

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

**Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression.**

REFERENCE: AL G/SO 214 (67-17)
VNM 8/2013

28 October 2013

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression pursuant to Human Rights Council resolution 16/4.

In this connection, I would like to bring to your Excellency's Government's attention information I have received concerning the arrest of Mr. **Dinh Nhat Uy**, who is charged under article 258 (1) of the Criminal Code for writing his views on a social networking website.

According to the information received:

On 15 June 2013, Mr. Dinh Nhat Uy was arrested and charged under Criminal Code article 258 (1), "abusing democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens." It is reported that he could face a maximum sentence of three-years imprisonment for posting articles on Facebook from November 2012 to June 2013.

It is also reported that he is accused of "publishing articles and posts on Facebook that were misleading, defamatory, and offensive against the State, organizations and citizens." Those posts allegedly include:

- The article titled "Those Party members who dare to accept the truth", created on December 19, 2012. This article quoted a discussion between two communist cadres in a cafe, evaluating the leaders' capacity to govern the country with profane language.
- The post created on December 21, 2012 which contained profane language insulting Ms. Nguyen Thi Tham. Ms. Tham was the Deputy Head of the residential district's women's association and lived in the house opposite to Uy's.

- The post created on January 22, 2013 which reported on the activities of the group “Patriotic Youth” that distributed pamphlets in the area of Long An province.
- The post created on March 2, 2013 which contained crude words. It was seen as insulting the brand of the Vietnam Military Telecommunications Group (Vietel) and the Vietnam Posts and Telecommunications Group (VNPT).

Mr. Uy, 30-years old, is the director of the AT Limited Company, specializing in photocopying and computer repairing in Long An province. It is reported that Mr. Uy remains in custody since his arrest and his trial is scheduled for 29 October 2013.

Mr. Uy is the elder brother of Dinh Nguyen Kha, 25-years-old, who is currently serving a four-years sentence for “propaganda against the State” under Criminal Code article 88. Mr. Kha was accused of distributing anti-government leaflets. Mr. Uy’s postings on Facebook reportedly included some calling for the release of his brother.

Grave concerns are expressed that the arrest of Mr. Dinh Nhat Uy is directly related to his free expression online. Further concerns are expressed that article 258 of the Criminal Code is reportedly increasingly being used against those critical of the Government.

While I do not wish to prejudge the accuracy of these allegations, I would like to appeal to your Excellency’s Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights, which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

In this connection, I wish also to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States, while noting that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with article 19, paragraph 3 of the ICCPR, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

I would further like to refer to Human Rights Council resolution 20/8 on the promotion, protection and enjoyment of human rights on the Internet (A/HRC/RES/20/8) adopted on 5 July 2012, which “affirms that the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable

regardless of frontiers and through any media of one's choice." It further called upon all States to "promote and facilitate access to the Internet and international cooperation aimed at the development of media and information and communications facilities in all countries."

Moreover, it is my responsibility under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. Since I am expected to report on these cases to the Human Rights Council, I would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by the victim or on his behalf?
3. Please provide the details of the prosecution's case against Mr. Uy and how it is compatible with the international norms and standards of the right to freedom of opinion and expression.

I would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, I urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above-mentioned person are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. I also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression