Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of human rights in the context of climate change; the Special Rapporteur on the human right to a clean, healthy and sustainable environment; 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

Ref.: AL OTH 66/2025
(Please use this reference in your reply)

10 July 2025

Dear Ms. Calviño,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of human rights in the context of climate change; Special Rapporteur on the human right to a clean, healthy and sustainable environment; 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 53/3, 51/8, 57/31, 55/2, 52/9, 50/17 and 52/4.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 60 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to your attention information we have received concerning alleged negative human rights impacts associated with the implementation of Viet Nam's Just Energy Transition Partnership (JETP), including information we have received regarding the continued incarceration of environmental justice lawyer and human rights defender Mr. Dang Dinh Bách in connection with the exercise of his human rights activities. Mr. Bách was arrested on 24 June 2021 and

European Investment Bank

sentenced to five years in prison for "tax evasion" pursuant to article 200 of the 2015 Criminal Code. His sentence was confirmed by the appeal court on 11 August 2022.

This communication relates to previous communications which were submitted to the Government of Viet Nam on 18 February 2022 (AL VNM 2/2022) and on 25 May 2023 (AL VNM 3/2023), to which the government had replied on this matter thus far on 19 February 2022 and on 17 March 2023. We also refer to Opinion 22/2023 of the Working Group on Arbitrary Detention, which has concluded that the deprivation of liberty of Mr. Dang Dinh Bách being in contravention of articles 2, 3, 6, 7, 8, 9, 10, 11 and 19 of the Universal Declaration of Human Rights and articles 2, 9, 14, 15, 16, 19 and 26 of the International Covenant on Civil and Political Rights is arbitrary and falls within categories I, II, III and V.

According to the information received:

Human rights concerns relating to the negotiations, design and implementation of the Just Energy Transition Partnership (JETP)

Announced in December 2022, the Viet Nam JETP is a USD 15.5 billion project involving financial pledges from a number of actors. To date, financing and projects being rolled out to support the implementation of the JETP are largely being negotiated and financed through bilateral arrangements, including through national development agencies and development financial institutions, such as Germany's Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), France's Agence Française de Développement (AFD), the European Investment Bank (EIB) and Japan's Japanese International Cooperation Agency (JICA). Regarding multilateral development banks, the Asian Development Bank (ADB) and International Finance Corporation (IFC) were identified in the "Political Declaration Establishing the Viet Nam JETP" as playing a lead role in financing. In addition, the Resource Mobilization Plan (RMP) identified the United Nations Development Program (UNDP) as lead technical partner for JETP implementation.

While feasibility studies and human rights impact assessments for development of an energy transition mechanism have been carried out, for example, under the auspices of the UNOPS Southeast Asia Energy Transition Partnership, in partnership with the Commission for the Standards, Metrology and Quality of Viet Nam and Ministry of Science and Technology, on the development of national standards in Viet Nam for offshore wind and battery energy storage systems (BESS), there seems to be little or no up-to-date information available as to how the recommendations of these studies will be applied in actual and future project development stages.

Past and ongoing technical and financing considerations appear to be the primary focus of discussions and negotiations in the design and implementation of the JETP. Preventing and addressing the potential or actual adverse human rights impacts of the JETP appear to remain unaddressed by comparison, including impacts on the situation of environmental human rights defenders (EHRDs) and their ability to conduct their legitimate activities in a safe and conducive environment. This includes EHRDs' ability to exercise their rights to participate and express their opinions at all relevant stages of the JETP's development and implementation.

The case of Mr. Dang Dinh Bách

In this context, we remain extremely alarmed about the situation of environmental justice lawyer and human rights defender Mr. Dang Dinh Bách who was arrested on 24 June 2021 and sentenced to five years in prison for "tax evasion" pursuant to article 200 of the 2015 Criminal Code.

Mr. Bách was the director of a nonprofit organization in Hanoi called the Law and Policy of Sustainable Development Research Centre (LPSD), which represented marginalized communities in cases involving health and environmental harms, including due to industrial pollution from a pesticide manufacturer, phosphate factory, coal-fired power plants and loss of land and livelihoods due to forced relocation in the context of a hydropower project. His organization was forced to close down or 'restructure' following his arrests. LPSD Center was also, among others, the coordinator of the Action for Justice, Health, and Environment (JHE) advocacy coalition and a member of Viet Nam Sustainable Energy Alliance (VSEA), a coalition of 12 Vietnamese and international CSOs established in 2012 to strengthen sustainable energy development by promoting participatory energy policy-making processes, implementation of decentralized renewable energy solutions, and the application of energy efficiency.

