

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

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
VNM 5/2014

31 March 2014

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 16/4, 24/5, and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning allegations of the denial of Mr. **Pham Chi Dung** from travelling to Geneva to participate in a side-event at the Human Rights Council in connection with the Socialist Republic of Viet Nam's Universal Periodic Review.

Mr. Pham Chi Dung is a journalist, writer and independent analyst. He works with various international news agencies, including, Voice of America, British Broadcasting Company, Radio France Internationale, and Radio Free Asia, as well as other Vietnamese newspapers overseas, providing commentaries on Viet Nam's current affairs. Mr. Pham Chi Dung is a member of the Civil Society Forum and the Former Vietnamese Prisoners of Conscience Association (FVPOC).

According to the information received:

Mr. Pham Chi Dung was invited to speak about the role of NGOs in promoting human rights for Viet Nam in a side-event entitled "With Membership Comes Responsibility: Ensuring Human Rights in Viet Nam" organised by a coalition of Vietnamese NGOs at the Human Rights Council on 4 February 2014. This side-event was scheduled the day before the Socialist Republic of Viet Nam's Universal Periodic Review on 5 February 2014.

On 30 January 2014, three officers from the People's Security Forces of the Police Department of Ho Chi Minh, including Division PA81 and Division PA83, allegedly came to Mr. Pham Chi Dung's home. Reportedly, the officers expressed their concern regarding Mr. Pham Chi Dung's scheduled trip to Geneva and that he would be "taken advantage of by hostile forces to defame and distort the Socialist Republic of Viet Nam".

The following day, Mr. Pham Chi Dung received an invitation, dated 30 January 2014, from the Director of PA81 Division of the Public Security Forces of the Ho Chi Minh Police Department where he was requested to appear at the Ho Chi Minh Police Department at 8.00 a.m. on 1 February 2014. As the date fell on the Vietnamese New Year where government officials are off duty, Mr. Pham Chi Dung declined the invitation.

On 1 February 2014, Mr. Pham Chi Dung checked in for his flight to Geneva at the Ho Chi Minh International Airport. However, he was stopped when he went through immigration. When he tried to make a telephone call to request assistance, two security officers allegedly confiscated his mobile phone. Mr. Pham Chi Dung was then escorted to an isolated interviewing room where his passport was confiscated. A plain clothed officer from the PA81 Division allegedly informed him that he was barred from leaving Viet Nam. The reason that was presented to him was that hostile forces were using the side-event in Switzerland to "distort and defame the Socialist Republic of Viet Nam". Mr. Pham Chi Dung then attempted to explain that he was travelling to Switzerland after having received an official invitation from the organizers and that these were not "hostile forces". However, he was reportedly questioned for approximately one hour and was not allowed to leave the room.

After having received a copy of a report which clearly stated that he was prohibited from leaving the country, Mr. Pham Chi Dung was permitted to collect his luggage and return to his home.

Mr. Pham Chi Dung's mobile phone was later returned to him. However, to date, he has not received his passport.

Grave concern is expressed that the alleged denial of Mr. Pham Chi Dung from travelling to Geneva to participate in a side-event in connection to the UPR of the Socialist Republic of Viet Nam might be related to his legitimate activities advocating for human rights. Serious concern is expressed at apparent restrictions, including the imposition of travel bans, being carried out against citizens and human rights defenders seeking to engage in public affairs and communicate with the United Nations and its human rights mechanisms.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the fundamental principles set forth in 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, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration, and in particular to article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

We also wish to recall the provisions of resolution 12/2 of the Human Rights Council (A/HRC/RES/12/2), which, inter alia, "condemns all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (OP 2) and "calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (...)" (OP 3).

Regarding the right to access and communicate with international bodies, we would draw the attention of Your Excellency's Government article 5, paragraph c) of the Declaration which states that in order to promote and defend human rights and freedoms fundamental everyone has the right, individually or collectively, both nationally and internationally, "c) to communicate with non-governmental or intergovernmental organizations." Similarly, Article 9, paragraph 4, states that "(a) (...) everyone has the right, individually or collectively, in conformity with applicable international instruments and procedures, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms."

We would also like to refer your Excellency's Government to the following provisions of the International Covenant on Civil and Political Rights (ICCPR):

- article 19, 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.”

- article 21, which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.

In this connection, we would like to refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we 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. Please indicate what measures have been taken to ensure that the legitimate right to meet and assemble peacefully is respected and that the physical and psychological integrity of those exercising this right is guaranteed.
3. Please provide information concerning the legal grounds for the travel ban imposed on Mr. Pham Chi Dung and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR.
4. Please indicate what measures have been taken to ensure that all human rights defenders, including civil society and activists, can carry out their legitimate activities in a safe and enabling environment and can interact with the United Nations and its human rights mechanisms, without fear of harassment, stigmatisation or restrictions of any kind.

We 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, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Pham Chi Dung 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. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

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

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders