



**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. 206/VNM.21 dated 21 December 2021 which requests an extension of the deadline for providing a response to the Joint Communication from Special Procedures dated 01 November 2021 Ref. AL VNM 4/2021 regarding Nguyen Van Nghiem, Le Van Dung, Dinh Thi Thu Thuy, Do Nam Trung, Dinh Van Hai, Chung Hoang Chuong, Le Trong Hung, Tran Quoc Khanh, the Permanent Mission of Viet Nam 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

Chemin des Corbilletes 30, 1218 Le Grand-Saconnex, Geneva, Switzerland
Tel: (+41 22) 799 14 00 Fax: (+41 22) 798 07 24
E-mail: geneva@mofa.gov.vn Website: <https://vnmission-geneva.mofa.gov.vn>

**Response of Viet Nam to the Joint Communication
sent by Special Procedures concerning Nguyen Van Nghiem, Le Van Dung,
Dinh Thi Thu Thuy, Do Nam Trung, Dinh Van Hai, Chung Hoang Chuong,
Le Trong Hung, Tran Quoc Khanh**

Ref. AL VNM 4/2021 (dated 01 November 2021)

**I. Information about the violations of the law of Nguyen Van Nghiem,
Le Van Dung, Dinh Thi Thu Thuy, Do Nam Trung, Dinh Van Hai, Chung
Hoang Chuong, Le Trong Hung, Tran Quoc Khanh**

1. Nguyen Van Nghiem

Nguyen Van Nghiem, born in 1963, [REDACTED]
[REDACTED]. On 05 November 2019, Nguyen Van Nghiem was arrested by the investigative security agency of the Police of Hoa Binh province and prosecuted for investigation according to Article 117 of the Criminal Code of 2015. On 23 June 2020, the People's Court of Hoa Binh province held a first-instance trial and sentenced Nguyen Van Nghiem to 06 years in prison under Article 117 of the criminal Code. According to the judgment, from June 2018 to June 2019, Nguyen Van Nghiem had posted 31 videos with untruthful content, intentionally fabricating information, distorting, and defaming the people's government, distorting the State's policies and laws, slandering, defaming, and insulting the reputation of the leaders of the Party, State and Government. During the investigation and trial, Nguyen Van Nghiem admitted and regretted his crime.

On 06 November 2019, Nguyen Van Nghiem wrote a letter to refuse the defense lawyers. During the prosecution and adjudication, Nguyen Van Nghiem affirmed and refused to ask for a defense lawyer; the local People's Court and People's Procuracy also did not receive any requests for registration of defense for Nguyen Van Nghiem.

During the detention, Nguyen Van Nghiem was allowed to meet his relatives a total of 04 times, receive money from his family for 21 times, and receive gifts from his family for 07 times; received regular medical examination and was given medicine for treatment 07 times for influenza and allergic sinusitis.

2. Le Van Dung

Le Van Dung, born in 1970, [REDACTED]
[REDACTED] On 26 April 2021, the investigative security agency of the Police of Ha Noi city issued a decision to prosecute a criminal case, prosecute the accused, issue a detention order and a search warrant

against Le Van Dung according to Article 117 of the Criminal Code. Accordingly, the investigative security agency initially determined that from April 2017 to September 2018, Le Van Dung intentionally had posted 12 video clips online with untruthful content, propagated information, distorted the directions and policies of the State of the Socialist Republic of Viet Nam, defamed the people's government; propagated psychological warfare, spread fabricated news to cause confusion among the people; distorted, slandered, offended the reputation of organizations, honor and dignity of individuals.

On 25 May 2021, the investigative agency executed the order to arrest the accused for temporary detention, the order to search the residence of Le Van Dung [REDACTED]. Because Le Van Dung fled, on 28 May 2021, the investigative security agency issued a wanted decision for Le Van Dung.

On 30 June 2021, the investigative agency arrested Le Van Dung while he was hiding [REDACTED] and temporarily detained him for 3 days from 30 June 2021 to 03 July 2021. On the same day, a temporary detention order for a period of 03 months and 27 days, from 03 July 2021 to 28 October 2021 was issued. The People's Procuracy of Ha Noi city has approved the above procedural decisions. The case is currently awaiting a public hearing.

On 07 July 2021, the People's Procuracy of Ha Noi city, based on Article 74 of the Criminal Procedure Code, decided to allow his defense counsel to participate in the proceedings from the end of the investigation. His right to meet relatives is guaranteed in accordance with the law.

On 23 March 2022, the Ha Noi People's Court held a first-instance trial and sentenced Le Van Dung to 5 years in prison and 5 years of probation for "Propaganda against the State of the Socialist Republic of Viet Nam" according to regulations. in Article 88, Paragraph 1, Points a, b, c of the Criminal Code of 1999.

At the trial, Le Van Dung admitted to having committed the same acts as the prosecution. Dung is a person with full awareness and control of his behavior, knowing that his actions are illegal but still intentionally committed crimes.

Previously, Dung was three times sanctioned by the Police of Hoan Kiem district Police for administrative violations of public order. Le Van Dung did not repent and continued to commit violations.

3. Dinh Thi Thu Thuy

Dinh Thi Thu Thuy was born in 1982, [REDACTED]

[REDACTED] On 18 April 2020, the investigative security agency of the Police of Hau Giang province notified the decision to prosecute the case and the accused and execute the arrest warrant against Dinh Thi Thu Thuy for investigation according to Article 117 of the Criminal Code. On 20 January 2021, the People's Court of Hau Giang province held a first-instance trial and sentenced Dinh Thi Thu Thuy to 07 years in prison.

Dinh Thi Thu Thuy's acts are not exercising her right to freedom of expression, freedom of assembly and association in accordance with Vietnamese law as well as International Conventions on human rights. From 2018 to 2020, Dinh Thi Thu Thuy intentionally had posted and shared articles on social networks with untruthful content, distorting the direction and policies of the Communist Party of Viet Nam and the State of the Socialist Republic of Viet Nam; defaming the people's government, undermining the trust between the people and the government; distorted the history of the Vietnamese people's struggle for independence and reunification; defamed and insulted leader Ho Chi Minh; used hate speech, incited to cause division among the regions. Dinh Thi Thu Thuy's acts cannot be considered as exercising the right to freedom of expression in a legitimate way and must be strictly handled by the law.

Pursuant to the Criminal Procedure Code (Article 74) and the Law on Temporary Detention and Custody (Article 22), the competent authorities issued a decision on the time when the defense counsels can participate in the proceedings and meeting her relatives after finishing the investigation of the case to ensure the confidentiality of the investigation for the case of infringing upon the national security.

After the end of the investigation period, the rights of Dinh Thi Thu Thuy to meet her relatives and get regular medical check-ups were guaranteed in accordance with the law.

4. Do Nam Trung

Do Nam Trung was born in 1981, [REDACTED]

[REDACTED] On 16 December 2021, the People's Court of Nam Dinh province held a first-instance trial and sentenced Do Nam Trung to 10 years in prison according to Article 117 of the Criminal Code. Accordingly, from 2016 to 2020, Do Nam Trung had propagated, distorted and defamed the people's

government; offended the nation, great people, leaders, celebrities, national heroes; spread false information which seriously offended the prestige, honor and dignity of some organizations and individuals for the purpose of opposing the State of the Socialist Republic of Viet Nam, dividing the national solidarity bloc, weakening the bond among the key relationship of the society, and infringing upon the national security.

Pursuant to the Criminal Procedure Code (Article 74) and the Law on Temporary Detention and Custody (Article 22), the competent authorities issued a decision on the time when the defense counsels could participate in the proceedings and Do Nam Trung's relatives could meet him after the investigation of the case had been completed. During the prosecution and trial stage, his two defense counsels' rights such as having contact with him without time limit, accessing and copying all records, were fully guaranteed in accordance with the provisions of the criminal procedure law. His rights to meet his relatives and get regular medical check-ups were ensured in accordance with the law.

5. Dinh Van Hai

Dinh Van Hai, born in 1974, [REDACTED]

[REDACTED] On 07 October 2021, the security investigative agency of the Police of Lam Dong province executed the decision to prosecute and the order to arrest the accused for temporary detention against Dinh Van Hai for investigation under Article 117 of the Criminal Code. Accordingly, initially, the investigative agency determined that from early 2020 to September 2021, Dinh Van Hai had intentionally posted many articles and videos with content that distort history; intentionally given false information garbled, distorted information, defamed the people's government; distorted the guidelines, policies and laws of the State; insulted leader Ho Chi Minh of the Vietnamese nation, smeared and insulted the prestige and personal honor of the State and Government leaders in order to oppose the State.

On 26 April 2022, the People's Court of Lam Dong province held a first-instance trial and sentenced Dinh Van Hai to 5 years in prison and 3 years of probation for the crime of "making, storing, spreading information, materials, items for the purpose of opposing the State of the Socialist Republic of Viet Nam".

According to the indictment, since 2011, Dinh Van Hai had regularly accessed social networking sites such as Facebook and Safe Chat to livestream, write and publish articles with content that propagate, distort and oppose the Party

and State. Despite repeated warnings from local authorities, Hai still stubbornly committed illegal acts with an increasingly aggressive nature and level.

The investigative security agency disseminated and fully explained the rights and obligations of Dinh Van Hai. Dinh Van Hai decided to refuse a defense lawyer and would defend his acts by himself. Dinh Van Hai's family also refused to invite a defense lawyer. During the detention process, no individual has contacted and asked to visit and contact Dinh Van Hai. Currently Dinh Van Hai's health is normal, and his periodic health checks have been held.

6. Chung Hoang Chuong

Chung Hoang Chuong was born in 1977 [REDACTED]. On 19 January 2020, the investigative agency of the Police of Ninh Kieu district conducted prosecution against the accused against Chung Hoang Chuong according to Article 331 of the Criminal Code. On 27 April 2020, the People's Court of Ninh Kieu district, Can Tho city held a trial and sentenced Chung Hoang Chuong to 01 year and 6 months in prison for the above crime. Accordingly, from September 2019 to January 2020, Chuong had posted 35 articles with false content, distorting the guidelines and policies of the Communist Party of Viet Nam and the State of the Socialist Republic of Viet Nam, seriously insulting the prestige, honor and dignity of a number of organizations, individuals, and police forces, especially police comrades who have sacrificed themselves in the course of their duty to protect the security, social order and safety. At the trial, Chung Hoang Chuong admitted and expressed regret about his violations of the law. During the investigation of the case, Chung Hoang Chuong refused to invite a defense lawyer. His right to meet his relatives (02 times) and health check-ups were guaranteed according to regulations in accordance with the law.

7. Le Trong Hung

Le Trong Hung, born in 1979, [REDACTED]. On 26 March 2021, the investigative security agency issued a decision to prosecute the accused, a detention order, and a search warrant against Le Trong Hung. The decision, order and warrant were approved by the People's Procuracy of Ha Noi city. On 31 December 2021, the People's Court of Ha Noi held a trial and sentenced Le Trong Hung to 04 years in prison under Article 117 of the Criminal Code. During the period from January 2020 to October 2020, Le Trong Hung had made and posted 07 video clips with false content, distorting the activities of state agencies,

the National Assembly, and the People's Court, causing confusion among the people, reducing the public's trust in legislative and judicial activities of the National Assembly and courts; distorted and defamed the honor and prestige of the leaders of the Party and State, distorted the guidelines and policies of the State of Viet Nam, and defamed the people's government; propagated psychological warfare, spread news, fabricated, causing confusion among the people; distorted, slandered the reputation of organizations and the honor and dignity of individuals.