Furthermore, Mr, Bách was a member of the Executive Board of the VNGO-EVFTA Network, a group of development and environmental civil society organizations established to raise awareness about the EU-Viet Nam Free Trade Agreement (EVFTA). Prior to his arrests, Mr. Bách applied for membership of the Viet Nam Domestic Advisory Group (DAG), a civil society body with the role of monitoring implementation of the JETP agreement. Due to the delays in the establishment of the DAG, civil society participation in the EVFTA has been hindered. Concerningly, Mr. Bách's arrest and imprisonment had taken place alongside JETP negotiations.

24 June 2025 marked the 4th year of Mr Bách's incarceration. We express serious concern regarding the continued detention of Mr. Bách in connection with the exercise of his freedom of expression and his peaceful and legitimate human rights and environmental rights activities, which he was conducting in advance of his arrest.

Increasing restrictions on participation rights and on independent civil society organizations working on environmental and energy issues

Additional concern is expressed about the broader impact of the above-mentioned allegations, which can have a profound chilling effect on the right to participate of environmental human rights defenders (EHRDs) and civil society as a whole in critical decisions regarding the renewable energy transition and related human rights risks, including in the context of the JETP. This includes decisions on land acquisition for renewable infrastructure, which may occur without proper safeguards, including meaningful consultation, or compensation, particularly for Indigenous Peoples, ethnic minorities and smallholder farmers.

These allegations reflect ongoing concerns in relation to the ability of civil society actors to perform their legitimate role in the context of the most critical environmental and energy transition challenges facing Viet Nam, including all relevant aspects pertaining JETP design and implementation. In fact, since June 2021, the Vietnamese government has reportedly targeted EHRDs and climate justice leaders through, among others, intimidation, surveillance, and/or harassment, including judicial harassment under charges of tax evasion, while increasing restrictions on independent organizations working on environmental and energy issues.

We would like to reiterate that the charges against these environmental human rights defenders were based on vague and arbitrarily enforced tax laws for civil society organizations, which impose unreasonable registration and approval requirements on non-governmental organizations, thus disproportionately restricting the rights to freedom of opinion and association.

Weak institutional and regulatory frameworks governing JETP

The above-mentioned concerns are amplified by the weak institutional and regulatory frameworks governing the JETP. In view of the wide array of actors and stakeholders involved, including financial and other business actors, and the need to balance the initiative's objectives and its human rights impacts, the JETP currently appears to lack the necessary institutional and regulatory frameworks that enable a human rights approach to be embedded within energy transition processes, including as they relate to transparency, meaningful participation and accountability. Serious gaps include the lack of clear, dedicated sectorial policy guidance for donor governments, financing institutions, and businesses to implement a rights-based approach to Viet Nam's energy transition. We are deeply concerned that these gaps, compounded with serious human rights violations stemming from the crackdown on civil society actors, will result in the project's failure to address the full spectrum of human rights and climate justice considerations necessary for achieving a just and inclusive energy transition.

Further, we are concerned about the lack of a comprehensive human rights-based approach in the development and implementation of the JETP. This, combined with the undue restrictions placed on civil society actors, which hinder their meaningful participation and ability to provide oversight on critical aspects of the project, could undermine the successful achievement of its objectives.

The responsibility of financial actors to respect human rights in Viet Nam's JETP

A Resource Mobilization Plan (RMP) was completed and released in December 2023. A number of Governments are part of the International Partners Group (IPG). While the RMP provides some information on IPG member responsibilities, including in relation to the implementation of a just transition in line with the ILO Declaration of Fundamental Principles and Rights at Work and the Paris Agreement that expressly refers to workers in the preamble and the obligation of States to respect human rights in all climate action,there is no publicly available information on how IPG members are to translate their human rights commitments into clear, designated responsibilities, including through a cohesive and coherent governance structure within the IPG to ensure respect of human rights throughout the JETP's implementation. Moreover, although several IPG members have issued strong public statements of concern about the pattern of arrests and detentions of EHRDs in Viet Nam, none of the JETP funding or technical assistance commitments have been conditional on the protection and respect of human rights by JETP implementing actors or the protection of the civic space. In fact, insufficient information is publicly available in relation to whether any human rights due diligence has been conducted by relevant investors and banks to ensure that their activities or business relationships in the context of the JETP are not causing, contributing or linked to adverse impacts on human rights.

