



**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. Further to its Note Verbale No. 11/VNM.22 dated 27 January 2022 which requests an extension of the deadline for providing a response to the Joint Communication from the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression dated 10 December 2021 Ref. OL VNM 7/2021, the Mission has the honour to hereby transmit the response of Viet Nam to the above-mentioned Joint Communication.

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

Response of Viet Nam to the Joint Communication from the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression dated 10 December 2021 Ref. OL VNM 7/2021 concerning some of Vietnamese legislative documents
Ref. OL VNM 7/2021 (dated 10 December 2021)

1. On the legislative documents regarding management and use of grants not in the form of official development assistance of foreign agencies, organizations, and individuals for Viet Nam (Decree No. 80/2020/ND-CP dated 07 July 2020) and management and use of official development assistance (ODA) and concessional loans granted by foreign donors (Decree No. 56/2020/ND-CP dated 25 May 2020)

These regulations are not to limit but to ensure transparent and effective operations, especially in financial matters (anti-tax evasion, money laundering...). Each country has its own laws governing the registration, operation and financing of domestic and foreign non-governmental organizations (NGOs). In fact, these regulations in recent years have contributed to ensuring the rights and obligations of domestic and foreign NGOs operating in Viet Nam, ensuring the promotion of operational efficiency, participating in the development of the country and society.

- As of December 2021, Viet Nam has 93,425 associations (of which 571 operate on a national or inter-provincial scale, 92,854 operate on a local scale), including organizations and associations of youth, women, workers, farmers, the elderly, people with disabilities, charity associations, scientific and professional organizations, NGOs...Associations actively participate in social life, contribute ideas to build laws and institutions, implement socio-economic development policies, support vulnerable groups, implement sustainable development goals, guarantee human rights.

- By the end of 2020, there are more than 500 foreign NGOs in Viet Nam operating and contributing in many fields of socio-economic development. In 2021, the activities of foreign NGOs in Viet Nam face many difficulties due to the Covid-19 pandemic, but these NGOs have significantly contributed to Viet Nam with the value of foreign non-governmental grants disbursed to Viet Nam in 2021 reaching more than 232.99 million USD (increasing by more than 5% compared to 2020). In 2021, disbursement rate of foreign non-governmental grants reached more than 73% of the total committed value of the whole year (compared to 71% in 2020).

a. Decree No. 80/2020/ND-CP on management and use of grants not in the form of official development assistance of foreign agencies, organizations, and individuals for Viet Nam

- Decree No. 80/2020/ND-CP does not contain any provisions relating to

restrictions on freedom of association and assembly as well as restrictions on access to lawful foreign grant sources for legally established organizations in Viet Nam. All non-refundable grants for non-profit, humanitarian, charitable and development purposes are approved and implemented by Vietnamese competent state agencies in accordance with relevant laws. Viet Nam's laws on the management and use of grants does not contain any provisions relating to restrictions on access to lawful foreign grant sources for development, humanitarian, charitable and non-profit purposes.

- Decree No. 80/2020/ND-CP has created a favorable environment to attract grants in the context of decreasing grant sources for Viet Nam, contributing to promoting friendship and cooperation for development. At the same time, the Decree has enhanced the self-responsibility of agencies, localities and organizations in receiving and implementing grants.

- During the period since the Decree took effect (September 17, 2020) until now, the number of projects, programs and non-project grants approved by Vietnamese competent authorities is as follows:

+ In 2020, there will be a total of 95 grants, including 50 projects and 45 non-project grants.

+ In 2021, there are a total of 541 grants, including 296 projects and 245 non-project grants. In which, the Vietnam Union of Science and Technology Associations (VUSTA) has 58 grants.

+ From 2022 to now, there have been 97 grants, including 52 projects and 43 non-project grants.

- Decree No. 80/2020/ND-CP clearly stipulates cases that are not covered by the Decree, stipulating that the grants are financial support or non-refundable goods and services to implement socio-economic and humanitarian development goals, not for commercial or profit purposes. For grants belonging to state budget revenues and non-state budget revenues, there are specific regulations on the responsibilities of related parties.

- Article 3 of Decree No. 80/2020/ND-CP has the content on “interpretation of terms” to better define the meanings of some terms mentioned in the Decree of which Clause 8, Article 3 stipulates if the recipient of a grant is an agency or organization of the State or an enterprise owned by the State, within the scope of revenue and expenditure management in accordance with the law on state budget, only such grant will be identified as “belonging to the state budget revenue”. The grant recipients are specified in Article 2 (Regulated entities), Clause 3 of which the majority are NGOs.

b. Decree No. 56/2020/ND-CP on management and use of official development assistance (ODA) and concessional loans granted by foreign donors

- Decree No. 56/2020/ND-CP dated 25 May 2020 has been replaced by

Decree No. 114/2021/ND-CP dated 16 December 2021. According to the provisions of Clause 19, Article 3 of Decree No. 114/2021/ND-CP dated December 16, 2021, ODA and concessional loans are capital sources provided by foreign donors to the State or the Government of the Socialist Republic of Viet Nam to support development, ensure welfare and social security.

- Article 11 of Decree No. 114/2021/ND-CP dated 16 December 2021 stipulating forms of access to and use of ODA and concessional loans for the private sector, including: (i) Public-private partnership programs and projects shall comply with current regulations of the law on PPP and specific treaties, agreements on ODA and concessional loans; (ii) Access to and use of ODA and concessional loans through participation in the implementation of programs and projects to support the private sector of the governing body.

2. On Decision No. 06/2020/QD-TTg dated 21 February 2020 on organization and management of international conferences and seminars in Viet Nam

- Decision No. 06/2020/QD-TTg dated 21 February 2020 was developed to replace Decision No. 76/2010/QD-TTg dated 30 November 2010 of the Prime Minister on organization and management of international conferences and seminars in Viet Nam. This decision was developed in accordance with the procedures and processes stipulated by the law of Viet Nam and widely consulted with stakeholders, posted publicly online for opinions of socio-political organizations, professional organizations and people. Decision No. 06/2020/QD-TTg does not interfere with the right to freedom of assembly and freedom of speech and expression. In fact, the provisions of Decision No. 06/2020/QD-TTg do not prohibit or limit of forms of conferences and seminars, but stipulate unanimity and specificity of documents and the process of applying for permission to organize international conferences and seminars.

- Decision No. 06/2020/QD-TTg is a step forward in administrative reform, adjusting the registration process and procedures, allowing the organization of international conferences and seminars and the management and reporting responsibilities of relevant agencies. Compared to the previous Decision No. 76/2010/QD-TTg, Decision No. 06/2020/QD-TTg has amended, supplemented and clarified some unclear regulations in order to simplify administrative procedures and create favorable conditions for agencies and organizations performing the tasks of state management as well as organizing international conferences and seminars, at the same time clearly assigning tasks, promoting the active role of management agencies from central to local levels, thereby implementing reform administrative and building a Constructive Government. The main new points of Decision No. 06/2020/QD-TTg compared to Decision 76 can be mentioned as follows: (i) Decentralization and clarification of authority among state management agencies in considering and deciding for organizations of

international conferences and seminars, thereby contributing to shortening the time for organizations and units to register for organization of international conferences and seminars; (ii) Simplifying administrative procedures for applying for a permit to organize international conferences and seminars for the organizing unit in the form of “one-stop shop” (only need to submit the application once to the competent agency instead of having to apply to all relevant agencies before submitting to competent authorities for consideration), without discriminating between Vietnamese and foreign entities. Thus, Decision No. 06/2020/QĐ-TTg has contributed to further perfecting the legal framework on organization and management of international conferences and seminars in particular and the right to peaceful assembly in general in the direction of creating favorable conditions for units and organizations to register for organization of international conferences and seminars in accordance with the commitments of Viet Nam.

- Since Decision No. 06/2020/QĐ-TTg was issued, the organization and management of international conferences and seminars has taken place smoothly, making an important contribution to the international integration process of Viet Nam. In the year 2020-2021, there were 1,676 international conferences and seminars organized, of which 60 international conferences and seminars were organized by foreign NGOs, 20 international conferences and seminars were chaired or co-hosted by diplomatic missions and international organizations (such as EU Delegation, UN Resident Office in Viet Nam, Embassies and Consulates General of UK, France, Italy, Netherlands, Korea...).

