



**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 honor to hereby transmit the reply of Viet Nam to the latter's Joint Communication OL VNM 2/2026 (dated 17 June 2026) concerning Decree No. 109/2026/NĐ-CP of the Government of Viet Nam.

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
Decree No. 109/2026/NĐ-CP of the Government of Viet Nam**

Ref. OL VNM 2/2026 (dated 17 June 2026)

The Government of Viet Nam takes note of the questions raised and appreciates the opportunity to provide information and clarification. Viet Nam remains committed to constructive dialogue and cooperation with Special Procedures, in accordance with its international human rights obligations.

I. Decree No. 109 is fully consistent with international human rights law

1. Viet Nam's consistent position is to create all favorable conditions for lawyers and law-practicing organizations to provide legal services in accordance with the international human rights conventions to which Viet Nam is a party. With a view to building a State governed by the rule of law, Viet Nam has progressively improved its legal framework to ensure that lawyers are entitled to perform their professional functions independently, without obstruction or discrimination; any act by any agency, organization or individual that obstructs the lawful practice of lawyers is strictly prohibited. In accordance with the principle of equality before the law, lawyers must comply with the law and ethical standards and must bear legal responsibility for their violations.

2. Decree No. 109 ensures conformity and consistency with the Constitution of Viet Nam and is fully consistent with Article 14 of the International Covenant on Civil and Political Rights (ICCPR), the United Nations Basic Principles on the Role of Lawyers and the United Nations Declaration on Human Rights Defenders. In particular:

- Article 14 of the ICCPR recognizes the right to equality before courts and tribunals; the right to a fair and public hearing by a competent, independent and impartial tribunal; the presumption of innocence; and the rights of accused persons (such as the right to have adequate time and facilities for the preparation of their defense, the right to communicate with counsel of their own choosing, and the right to receive legal assistance during proceedings...). Decree No. 109 merely prescribes sanctions for violations of law committed by lawyers. It does not regulate judicial proceedings or the exercise by lawyers of the right of defense, and contains no provision that obstructs or restricts human rights protection activities or the exercise of lawyers' right to practice.

Acts subject to administrative sanctions under Decree No. 109 must be considered in conjunction with the provisions of the Law on Lawyers, the Law on Handling Administrative Violations and relevant procedural laws. The acts specified in Article 8 of Decree No. 109 specify the prohibited acts set out in Article 9 of the

2006 Law on Lawyers (as amended and supplemented in 2012 and 2015)¹. Accordingly, the administrative sanctions prescribed in Decree No. 109 apply only where a lawyer commits an act in violation of law; they do not apply to a lawyer's views, requests, statements or complaints. Therefore, the provisions of Decree No. 109 are not contrary to Article 14 of the ICCPR.

- With regard to the United Nations Basic Principles on the Role of Lawyers and the United Nations Declaration on Human Rights Defenders, these instruments are not legally binding. Decree No. 109 does not establish sanctions intended to restrict human rights protection activities or obstruct the exercise of lawyers' right to practice; it merely provides for sanctions in respect of violations of law. The provisions of Decree No. 109 are understood and applied in a manner that does not impede lawyers from providing professional legal assistance for the lawful and good-faith protection of human rights. The sanctions under Decree No. 109 are intended to address violations in a timely manner, protect the lawful rights and interests of individuals and organizations using legal services, contribute to a transparent environment for legal practice, enhance compliance with the law and the standing of the legal profession, and protect bona fide practitioners against unfair competition or breaches of professional standards.

- The communication's reliance on Principle 28 of the United Nations Basic Principles (concerning disciplinary proceedings) to assess the sanctioning competence prescribed in Decree No. 109 erroneously conflates two legal mechanisms that differ in nature, basis and purpose. Under the United Nations Basic Principles, “disciplinary proceedings” constitute a mechanism for professional discipline within the self-regulatory framework of the legal profession, based on the profession's codes of ethics and professional standards. Administrative sanctions, by contrast, are State-imposed sanctions applicable to violations of laws governing State administration and are regulated by the Law on Handling Administrative Violations and its implementing instruments, including Decree No. 109/2026/ND-CP.