While we do not wish to prejudge the accuracy of these allegations, and given the role of the International Finance Corporation (IFC) as one of primary financiers of the JETP, we wish to express our deep concerns in relation to how human rights considerations – especially as they pertain to EHRDs' and other civil society actors' ability to conduct their legitimate activities in a safe and conducive environment – appear to have been inadequately taken into account at the different stages of the JETP's financing, development and implementation.

We also wish to express once again deep concern at the reported arbitrary arrest and detention of environmental human rights defender Mr. Bách which appear to be directly related to the legitimate exercise of his rights to freedom of peaceful assembly and expression on an issue of public interest, where transparency and access to information are essential. This is especially concerning given, in its Opinion 22/2023, the Working Group on Arbitrary Detention has concluded that the deprivation of liberty of Mr. Dang Dinh Bách, being in contravention of articles 2, 3, 6, 7, 8, 9, 10, 11 and 19 of the Universal Declaration of Human Rights and articles 2, 9, 14, 15, 16, 19 and 26 of the International Covenant on Civil and Political Rights is arbitrary and falls within categories I, II, III and V.

We also recall that, as a matter of principle, multilateral financial institutions have the responsibility to respect human rights and to ensure, at a minimum, that they do not finance projects that contribute to human rights violations and abuses. To this end, it is incumbent on them to carry out human rights due diligence in order to identify, prevent or mitigate any adverse human rights impacts of projects that they finance.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations.

2. Please provide information on whether EIB has conducted any human rights due diligence processes before and during its financing activities of JETP, and whether the outcomes of such processes were made public.

3. Please provide information on how the EIB's Environmental and Social Standards which have the stated purpose to "appraise and monitor all the investment projects it finances with regard to their sustainability credentials such as environmental, social and governance aspects", have been applied in the context of JETP. In particular, provide information on how these Standards align with the EIB's responsibility under the UN Guiding Principles on Business and Human Rights, and with the recommendations of Working Group on Business and Human Rights contained in its reports on "Development finance institutions and human rights" (A/HRC/53/24/Add.4) and on "Investors, environmental, social and governance approaches and human rights" (A/HRC/56/55).

4. Please provide information on how the EIB human rights due diligence processes has taken into account how civil society organisations, environmental advocates and human rights defenders can meaningfully participate in shaping climate and environmental policies and decision-making, including in the context of JETP, in a safe and conducive environment, in line with the UN Guiding Principles and related Working Group on Business and Human Rights' guidance on human rights defenders (A/HRC/47/39/Add.2). In this regard, please provide information on whether any human rights due diligence process has identified and addressed the alleged use of strategic lawsuits against public participation (SLAPPs) to silence the voices of human rights defenders, including as they relate to the situation of Mr. Dang Dinh Bách.

5. Please indicate if any grievance mechanism is available at EIB for victims of human rights abuses occurred in the context of JETP, including for environmental human rights defenders who have been convicted and/or are being targeted and/or are being detained for activities connected to the exercise of their legitimate participation rights in all relevant aspects of JETP.

6. Please provide information on measure taken or planned to be taken to continually update human rights due diligence policies and processes by engaging in open and context-sensitive multi-stakeholder dialogue and consultations, including with stakeholders affected by JETP, human rights defenders, marginalised groups, and other groups at risk.

7. Please provide information on how EIB is using or will use leverage in its business relationships to promote and ensure respect for human rights, including by requiring human rights due diligence policies and

processes by its JETP clients, in line with recommendations contained in the report of the Working Group on Business and Human Rights on "Development finance institutions and human rights" (A/HRC/53/24/Add.4).

This communication and any response received from EIB 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 be informed that letters on this subject matter have been sent to the Government of Viet Nam, as well as to the Germany's Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), the France's Agence Française de Développement (AfD), the Japanese International Cooperation Agency (JICA), the Asian Development Bank (ADB), International Finance Corporation (IFC) and copy of these letters to their respective country of residence.

Please accept, Ms. Calviño, the assurances of our highest consideration.

Pichamon Yeophantong
Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Matthew Gillett
Vice-Chair on Communications of the Working Group on Arbitrary Detention

Elisa Morgera
Special Rapporteur on the promotion and protection of human rights in the context of climate change

Astrid Puentes Riaño
Special Rapporteur on the human right to a clean, healthy and sustainable environment

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

UN Guiding Principles on Business and Human Rights

We would like to highlight the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed in 2011 by the Human Rights Council in its resolution (A/HRC/RES/17/31) after years of consultation with governments, civil society, human rights defenders and the business community. The guiding principles have been established as the authoritative global standard for all States and businesses to prevent and address business-related adverse human rights impacts. These guiding principles are based on the recognition of:

a) "The existing obligations of States to respect, protect and fulfil human rights and fundamental freedoms.

b) The role of business enterprises as specialized bodies or corporations performing specialized functions, which must comply with all applicable laws and respect human rights.

c) The need for rights and obligations to be matched by appropriate and effective remedies when they are violated".

The guiding principles also make clear that companies have an independent responsibility to respect human rights. Principles 11-24 and 29-31 provide guidance to companies on how to meet their responsibility to respect human rights and to provide remedies where they have caused or contributed to adverse impacts. The guiding principles have identified two main components of the corporate responsibility to respect human rights, which require “business enterprises to:

a) Prevent their own activities from causing or contributing to adverse human rights impacts and address those impacts when they occur.

b) Seek to prevent or mitigate adverse human rights impacts directly related to operations, products or services provided through their business relationships, even where they have not contributed to those impacts”. (guiding principle 13)

The commentary to guiding principle 13 notes that companies can be affected by adverse human rights impacts, either through their own activities or as a result of their business relationships with other parties (...) The 'activities' of business enterprises are understood to include both actions and omissions; and their 'business relationships' include relationships with business partners, entities in their value chain and any other non-State or State entities directly linked to their business operations, products or services.

To meet their responsibility to respect human rights, companies should have in place policies and procedures appropriate to their size and circumstances:

a) A political commitment to uphold their responsibility to respect human rights.

b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their human rights impact.

c) Processes to redress any adverse human rights impacts they have caused or contributed to (guiding principle 15).

According to guiding principles 16-21, human rights due diligence involves:

a) Identifying and assessing actual or potential adverse human rights impacts that the enterprise has caused or contributed to through its activities, or that are directly related to the operations, products or services provided by its business relationships.

b) Integrate the results of impact assessments into relevant business functions and processes, and take appropriate action in accordance with their involvement in the impact.

c) Monitor the effectiveness of the measures and processes adopted to address these adverse human rights impacts in order to know whether they are working.

d) Communicate how adverse effects are addressed and demonstrate to stakeholders - particularly those affected - that appropriate policies and processes are in place to implement respect for human rights in practice.

This process of identifying and assessing actual or potential adverse human rights impacts should include substantive consultation with potentially affected groups and other stakeholders (guiding principle 18).

Where an enterprise causes or is likely to cause an adverse human rights impact, it should take the necessary steps to end or prevent that impact. “The establishment of operational-level grievance mechanisms for those potentially affected by corporate activities can be an effective means of redress provided they meet certain requirements listed in principle 31 (guiding principle 22).

Furthermore, business enterprises should remedy any actual adverse impact that they cause or to which they contribute. Remedies can take a variety of forms and may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political and other attempts to influence the outcome (commentary to guiding principle 25).

In its report A/HRC/53/24/Add.4, the Working Group and OHCHR have reiterated that the corporate responsibility to respect human rights under the Guiding Principles applies to financial institutions (both public and private) and their clients. Further to this, pillar II of the guiding principles requires financial institutions to make a policy commitment to respect human rights, carry out human rights due diligence and provide for, or cooperate in, remediation where the financial institutions identify adverse impacts that it has caused or to which it has contributed.

The right to an effective remedy for human rights abuses is a central tenet of human rights law and is reflected in pillar III of the guiding principles, which focuses on remedy for victims of business-related human rights harms.