- Regarding the opinion that “the Prime Minister has exclusive authority over international conferences and seminars” (page 7 in the Joint Communication):

(i) Clause 1, Article 3 of Decision No. 06/2020/QĐ-TTg has clearly stated a number of cases that need to be submitted to the Prime Minister to consider and approve; the appraisal and permitting process for international conferences and seminars within the authorized competence of the Prime Minister shall comply with Clause 1, Article 5. Other ordinary international conferences and seminars are within the authorized competence of ministers and heads of ministerial-level agencies, government agencies or chairpersons of People's Committees of provinces/cities directly under the Central Government according to Clause 5, Article 2 and Clause 2, Article 3.

(ii) However, there are technical errors when promulgating it, in Clause 2 stipulates that “international conferences and seminars are within the authorized competence of the Prime Minister” instead of “international conferences and seminars are not under the authorized competence of the Prime Minister”. The competent authorities of Viet Nam have widely corrected in Official Dispatch No. 825/BNG-CNV dated March 10, 2020.

- Regarding the opinion that additional condition provisions are needed in Article 6 of Decision No. 06/2020/QĐ-TTg (page 7 in the Joint Communication):

Article 6 of Decision No. 06/2020/QĐ-TTg adds new provisions (compared to Decision No. 76/2010/QĐ-TTg) about applying for hosting international conferences and seminars. This provision does not impose a burden on the organizational units as reflected in the Joint Communication. The process of applying to host international conferences and seminars is in order to meet the needs of many agencies and organizations as to making commitments with foreign partners when the date of international conferences and seminars is not close and specific information not determined. This process is optional and is carried out according to the needs of organizational units.

3. Some other regulations mentioned in the Joint Communication

a. On Decree No. 72/2013/ND-CP dated 15 July 2013 on the management, provision, and use of Internet services and online information

- Viet Nam always respects, protects and ensures citizens' rights to freedom of speech, freedom of the press and access to information according to the 2013 Constitution and laws. As of November 30, 2021, Viet Nam has 816 print and electronic press agencies. All aspects of information in all areas of life are accessed and reflected by the press, and all citizens in Viet Nam can express their opinions and exercise their right to freedom of expression through press agencies. In addition, the number of Vietnamese social network users has increased rapidly in recent years with about 72 million accounts (as of January 2021, an increase of about 11% compared to 2020). This shows that Vietnamese citizens can fully use social networks to actively exercise their right to freedom of expression and access to information on the internet in accordance with the law without being banned or restricted but do not infringe upon the interests of the nation, the community as well as the lawful rights and interests of other organizations and individuals.

- Prohibited acts specified in Article 5, Decree No. 72/2013/ND-CP have also been specified in many related laws and decrees previously issued such as Law on Information Technology, Press Law, Law on Telecommunications. These regulations are intended to guide internet users to know how illegal information and activities are to be aware of and adjust their behaviors and activities in accordance with the provisions of the laws in order to develop and develop a healthy internet environment.

b. Decree No. 15/2020/ND-CP dated 03 February 2020 prescribing penalties for administrative violations against regulations on postal services, telecommunications, radio frequencies, information technology and electronic transactions

- This Decree replaces Decree No. 174/2013/ND-CP. The contents of regulations on violations of online information in Decree No. 15/2020/ND-CP are regulated based on Decree No. 72/2013/ND-CP, and also specify responsibilities and the level of penalties for administrative violations in the implementation of

ensuring the privacy of individuals compared to previous legislative documents. The fact is that the penalties and fines for administrative violations in Viet Nam are very mild compared to the penalties for similar behaviors in many other countries. The fines according to Decree No. 15/2020/ND-CP are mainly of a deterrent nature, raising awareness and self-discipline of organizations and individuals. The identification of fake and untrue information on the Internet is based on specific situations, combined with a full review and assessment of the constitutive factors, the relationship between the behavior, the degree of harm, the image effects and objects in reality. State agencies always ensure strict, accurate and fair law enforcement and compliance with Vietnamese laws, international commitments and treaties to which Viet Nam is a party.

- Currently, Viet Nam is studying and considering amending Decree No. 72/2013/ND-CP to ensure that it is more suitable for practical activities and especially human rights in cyberspace./.