The process of working with Le Trong Hung, he admitted and was aware of his acts of posting false and illegal videos for the purpose of creating attention in cyberspace.

On 25 February 2021, Le Trong Hung went to the People's Committee of Thanh Luong ward to ask for confirmation of the resume of the self-nominated candidate for the National Assembly. On 12 March 2021, Le Trong Hung applied for self-nomination at the Election Commission of Ha Noi city. The submission of Le Trong Hung's self-nomination application was done in accordance with the provisions of the law and was not obstructed by any agency or organization. The arrest of Le Trong Hung was not related to his candidacy for the local National Assembly. The allegations that Le Trong Hung was arrested for running for himself as an independent candidate for the National Assembly have no clear basis and are intended to slander the State of Viet Nam.

8. Le Chi Thanh

Le Chi Thanh was arrested and detained by the investigative police agency of the Police of Thu Duc city. Accordingly, on 20 March 2021, Thanh drove a car but did not obey traffic signs, entered the wrong lane, and did not present all required documents. The traffic police force made a record and administratively sanctioned Le Chi Thanh in accordance with the law. However, during the settlement process, Thanh repeatedly acted and spoke to hinder the functional forces from working, inciting many unrelated subjects to focus on obstructing the traffic police force from performing their duties, causing insecurity and traffic jams. Le Chi Thanh's acts showed signs of crimes against public officials.

On 14 January 2022, Le Chi Thanh was adjudicated at the People's Court of Thu Duc city and was sentenced to 02 years in prison for the crime of "resisting people on official duty". The defendant, when speaking, finally admitted his acts and wrongdoing before the Court. On 22 June 2022, Le Chi Thanh continued to be adjudicated at the People's Court of Ham Tan district (Binh Thuan) and sentenced to 03 years in prison for the crime of "abusing democratic freedoms to

infringe upon the interests of the State, lawful rights and interests of organizations and individuals”. According to the indictment of the People’s Procuracy of Binh Thuan province, from July to October 2020, Le Chi Thanh had used the Facebook account “Le Chi Thanh” to post videos and articles with false content, infringing upon the legitimate interests of the People’s Courts, the legitimate rights and interests of polices, the title of Deputy Minister of Public Security and Mr. Le Ba Thuy personally, the Superintendent of Thu Duc Detention center. Le Chi Thanh’s total sentence is 5 years in prison, from 14 April 2021 (the time of detention).

There is no such thing as Le Chi Thanh being tortured and mistreated in custody. During the detention, Le Chi Thanh had a hostile attitude and did not abide by the rules of the detention facility. During the process of escorting for interrogation work, Le Chi Thanh committed acts of self-injury, insulted the honor of prison officers; Viet Nam denies that Le Chi Thanh was tortured and mistreated leading to injury. The above allegations show signs of mutilating information to slander Vietnamese functional forces because the interrogation, confrontation and identification sessions were supervised by the People’s Procuracy and the defense lawyer.

On 26 April 2021, the police investigative agency announced that lawyer [REDACTED] was qualified to defend Le Chi Thanh; on 12 May 2021, the police investigative agency continued to announce that lawyer [REDACTED] was qualified to defend Le Chi Thanh. The lawyers fully participated in investigative activities, including 02 confrontations, 01 identification time, and 03 interrogation times. During the detention process, due to the strong spread of the Covid-19 pandemic, the Detention Center stopped organizing for prisoners to meet relatives to prevent the pandemic that could spread in the prison. Le Chi Thanh’s right to medical care has been fully implemented in accordance with regulations; his health check-ups have been organized regularly and a total of 210 treatment medicine doses have been distributed to him.

9. Tran Quoc Khanh

Tran Quoc Khanh, born in 1960, [REDACTED]. On 28 October 2021, the People’s Court of Ninh Binh province held a trial and sentenced Tran Quoc Khanh to 6 years and 6 months in prison according to Article 117 of the Criminal Code. According to the judgment, from 19 September 2019 to 04 January 2021, Tran Quoc Khanh had posted 22 videos with contents distorting and defaming the

people's government; intentionally fabricated information; distorted the guidelines, policies and laws of the State; smeared and insulted the personal prestige and honor of the State leader; distorted the history, denied and abolished the leadership role of the Communist Party of Viet Nam. Tran Quoc Khanh's acts were aimed at overthrowing the people's government and opposing the Socialist Republic of Viet Nam.

Regarding the right to meet relatives, at this time the Covid-19 pandemic was spreading in the community, therefore, the Detention Center of the Police of Ninh Binh province suspended the organization of relatives to meet the temporary detainees to prevent disease prevention. However, Tran Quoc Khanh's relatives were still allowed to send gifts to him according to the provisions of the Law on Temporary Detention and Custody. Currently, Tran Quoc Khanh's health is stable and is regularly examined.

On 26 February 2021, the People's Committee of Bach Khoa ward, Hai Ba Trung district confirmed the resume of the self-nominated candidate for the 15th National Assembly by Tran Quoc Khanh in accordance with the law; there were no authorities to hinder Tran Quoc Khanh from exercising his political rights. However, after that, Tran Quoc Khanh did not submit a self-nomination application to the Election Commission of Ha Noi city according to regulations. The allegations that Tran Quoc Khanh was arrested for self-nomination for the National Assembly has no clear basis and intends to slander the State of Viet Nam

II. Regarding the allegations mentioned in the Joint Communication

1. The right to freedom of expression is not an absolute right and its exercise is subject to certain limitations set forth by law. This is confirmed in the International Covenant on Civil and Political Rights (ICCPR) (Article 19(3)) and the Universal Declaration of Human Rights (Article 29). Accordingly, the right to freedom of expression cannot include acts of intentionally propagating false information or distorting information for the purpose of infringing upon the legitimate rights and interests of other organizations and individuals in the society. The exercise of the right to freedom of expression should be linked to the responsibility of each individual for the information he or she gives out in order to ensure a democratic and civilized society. Any individual who abuses the right to freedom of expression, as well as other democratic freedoms, to commit illegal acts must be dealt with.

2. Fake news has been appearing rampant on social networking sites, the internet, affecting security and order in many countries around the world. Fake

news becomes an existential threat to national security and social order when it not only infringes upon the rights and interests of citizens, but also directly affects and degrades trust of the people, weakening the pillar relationships of the society, thereby creating risks of instability in security and order. Deliberately spreading fake news to infringe upon the legitimate rights and interests of other individuals and organizations in the society is not a right to freedom of expression. Handling and preventing fake news are an inevitable need of countries around the world.

3. Viet Nam encourages its citizens to exercise their right to freedom of expression in order to give opinions and critiques on the State's policies. However, the exercise of this right needs to comply with the provisions of the law, based on the spirit of constructiveness, goodwill, suggestions to point out shortcomings, thereby contributing to the construction and development of the country. Acts of abusing democratic freedoms, taking advantage of the name of criticizing the Government and protecting human rights to propagate false information, intentionally distort, use hate speech, incite division, split key relationships in the society with the aim of overthrowing the people's government are strictly prohibited.

4. Viet Nam would like to recall that each country has different requirements for protection the national security and social order and safety. Respect for each country's sovereignty is one of the most important principles in international relations. For Viet Nam, ensuring the national security and social order is not just about preventing violent acts or threats of violence. Existing threats to the national security stemming from non-violent activities such as spreading fake news, disinformation, misrepresentation, and distortion of information is a reality that is taking place in Viet Nam and many other countries in the world. It is necessary to handle acts of spreading fake news, distorting information for the purpose of defamation and lowering the honor and reputation of others, ensuring a clean, civilized, and responsible information environment.

