



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

No. 236/VNM.25

Geneva, 19 November 2025

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 honor to hereby transmit the reply of Viet Nam to the latter's Joint Communication AL VNM 5/2024 (dated 20 December 2024) concerning Duong Van Thai.

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./.



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**Reply of Viet Nam to the Joint Communication concerning
the case of Duong Van Thai (Viet Nam)**

Ref. AL VNM 5/2024 (dated 20 December 2024)

Viet Nam completely rejects the false allegations contained in the petition regarding the case of Duong Van Thai. Viet Nam affirms that the investigation, prosecution, and trial of Duong Van Thai fully complied with the procedures and legal regulations of Viet Nam, consistent with international law. It was not a case of “kidnapping” or “forced return to Viet Nam” as alleged. During the arrest and detention for investigation of criminal acts, Duong Van Thai was guaranteed all rights in accordance with the Criminal Procedure Code of Viet Nam.

In its renovation (Đổi mới) process, the Communist Party and the State of Viet Nam have consistently placed people at the center of development policies; regarding human beings as the most valuable asset, caring for people as the highest goal and the essence of the socialist regime in Viet Nam. Alongside economic progress, Viet Nam has achieved significant results in ensuring human rights across all aspects of social life. At the 57th Session of the United Nations Human Rights Council, Viet Nam actively participated and made practical contributions by leading and co-sponsoring a number of initiatives — including ASEAN joint statements, and delivering a Joint Statement on promoting the human right to vaccination, as well as organizing international dialogues and discussions with the Special Rapporteur on the Right to Development. These dynamic practices and the positive evaluations of the international community stand as clear evidence of Viet Nam’s commitment to promoting and ensuring human rights — and serve as objective, convincing rebuttals to the false and distorted information spread by certain biased organizations and individuals about democracy and human rights in Viet Nam.

1. Information on the case of Duong Van Thai

On 14 April 2023, in the border area between Viet Nam and Laos, patrol forces discovered one person illegally crossing into Viet Nam. Upon arrest, the person had no legal entry documents. During questioning, the person identified himself as Duong Van Thai, born in 1982, a registered resident of [REDACTED], Ha Noi, who had illegally left Viet Nam in 2019. While attempting to re-enter the country illegally, he was apprehended. Following the incident, the competent Vietnamese authorities publicly and transparently released information through the

media (as was included in Viet Nam’s response to the 2023 communication from the Working Group on Enforced or Involuntary Disappearances).

During the verification process, authorities discovered that Duong Van Thai had committed other violations of the law. The Investigation Security Agency of the Ministry of Public Security issued a decision to prosecute and detain Duong Van Thai under Article 117 of the Penal Code. These decisions were approved by the Supreme People’s Procuracy in accordance with criminal procedural law. Due to the complex nature of the case and the involvement of multiple accomplices, the authorities extended the detention period of Duong Van Thai to facilitate the investigation.

2. The trial and current status of Duong Van Thai:

In Viet Nam, the People’s Procuracy is an independent body empowered by the State to exercise the right to prosecution and to supervise judicial activities, including reviewing the legality of investigative actions. This structure fully aligns with international law, specifically Article 9.3 of the International Covenant on Civil and Political Rights (ICCPR), which states: “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.”

Pursuant to Article 25 of the Criminal Procedure Code, the Ha Noi People’s Court decided to conduct a closed trial in the case of Duong Van Thai. The judgment was announced publicly and published in the media. The closed hearing was conducted in full compliance with Vietnamese law and consistent with international law.

On 30 October 2024, the Ha Noi People’s Court tried the case and sentenced Duong Van Thai to 12 years in prison and 3 years of probation. His co-defendants received sentences ranging from 30 months to 5 years and 6 months. The trial complied with all procedural and legal safeguards, ensuring fairness and objectivity. The rights of the defense and lawyers were protected. At the hearing, Duong Van Thai and the other defendants admitted their crimes as correctly charged by the Procuracy, expressed remorse, requested leniency, and did not appeal.

Viet Nam always guarantees the right of access to legal counsel for detainees (including those under emergency arrest, detention, or prosecution) in full accordance with the law. The 2015 Criminal Procedure Code devotes one entire

chapter — 13 articles (Articles 72–84) — to regulating the “Defense and protection of the legitimate rights and interests of the accused and litigants”:

- Article 74 stipulates that defense counsel participates in proceedings from the time the accused is formally charged.

- Article 76 of the Criminal Procedure Code provides for the appointment of defense counsel: if the accused, their legal representative, or relatives do not invite a defense counsel, the competent procedural authority must appoint one for them.

- In cases where it is necessary to maintain the confidentiality of an investigation involving crimes against national security, the Procurator General of the People’s Procuracy has the authority to decide that defense counsel may participate in the proceedings only after the investigation has been completed. The competent procedural authority must give reasonable prior notice to the defense counsel regarding the time and place of procedural activities in which they are entitled to participate under the Criminal Procedure Code. After the investigation concludes, the competent authority is responsible for arranging time and location for the defense counsel to read, take notes, and copy documents in the case file. The investigating agency shall always create favorable conditions for lawyers to exercise their right to defense, ensuring that the process of investigation, prosecution, and trial is conducted objectively and in full compliance with the law.

In accordance with Article 74, the Ha Noi People’s Court notified three lawyers — [REDACTED] (appointed by Duong Van Thai’s family) — to defend him. During pre-trial detention, Duong Van Thai enjoyed all rights under the law, met his lawyers three times, met family twice, and received gifts 41 times.

Currently, inmate Duong Van Thai is serving his sentence at An Diem Prison. His health is stable and no illness has been reported. The prison fully ensures his legal rights. Since early 2025, he has undergone five medical checkups, received one family visit, made ten phone calls, and received seven gift parcels.

3. Regarding Article 117 of the Penal Code and Viet Nam’s laws on the promotion and protection of human rights:

Every country has a legitimate need to safeguard its national interests — including security, public order, and peace — to enable development and ensure safety and freedom for all citizens. Article 117 of the Penal Code clearly distinguishes between the exercise of freedom and criminal conduct, by specifying

acts considered offenses (such as spreading false information, fabrications, or slander against the State) while not restricting legitimate freedom of expression or dissent. These provisions only apply to those who abuse democratic freedoms to intentionally spread false or distorted information that harms lawful rights and interests of organizations, individuals, or the State, with the intent to undermine the people's government. Anyone who abuses such freedoms must bear legal responsibility.

While each country approaches human rights differently, all share the principle that actions harming national security must be prevented and penalized. Viet Nam respects and promotes citizens' rights to freedom of expression, access to information, participation in public discourse, and policy feedback. However, Viet Nam also firmly opposes and addresses any misuse of these freedoms to spread falsehoods, defame others, incite division, or infringe upon the legitimate rights of others. Therefore, any claims that such laws are vague or open to abuse are unfounded and reflect a misunderstanding of Vietnamese law.

Viet Nam has consistently affirmed that respect for, protection, and promotion of fundamental human rights are core principles of its socio-economic and cultural development strategies, and reflect its fulfillment of international commitments. The Constitution of Viet Nam devotes a full chapter to human rights and citizens' rights and obligations. Article 14 affirms: "In the Socialist Republic of Viet Nam, human rights and citizens' rights in the political, civil, economic, cultural, and social fields shall be recognized, respected, protected, and guaranteed by the Constitution and the law. Human and citizens' rights may be restricted only by law when necessary for reasons of national defense, national security, social order and safety, social morality, or community health."

All Vietnamese citizens are guaranteed by law to live and act in a safe environment. Any harassment or violation of lawful freedoms is strictly prohibited. This principle is enshrined in the 2013 Constitution and related legal instruments. Violations of others' lawful freedoms are subject to administrative or criminal penalties, depending on severity. The 2015 Penal Code devotes one full chapter (Chapter XV, 11 articles) to crimes infringing upon human and citizens' freedoms and democratic rights. Beyond legal measures, Viet Nam actively promotes public awareness of human rights and citizenship through the media, emphasizing respect for the rights and legitimate interests of others, and prohibiting the abuse of authority to infringe upon these freedoms./.