyen Tuong Thuy, Le Huu Minh Tuan; these warrants were signed on 18 May 2019 and 08 June 2019 respectively. After these criminal charges and warrants were approved by the People’s Procuracy of Ho Chi Minh City, Ho Chi Minh City Police arrested and searched their home.

- This case is an ongoing investigation.

- These criminal proceedings are regular and necessary to investigate the case and collect additional evidence to establish the nature and severity of offences and hold perpetrators to account.

4. Right to defense lawyers and the right to family visits

According to Article 74 of the Criminal Procedure Code of 2015, for national security offences, the head of the People’s Procuracy has the authority to allow defense lawyers to take part in legal proceedings after the investigative phase is over. This rule was put into place to ensure the necessary confidentiality for investigations of an ongoing case. After the investigative

phase is over, the accused and defense lawyers will be allowed to make the preparations for their defence at the trial such as accessing, copying documents in the record of the case and there will be no limitation with respect to the number of times and the period of time of the meeting between the accused and defense lawyers...Pursuant to Article 74 of the Criminal Procedure Code, the People's Procuracy of Ho Chi Minh City made the decision about the time when the defense lawyers of Pham Chi Dung will be allowed to participate in the legal proceedings. The lawyers who registered to defend Pham Chi Dung were informed in written form about these provisions. After the investigative phase is over, the requests of the accused and defense lawyers will be resolved according to the normal legal proceedings.

- As the investigation phase of this case is still going on, the law only allows the family to send supplies and gifts to the accused; requests for family visits during this phase could not be met to ensure the confidentiality of ongoing investigations. Currently, Pham Chi Dung, Nguyen Tuong Thuy and Le Huu Minh Tuan are being temporarily detained in the Chi Hoa Detention Center; with normal health conditions. They are provided with adequate food, accommodation, and health care as prescribed by the Law on Custody and Temporary Detention. *On this basis, the Government of Viet Nam confirms that they have not been held incommunicado.*

5. Case of Le Anh Hung

- In June 2018, through some sources of information, Ha Noi City Police discovered that Le Anh Hung (was born on 27 August 1973, registered his residence at Kim Giang Street, Dai Kim Ward, Hoang Mai District, Ha Noi City) was conducting activities which could violate the law. Based on collected documents and evidences, on 5 July 2018, Ha Noi City Police arrested and searched against Le Anh Hung for investigation.

- During the investigation process, the investigative agency consulted with professional authorities and concluded that the documents drafted by Le Anh Hung distorted the truth, incited individuals to rise up and overthrow the people's government, misled people on the socio-economic situation with a view to causing public anxiety and social instability with bad purposes; abused the right to freedom of expression to conduct activities which violated the law with intentional mistakes. The acts of Le Anh Hung are the offence of "abusing democratic freedoms to infringe upon the interests of the State, lawful rights and interests of organizations and/or citizens" under Article 331 of the Criminal

Code.

- *The allegation that Le Anh Hung was forced to receive the treatment at a psychiatric facility without a judicial process is groundless.* During the prosecution, due to the doubts that Le Anh Hung does not have sufficient ability to take criminal responsibility, on 6 March 2019, the People's Procuracy of Ha Noi City decided to give back Le Anh Hung's record for additional investigations and request the investigative agency to get a psychiatric assessment with respect to Le Anh Hung. On 24 September 2019, the National Institute of Forensic Psychiatry concluded that "Before, during committing the offence and the time of assessment, Le Anh Hung was subject to prolonged delusional disorders. According to International Classification of Diseases, the code of this disease is F22. Before and during committing the offence, he was back to the stage of limited awareness and behaviour control. At the time of assessment, he lost his ability of awareness and behaviour control". However, taking into account his health conditions at the time of committing the offence, he is not considered as having no ability to take criminal responsibility. Therefore, Le Anh Hung is still criminally responsible for his offence, his disease is only considered as a mitigating circumstance. Pursuant to Article 449 of the Criminal Procedure Code, on 04 May 2019, the People's Procuracy of Ha Noi City decided to put him into treatment.

6. Case of Pham Thi Doan Trang

- Pham Thi Doan Trang was born in 1978, registered her residence in Ha Noi City.

- *The allegations that Pham Thi Doan Trang has been subjected to harassment and intimidation, and has been forced into hiding due to fearing that she may be arbitrarily arrested, possibly resulting in lengthy incarceration are groundless. There is no fact that Ha Noi City Police forced Pham Thi Doan Trang's mother to sign a document confirming that Pham Thi Doan Trang has created, stored and distributed anti-state materials in order to drive her out of hiding as alleged in the Joint Communication.* On 3 June 2020, the competent authorities met Mrs. Bui Thi Thien Can, the mother of Pham Thi Doan Trang, to check the residence of Pham Thi Doan Trang for the purpose of population management. At the meeting, Mrs. Bui Thi Thien Can said that since 2018, Pham Thi Doan Trang has not lived with her family and Mrs. Bui Thi Thien Can only signed the meeting record.

- On 07 October 2020, Ha Noi City Police executed a temporary

detention warrant and a search warrant against Pham Thi Doan Trang to investigate her violations of Article 88 of the Criminal Code of 1999 and Article 117 of the Criminal Code of 2015. Prosecution and temporary detention of Pham Thi Doan Trang were approved by competent authorities and were carried out on sound legal grounds, with full respect for Vietnamese law and publicly reported by mass media.

- The arrest of Pham Thi Doan Trang is to investigate violations of the law, abuse of social network and internet to post information that distorts the truth with a view to causing public anxiety, slandering and harming the reputation of individuals and organizations. These acts were conducted for the purpose of overthrowing the State of Viet Nam. Therefore, the arrest of Pham Thi Doan Trang in order to investigate and clarify her offences is necessary and totally consistent with conventions on human rights to which Viet Nam is a party, including Article 19.3 of the ICCPR.

7. Case of Ho Sy Quyet

Competent authorities of Viet Nam are still collecting information regarding the case of Ho Sy Quyet. Viet Nam will provide its reply regarding Ho Sy Quyet as soon as more information is available./.