5. Article 117 of Viet Nam's Criminal Code 2015 clearly defines boundaries in defining crimes and only deals with acts of propagating distorting, fabricated and untruthful information and documents in order to fight against State of the Socialist Republic of Viet Nam. The fact that the Special Procedures only considers the manifestations and forms of acts of exercising the right to freedom of expression (posting information and videos on social networks) but ignores the nature of the acts (the information and videos posted on social networks containing false and fabricated information with the aim of

overthrowing the people's government) has led to inaccurate judgments about the legal system and judicial activities in Viet Nam. Article 117 of Viet Nam's Criminal Code is fully compatible with Paragraph 3, Article 19 of the ICCPR.

6. The arrest and detention warrants for 09 subjects were all approved by the People's Procuracy at all levels. This is a system of judicial agencies authorized by the State of Viet Nam to consider the legitimacy of criminal proceedings conducted by investigative agencies. All criminal procedural decisions must be approved by the People's Procuracy to take legal effect and be enforced. This is completely consistent with the provisions of international law, specifically Article 9.3 of the ICCPR "*Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release*".

7. Article 117 of Viet Nam's Criminal Code of 2015 belongs to the group of crimes infringing upon national security. Pursuant to the Criminal Procedure Code (Article 74) and the Law on Temporary Detention and Custody (Article 22), the competent authorities have issued a decision on the time when the defense lawyers can participate in the proceedings and meeting relatives started after finishing the investigation of the cases to ensure the secrecy of the investigation for the cases of infringing upon national security. At the end of the investigation period, the accused, defendants, and lawyers are guaranteed all conditions to prepare for their right to defense at the trial such as accessing to, copying documents contained in the case file. There is no limit to the number of meetings and the duration of each meeting between the defendants and their defense lawyers. This is completely consistent with paragraph 3, Article 4 of the ICCPR.

8. Viet Nam reaffirms that the Vietnamese State always creates conditions for citizens to exercise their political rights, including the right to stand for election to the National Assembly and the People's Council. Any citizen who wishes to do so can submit a candidacy application. However, only citizens who meet the statutory criteria and are trusted by local voters will be selected to be included in the list of candidates.

The selection of qualified candidates must go through a strict process, complying with the provisions of the law, ensuring democracy, fairness, and objectivity. Selection rounds of local election candidates are held publicly and widely communicated to the people. In case individuals stand for self-nomination but are excluded from list of candidates because they do not meet the criteria for

deputies to the National Assembly and People's Councils (Article 22 of the Law on Organization of the National Assembly, Article 7 of the Law on Organization of the Local Authorities, Article 37 of the Law on Election of Deputies to the National Assembly and People's Councils) and do not receive the trust of local voters and are not eligible to stand for election. The information that the government causes difficulties and prevents citizens from self-nominating is untrue and groundless.

9. Viet Nam completely rejects the accusations that “the Government of Viet Nam has conducted systematic activities aimed at threatening and blocking the voices of human rights activists, civil society organizations, and journalists, political activist, through conviction without legal basis, arbitrary detention, forced disappearance, conviction after their connection with UN human rights agencies”. All of the individuals mentioned in the Joint Communication violated Vietnamese law, these violations have been proven with sufficient evidence in an open and transparent trial, in compliance with the Criminal Procedure Law. Most of the subjects intentionally gave false information, fabricating information, slandering, insulting the honor and reputation of organizations and individuals. As mentioned above, the right to freedom of expression always comes with the responsibilities and obligations to comply with the law. Acts of intentionally posting false information for the purpose of infringing upon the legitimate rights and interests of individuals and organizations, threatening to infringe upon the national security, social order and safety, morality and health of the community cannot be considered as exercising the right to freedom of expression./.