3. In the process of formulating Decree No. 109, the competent Vietnamese authorities complied with strict procedures and conducted a thorough and careful review of the domestic legal system and the treaties to which Viet Nam is a party, with a view to ensuring compatibility, coherence and consistency.

II. Established legal principles underlying Decree No. 109

1. Article 16 of the Constitution of Viet Nam provides that lawyers are entitled to perform their professional functions independently, while at the same time bearing legal responsibility when they commit violations. Article 5 of the Law on Lawyers sets out the principles governing legal practice, including “*Compliance with the Constitution and the law*”, “*Compliance with the Code of Ethics and Professional*

¹ For example: colluding or establishing relations with procedure-conducting persons, participants in proceedings, or other cadres, civil servants or public employees in order to act contrary to law in the settlement of cases or matters; personally committing, or assisting a client in committing, unlawful acts in order to delay or prolong proceedings, or to cause difficulties for or obstruct the operation of procedure-conducting bodies and other State agencies...

Conduct for Vietnamese Lawyers”, “*Bearing legal responsibility for the practice of law*”, etc. Article 29 of the Code of Ethics and Professional Conduct for Vietnamese Lawyers (issued together with Decision No. 201/QD-HDLSTQ dated 13 December 2019 of the Viet Nam Bar Federation) provides that “*lawyers must comply with the law, the internal rules and regulations of State agencies, and the relevant provisions of Chapter IV of this Code*”.

2. Decree No. 109 contains no provision that directly or indirectly restricts, obstructs or affects the exercise of lawyers' rights in the course of proceedings or the protection of their clients' interests. Under the legal mechanisms and measures of Viet Nam's legal system, lawyers may fulfil their professional duties and observe professional standards and ethics without threats, obstruction or harassment, or the risk of administrative or economic sanctions. Decree No. 109 regulates only the imposition of administrative sanctions on lawyers who commit violations of law², and does not regulate criminal or civil proceedings or the exercise by lawyers of the right of defense.

3. Decree No. 109 does not regulate, repeal or alter the principle of confidentiality between lawyers and clients recognized in the legal system. Article 25 of the Law on Lawyers of Viet Nam provides: “*A lawyer may not disclose information concerning a case or matter, or concerning a client, of which the lawyer becomes aware in the course of practice, except where the client gives written consent or where otherwise provided by law*”. Rule 7 of the Code of Ethics and Professional Conduct for Vietnamese Lawyers also provides: “*with respect to information confidentiality, lawyers are obliged to maintain the confidentiality of client information both during the provision of legal services and after such services have ended, except with the client's consent or as provided by law*”.

4. Assertions that Decree No. 109 may be misused to retaliate against lawyers in politically sensitive cases, land disputes, or cases involving wrongdoing by authorities or the Public Security force are speculative, biased and unfounded.

5. Administrative sanctions under Decree No. 109 are imposed in accordance with strict procedures and a clearly defined oversight mechanism, as fully prescribed in the Law on Handling Administrative Violations and other relevant legal instruments, including Decree No. 118/2025/ND-CP and Decree No. 190/2025/ND-CP. Persons competent to impose administrative sanctions must comply with the legal provisions concerning the basis for determining the act committed, sanctioning competence, and other relevant matters. During the handling process, sanctioned

² Examples include the following acts: “*Erasing or altering papers or documents issued by competent agencies, organizations or persons so as to falsify their contents in dossiers for registration of probationary legal practice; admission to a Bar Association; issuance or reissuance of a lawyer practicing certificate; or issuance of a legal practice registration certificate or a license to practice law in Viet Nam for a foreign lawyer*”; “*Erasing or altering papers or documents issued by competent agencies, organizations or persons so as to falsify their contents in dossiers requesting issuance or reissuance of an operation registration certificate for a law-practicing organization or a branch thereof, a branch of a foreign law firm, or a branch of a foreign law firm in Viet Nam*”; “*making untruthful declarations or concealing information concerning individuals or organizations in dossiers for registration of probationary legal practice; issuance or reissuance of a lawyer practicing certificate, legal practice registration certificate, license to practice law in Viet Nam for a foreign lawyer, establishment license, or operation registration certificate*”...

individuals and organizations have the full right to provide explanations to the competent person.