Guiding principle 22 provides that where an enterprise causes or is likely to cause an adverse human rights impact, it should take the necessary steps to end or prevent that impact. "The establishment of operational-level grievance mechanisms for those potentially affected by corporate activities can be an effective means of redress provided they meet certain requirements listed in principle 31".

In its report A/HRC/53/24/Add.4, the Working Group clarifies that the guiding principles require finance institutions to contribute to provide access to remedy if they have contributed to the harm.

We would like to bring to your attention that in his report to the General Assembly on the exercise of the rights to freedom of peaceful assembly and of association as essential to advancing climate justice, the Special Rapporteur calls States to: "Adopt all necessary measures to ensure that individuals, organizations, communities and indigenous people exercising their rights to freedom of peaceful assembly and of association in support of climate justice are not subjected to attacks, harassment, threats and intimidation, including conducting thorough, prompt, effective and impartial investigations into killings and violence against civil society actors, ensuring that perpetrators are brought to justice and refraining from issuing official and unofficial statements stigmatizing civil society groups engaged in climate justice" (A/HRC/76/222, para. 90(b)). The Special Rapporteur further called States to "ensure that law and practice illegitimately restricting the place where and manner in which protests may take place, including laws criminalizing protests at or near business worksites as well as blanket bans on particular forms of protest, are reformed, in order to ensure full access to and enjoyment of the right to freedom of peaceful assembly." (A/HRC/76/222, para. 90(d)).

We would also like to further recall that the Special Rapporteur on the situation of human rights defenders noted in his report to the Human Rights Council (A/64/226) that the only legal grounds upon which an interference with the freedom of association that is prescribed by law can be justified is if it meets the test as outlined by article 22, paragraph 2 of the ICCPR. These provisions require the interference in question to be pursuant to 'legitimate aims', such as in the interests of national security or public safety; public order (ordre public); the protection of public health or morals, or the protection of rights and freedoms of others. Without such a legitimate aim, interference is rendered contrary to international human rights law, and in the context of the activities of NGOs, the Special Rapporteur has argued that "difficulties in the formation and registration of human rights associations; criminal sanctions for unregistered activities; government interference, supervision and monitoring of NGO activities; and difficulties in accessing funding may restrict the right to freedom of association and therefore must reach the very high threshold under article 22, paragraph 2, of the International Covenant on Civil and Political Rights in order to be admissible." (A/64/226, para. 58.)

Furthermore, we bring to your attention 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 9 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that everyone has the right to benefit from an effective remedy and to be protected in the event of the violation of those rights.

Furthermore, we would like to recall that on 8 October 2021, the Human Rights Council adopted resolution 48/13, recognizing the right to a clean, healthy and sustainable environment, confirmed by the General Assembly in July 2022 with resolution A/RES/76/300.

The Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59) set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. They underline States' substantive responsibilities in this regard including the obligation to prevent from violating the right to a healthy environment or other human rights. They state that States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence (principle 4).

These obligations have been further clarified in the report of the Special Rapporteur on the human right to a clean, healthy and sustainable environment – "Overview of the implementation of the human right to a clean, healthy and sustainable environment" (A/79/270) stating in its paragraph 45 that States have the obligation to guarantee safe civic spaces for all environmental, climate and human rights defenders, who must be free from any stigmatization, intimidation, criminalization and violence. Furthermore, States must diligently investigate, prosecute and punish perpetrators of such acts, while addressing the root causes of environmental and climate-related conflicts. This includes those at high risk as a result of their efforts in protecting their lands, the environment and climate, such as Indigenous Peoples, young people, children, women, journalists and scientists.

In the report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change on access to information, it was clarified that the public should have access to information on compliance with environmental regulations in the context of investments in renewable energy and just transition programmes. In addition, it was noted that intimidation of environmental human rights defenders by public administration bodies, business and other actors can have a deterrent effect on requesting information; and that States should gather and share information on threats of violence or attacks against environmental human rights defenders and available protection measures and challenges faced in accessing justice (A/79/176).

The Special Rapporteur on the rights to freedom of peaceful assembly and of association called on States to: adopt all necessary measures to ensure that climate defenders meaningfully participate in all just-transition policy development and implementation at all levels of decision-making; conduct thorough, prompt, effective and impartial investigations into killings and violence against civil society actors; ensure that perpetrators are brought to justice; and refrain from issuing official and unofficial statements stigmatizing climate defenders (A/76/222).