

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the independence of judges and lawyers

REFERENCE: UA
VNM 9/2014:

12 August 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolutions 24/7, 25/2, 25/18, and 26/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the arrest, detention and sentencing of Mr. Truong Duy Nhat**.

Mr. Truong Duy Nhat (Trương Duy Nhất) is a former journalist, blogger, and founder of the blog Một Góc Nhìn Khác ('A Different Point of View') where he wrote posts which were critical of the Vietnamese government's compliance with international human rights law.

According to the information received:

On 26 May 2013, Mr. Truong Duy Nhat was reportedly arrested in connection with an investigation into allegations that he has abused "democratic freedoms to infringe upon the interests of the State and legitimate interests of organizations and citizens" under Article 258 of the Penal Code.

On 17 December 2013, he was reportedly indicted by the People's Supreme Court of Viet Nam on the grounds that 12 of his blog posts were "propagandizing and distorting the guidelines and policies of the Party and State; sully the Party and

State's leaders; providing one-way perspective that caused anxiety and affected the confidence of the masses on the leadership of the Communist Party and the Socialist State."

On 4 March 2014, Mr. Truong Duy Nhat was allegedly sentenced by the People's Court of Da Nang City to two years' imprisonment. The trial lasted approximately two hours, during which Mr. Truong Duy Nhat and his lawyer were only allowed to speak briefly with each other. Furthermore, the presiding judge allegedly threatened to remove them both from the court if they continued to speak.

On 26 June 2014, the People's Supreme Court of Viet Nam upheld the sentence against Mr. Truong Duy Nhat. Reportedly, he has been in detention since his arrest and is currently being held in Hoa Son Prison, Da Nang City.

Concern is expressed that the arrest, detention and sentencing of Mr. Truong Duy Nhat are linked to his peaceful and legitimate right to express his opinion freely on the internet. Concern is also expressed regarding the allegations of lack of due process and fairness in Mr. Truong Duy Nhat's trial. Further concern is expressed that the sentencing of Mr. Truong Duy Nhat might lead to intimidating and deterring other bloggers in Viet Nam from exercising their legitimate right to freedom of opinion and expression.

While we do not wish to prejudge the accuracy of these allegations or to express an opinion on whether or not the detention of Mr. Truong Duy Nhat is arbitrary, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and article 9 of the International Covenant on Civil and Political Rights (ICCPR). The trial of Mr. Truong Duy Nhat seems to have been carried out in contravention of the guarantees of fair trial and due process also consecrated in the Basic Principles on the Role of Lawyers, the Basic Principles on the Independence of the Judiciary, in particular principle 6, and the Bangalore Principles of Judicial Conduct. The detention of Mr. Truong Duy Nhat also appears to be in contravention of the right to freedom of opinion and expression as set forth in article 19 of the ICCPR.

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2 and 6.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and detention of Mr. Truong Duy Nhat and how these measures are compatible with international norms and standards as stated, *inter alia*, in the UDHR and the ICCPR.
3. Please explain why Mr. Truong Duy Nhat could not communicate with his counsel in an adequate manner during the trial. Please also give detailed information on how the principle of equality of arms was respected during the trial.
4. Please indicate what measures have been taken to ensure that the legitimate right to freedom of opinion and expression are respected in Viet Nam and that the physical and psychological integrity of those exercising this right is guaranteed.
5. Please kindly indicate what measures have been taken to ensure that human rights defenders in Viet Nam are able to carry out their legitimate work in a safe and enabling environment without fear of criminalization.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

David Kaye
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Michel Forst
Special Rapporteur on the situation of human rights defenders

Gabriela Knaut
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