6. Individuals and organizations sanctioned for administrative violations have the full right to lodge complaints and institute administrative proceedings against sanctioning decisions, and the right to report violations of law committed in the handling of administrative violations in accordance with law. Agencies and persons competent to impose administrative sanctions are subject to inspection, examination and supervision by competent authorities and will be considered for strict disciplinary measures (including reprimand, warning, salary-grade demotion, demotion, dismissal from office, termination of employment or removal from office) if they issue an unlawful sanctioning decision, in accordance with Decree No. 19/2020/ND-CP dated 12 February 2020 of the Government on inspection and disciplinary measures in the enforcement of the law on handling administrative violations (as amended and supplemented by Decree No. 93/2025/ND-CP).

III. Transparent, well-founded sanctioning provisions that cannot be misused

1. Measures taken to ensure the clarity, precision and foreseeability of the provisions

The scope of the provisions referred to in the communication (including certain acts prescribed in Article 8 of Decree No. 109) must be determined on the basis of all constituent elements of the act. For example:

- Point c, paragraph 7, Article 8 of Decree No. 109 prescribes the act of “personally committing, or assisting a client in committing, violations of law in order to delay or prolong proceedings, or to cause difficulties for or obstruct the operation of procedure-conducting bodies and other State agencies”.

- Point e, paragraph 7, Article 8 of Decree No. 109 prescribes the act of “conduct, statements or other acts that adversely affect the image or reputation of the legal profession, or cause harm to the lawful rights and interests of agencies, organizations or individuals, where such conduct does not reach the threshold for criminal prosecution”.

The sanctioning competence of executive agencies and the Public Security force, as detailed in Decree No. 109, is fully coherent and consistent and is based on the competence conferred upon them. Sanctions for these acts must take into account the nature, seriousness and consequences of the violation, the offender, and mitigating and aggravating circumstances.

2. With regard to the request concerning safeguards for lawyers in the performance of their professional functions

- The imposition of sanctions under Decree No. 109 follows strict procedures and is subject to a clearly defined oversight mechanism prescribed in the Law on Handling Administrative Violations and Government Decree No. 118/2021/ND-CP dated 23 December 2021 detailing a number of articles of, and measures for

implementing, the Law on Handling Administrative Violations (as amended and supplemented by Decree No. 68/2025/ND-CP and Decree No. 190/2025/ND-CP). Competent persons must strictly comply with the law throughout the handling of administrative violations.

- Under the law, in the course of the administrative sanctioning process, sanctioned individuals and organizations have the full right to provide explanations to persons competent to impose administrative sanctions; to lodge complaints and institute administrative proceedings against administrative sanctioning decisions; and to report violations of law committed by persons competent to impose sanctions.

- Under the law, agencies and persons competent to impose sanctions are subject to inspection, examination and supervision by competent authorities and to disciplinary measures (including reprimand, warning, salary-grade demotion, demotion, dismissal from office, termination of employment or removal from office), as prescribed in Government Decree No. 93/2025/ND-CP dated 26 April 2025 amending and supplementing a number of articles of Government Decree No. 19/2020/ND-CP dated 12 February 2020 on inspection and disciplinary measures in the enforcement of the law on handling administrative violations, where sanctions are imposed contrary to law, as well as liability for compensation for damage (if any).

