

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; 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 human rights of migrants

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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; 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 human rights of migrants, pursuant to Human Rights Council resolutions 33/30, 36/6, 34/18, 34/5 and 34/21.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary arrest, enforced disappearance and subsequent repatriation of Mr. **Truong Duy Nhat** from Thailand to Viet Nam, as well as the surveillance and intimidation of Mr. **Bach Hong Quyen**.

Mr. **Truong Duy Nhat** is a Vietnamese blogger and journalist, regularly commenting on social and political issues, including human rights issues. From 1987-2011 Mr. Trong reported for a state-run newspaper. He was recently residing in Bangkok, Thailand.

Concerns at a previous arrest, detention and conviction of Mr. Truong Duy Nhat in connection with his criticism of the Government, were raised in a communication by Special Procedures to your Excellency's Government sent on 12 August 2014. We thank you for your Excellency's Government's reply of 24 October 2014, but regret the lack of information as to the compatibility of the conviction with international human rights law.

Mr. **Bach Hong Quyen** is a Vietnamese environmental rights defender, an active blogger, and member of the Vietnam Path Movement, a human rights group.

According to the new information received:

Concerning the case of Mr. Truong Duy Nhat

On 16 January 2019, Vietnamese police allegedly initiated surveillance of Mr. Truong Duy Nhat and his home following rumors that he was preparing to publish information concerning officials of the Vietnamese communist party. As a result, Mr. Truong Duy Nhat went into hiding.

On 19 January 2019, Mr. Truong entered Thailand via a land crossing, traveling without legal documents because he had previously been placed on a travel ban by Vietnamese authorities.

On 25 January 2019, Mr. Truong approached UNHCR Thailand office to submit his application for refugee status. On the same day, he reportedly received a phone call from an unknown Thai number. He ended the call and moved out of the residence where he had been staying. Mr. Truong received two more phone calls from unknown numbers. It is believed that Thai police initiated these calls. Mr. Truong expressed concern that he was under surveillance and told persons associated with him that he was going to Future Park Mall, Rangsit District, Bangkok, the next day.

On 26 January 2019, around 17:30, Thai police in plainclothes reportedly approached and apprehended Mr. Truong in iBerry Café at Future Park Mall. No arrest warrant or explanation was reportedly provided. He was later seen in the presence of Thai police in Public Kitchen V restaurant and then shortly after 20:00 being reportedly handed over by the Thai police to three Vietnamese officials who put him in a white Toyota Van with Thai official license plates. He has not been seen since.

On 28 January 2019, the police surveillance of Mr. Truong's house in Danag, Viet Nam ended.

It is believed that Thai immigration as well as local police and representatives from a Thai ministry and representatives from the Vietnamese Department No. 2 Military Intelligence from Hanoi were involved in the alleged abduction of Mr. Truong, following which he was forcibly repatriated to Viet Nam.

Mr. Truong's fate and whereabouts were unknown from 26 January 2019 until some time between 15 and 20 March 2019, when Vietnamese police provided persons associated with Mr. Truong with a document stating he was in State custody in Hanoi Detention Centre T16. The notice stated that Mr. Truong came into State custody as of 28 January 2019. To this date, neither Mr. Truong's family nor his lawyer have been allowed to speak with him in detention. He is reportedly held on suspicion of violation of article 355 of the Penal Code, which concerns "abuse of power or position for appropriation of property" and carries a possible maximum sentencing of life imprisonment.

During the period in which he was forcibly disappeared, persons associated with Mr. Truong asked Thai immigration officials for information on his fate and whereabouts. On 10 February 2019, Mr. Truong's wife issued a public letter asking for information on his fate and whereabouts. Despite this, his detention in Viet Nam was not disclosed until mid-March 2019.

Mr. Truong was previously arrested in Viet Nam on 26 May 2013 on allegations that he had abused “democratic freedoms to infringe upon the interests of the State and legitimate interest of organizations and citizens”. He was sentenced to two years’ imprisonment on 4 March 2014. He has served this sentence.

Concerning the case of Mr. Bach Hong Quyen

Mr. Quyen has reportedly been under police surveillance since he organized, on 3 April 2017, a march to mark the one-year anniversary of the Formosa waste spill. He covered the environmental disaster on his blog, commenting on its impact on local populations as well as organizing protests against the company.

On 12 May 2017, the police in the central province of Ha Tinh officially issued a national arrest warrant against Mr. Quyen, accusing him of “causing public disorder” under Article 245 of the Penal Code. The charge carries a penalty of up to seven years’ imprisonment.

On 13 May 2017, Mr. Quyen arrived in Thailand together with his wife and two children. He received UNHCR refugee status on 29 November 2017.

On 30 August 2018, Mr. Quyen and his family’s refugee application for permanent residence was submitted to Immigration, Refugee and Citizenship Canada.

On 1 March 2019, Thai authorities visited Mr. Quyen’s premises in Bangkok. However, he had relocated to a safe house a few days prior after he had learned of the disappearance of Mr. Truong Duy Nhat.

On the same day, the Thai authorities detained a Vietnamese person, known to Mr. Quyen, and questioned him about Mr. Quyen’s whereabouts. For fear of his safety and personal liberty and that of his family, Mr. Quyen is currently in a safe house, separate from his family.

We express grave concern at the alleged abduction of Mr. Truong in Thailand and his forceful repatriation to Viet Nam in violation of the principle of non-refoulement, as well as the alleged arbitrary detention following a period of enforced disappearance. We express concern at the charges brought against him which appear to be directly linked to his journalistic activities and the exercise of the right to freedom of expression.

Moreover, we express serious concern at what appears to be a similar attempt of forceful repatriation of Mr. Quyen. We express concern at the charges brought against him in 2017, which appear directly linked to his human rights activities in connection with the Formosa waste spill.

Should these allegations be confirmed, they would be in violation of international human rights law articles 6, 7, 9 and 19, of the International Covenant on Civil and

Political Rights (ICCPR), ratified by Thailand on 29 October 1996. The ICCPR guarantees the rights to life, to liberty and to personal security, to freedom from torture and other cruel, inhuman or degrading treatment or punishment, and freedom of expression, association and assembly.

The United Nations Declaration on the Protection of All Persons from Enforced Disappearance sets out necessary protection by the State. In particular, it states that no State shall practice, permit or tolerate enforced disappearances (article 2) and that each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction (article 3). The declaration underscores that accurate information on the detention of individuals and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel (article 10 (2)), and that states should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of enforced disappearance (article 14).

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 persons 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/comment you may have on the above mentioned allegations.
2. Kindly provide detailed information on any agreement made between the Governments of Thailand and Viet Nam that led to the deportations of Vietnamese nationals to Viet Nam.
3. Please provide information about whether your Excellency's Government has initiated a process of forced repatriation of Mr. Quyen, and if so, on what basis.
4. Please provide information on the legal basis of the arrest and the detention of Mr. Truong.
5. Please provide information on the legal basis for denying Mr. Truong access to his family and to a lawyer.

6. Please provide information on why Mr. Truong's fate and whereabouts were not disclosed until mid-March despite a public appeal from his wife seeking information.
7. Please provide information on the safeguards in place in Viet Nam to ensure accurate information on the detention of individuals and their place or places of detention, including transfers, is made promptly available to their family members or their counsel.

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.

We would like to inform your Excellency's Government that a similar letter has been transmitted to the Government of Thailand.

Moreover, we would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

Bernard Duhaime
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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

Felipe González Morales
Special Rapporteur on the human rights of migrants