3. With regard to the request concerning independence, impartiality, fair procedures and judicial oversight

Viet Nam considers that a clear distinction must be drawn between disciplinary action against lawyers (which falls within the competence of the Management Board of the Bar Association)³ and administrative sanctions. The “disciplinary proceedings” referred to in Principles 28 and 29 of the United Nations Basic Principles on the Role of Lawyers constitute an internal disciplinary mechanism based on codes of ethics and professional standards.⁴ Administrative sanctions, by contrast, apply only to specific violations clearly prescribed by law and do not interfere with lawyers' lawful professional activities. This process involves “agencies and persons competent to impose administrative sanctions” and “individuals and organizations that commit administrative violations”.

Individuals and organizations sanctioned for administrative violations have the right to lodge complaints and institute proceedings against administrative sanctioning decisions in accordance with law. In the course of resolving such a complaint or proceeding, if enforcement of the challenged decision is considered likely to cause consequences that would be difficult to remedy, the authority handling the complaint or proceeding must issue a decision temporarily suspending enforcement of that decision in accordance with law (paragraphs 1 and 3, Article 15 of the Law on Handling Administrative Violations).

³ Article 85 of the Law on Lawyers

⁴ The Code of Ethics and Professional Conduct for Vietnamese Lawyers was issued together with Decision No. 201/QĐ-HĐLSTQ dated 13 December 2019 of the Viet Nam Bar Federation.

4. With regard to the request concerning sanctioning competence

Article 37a of the Law on Handling Administrative Violations prescribes competence to impose administrative sanctions, including for holders of positions in executive agencies and public security agencies, and assigns the Government to prescribe in detail the sanctioning competence of each position. On that basis, the Government issued Decree No. 189/2025/ND-CP dated 1 July 2025 detailing the Law on Handling Administrative Violations with respect to competence to impose administrative sanctions.

In the field of legal practice, sanctioning competence is clearly and specifically assigned to certain positions in executive agencies and the People's Public Security under Articles 83, 89 and 90 of Decree No. 109, consistently with Article 37a of the Law on Handling Administrative Violations, the Law on Organization of Local Government and Decree No. 189/2025/ND-CP. These provisions are also consistent with the policy of decentralization and delegation of authority to local governments and correspond to the functions, duties and powers of the competent holders of positions in the People's Public Security. The imposition of administrative sanctions must take into account the nature, seriousness and consequences of the violation, the offender, and mitigating and aggravating circumstances (Article 3 of the Law on Handling Administrative Violations).

As noted above, lawyers whose conduct complies with the law and with recognized professional obligations, standards and ethics are not subject, in the course of their practice, to the sanctions prescribed in Decree No. 109. In addition, the mechanisms and measures set out in Decree No. 109 contribute to preventing conflicts of interest, the arbitrary application of law and abuses of authority.

5. With regard to the request concerning lawyer-client confidentiality and the principle that lawyers shall not be identified with their clients

Article 25 of the Law on Lawyers provides that “A lawyer may not disclose information concerning a case or matter, or concerning a client, of which the lawyer becomes aware in the course of practice, except where the client gives written consent or where otherwise provided by law”.

The additional sanction of “confiscation of material exhibits and means used in administrative violations” under Decree No. 109 applies only to certain acts, such as “Erasing or altering papers or documents issued by competent agencies, organizations or persons so as to falsify their contents in dossiers for registration of probationary legal practice; admission to a Bar Association; issuance or reissuance of a lawyer practicing certificate; or issuance of a legal practice registration certificate or a license to practice law in Viet Nam for a foreign lawyer” (point a, paragraph 1, Article 7 of Decree No. 109); and “Erasing or altering a lawyer practicing certificate, legal practice registration certificate, license to practice law in Viet Nam for a foreign lawyer, notice of defense counsel registration, or notice of registration for the protection of lawful rights and interests so as to falsify its contents” (point a, paragraph 4, Article 8 of Decree No. 109)... Accordingly, the material exhibits confiscated in such cases are the papers that have been erased or

altered so as to falsify their contents, such as “papers or documents issued by competent agencies, organizations or persons in dossiers for registration of probationary legal practice; admission to a Bar Association”... The confiscated papers referred to above do not contain client information requiring confidentiality. The provisions of Decree No. 109 on the confiscation of material exhibits or means used in administrative violations do not confer a right to seize entire case files, defense materials, correspondence or communications between lawyers and clients. Therefore, the implementation of Decree No. 109 does not affect the principle of lawyer-client confidentiality or the principle that lawyers shall not be identified with their clients or with the demands or objectives pursued by their clients.

6. With regard to the request concerning the necessity and proportionality of temporary deprivation of the right to use a practicing certificate

Paragraph 1, Article 25 of the Law on Handling Administrative Violations provides that “Temporary deprivation of the right to use licenses or professional practice certificates is a form of sanction applied to individuals and organizations that commit serious violations of the activities specified in such licenses or professional practice certificates”. Decree No. 109 provides for “temporary deprivation of the right to use a lawyer practicing certificate” only in respect of certain acts that adversely affect the practice of law, the lawful rights and interests of clients, or the order of State administration⁵. This additional sanction is necessary to ensure deterrence, prevent violations and enhance compliance with the law in legal practice, while ensuring proportionality to the nature and seriousness of each administrative violation.

7. With regard to the request concerning the measures taken

The provisions of Decree No. 109 may not be used to threaten, retaliate against or interfere with lawyers' lawful professional activities. The imposition of administrative sanctions entails the application of legal provisions by a competent sanctioning authority to address violations of law committed by lawyers and is entirely independent of the “lawyer-client” relationship; it does not affect lawyers' lawful professional activities. The mechanisms and measures referred to in subsection 2 above also provide safeguards to ensure that Decree No. 109 is applied effectively and within its proper scope and is not used to restrict the right to a fair trial, the right of access to a lawyer or other lawful activities of lawyers.

⁵ Examples include: personally committing, or assisting a client in committing, violations of law in order to delay or prolong proceedings, or to cause difficulties for or obstruct the operation of procedure-conducting bodies and other State agencies; harassing clients; receiving or demanding any amount of money or other benefit in addition to the remuneration and expenses agreed in the legal services contract; deceiving clients where such conduct does not reach the threshold for criminal prosecution; disclosing information concerning a case or matter, or concerning a client, of which the lawyer becomes aware in the course of practice, except where the client gives written consent or where otherwise provided by law; and colluding or establishing relations with procedure-conducting persons, participants in proceedings, cadres, civil servants or public employees in order to act contrary to law in the settlement of cases or matters...

IV. Practices in Viet Nam

1. In Viet Nam, lawyers are supported by a system of organizations established to protect their rights and interests, namely the Viet Nam Bar Federation, the Committee for the Protection of Lawyers' Rights, and local Bar Associations, which receive and handle requests for the protection of lawyers' rights and interests in the course of practice promptly, objectively and in accordance with law.

2. A favorable legal environment has enabled the number of lawyers in Viet Nam to increase continuously in recent years. From 2007 to 31 December 2025, the number of lawyers increased from 4,161 to 22,098, representing an average annual increase of nearly 1,000 lawyers. Viet Nam has developed approximately 5,000 law-practicing organizations, bringing the number of law-practicing organizations from 1,323 to more than 6,300.

3. Viet Nam is currently actively gathering broad-based comments from relevant agencies and organizations for the amendment of the Law on Lawyers (expected to be submitted at the second session of the National Assembly of the sixteenth legislature), with a view to further institutionalizing the guidelines and policies of the Party and the laws of the State concerning lawyers and the practice of law in the new context; ensuring that lawyers and lawyers' organizations can better exercise their rights and fulfil their obligations and responsibilities in accordance with law; building and developing a contingent of lawyers who are responsible, possess professional qualities and ethics, have a sound understanding of the law and strong professional skills; addressing limitations and shortcomings; and establishing a legal basis for the development of lawyers' organizations and activities in line with socio-economic development requirements and international practice./.