

DECISION No. 3/1996 (VIET NAM)

Communication addressed to the Government of Viet Nam on
3 October 1995.

Concerning: Do Trung Hieu and Tran Ngoc Nghiem, on the one hand,
and the Socialist Republic of Viet Nam, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the revised methods of work adopted by it and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communication received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.
2. The Working Group notes with appreciation the information forwarded by the Government concerned in respect of the cases in question within 90 days of the transmittal of the letter by the Working Group.
3. (Same text as para. 3 of Decision No. 35/1995.)
4. In the light of the allegations made the Working Group welcomes the cooperation of the Government of Viet Nam. The Working Group transmitted the reply provided by the Government to the source but, to date, the latter has not provided the Working Group with its comments. The Working Group believes that it is in a position to take a decision on the facts and circumstances of the cases, in the context of the allegations made and the response of the Government thereto.
5. According to the communication Do Trung Hieu, a founder member of the Club of Former Resistance Fighters, was arrested on 13 June 1995 at his residence in Ho Chi Minh City. The authorities reportedly brought him home on 14 June, showed him an arrest warrant and again took him into custody. Hieu is the author of an essay concerning the policy and line of action of the Vietnamese Communist Party, within which he had been in charge of religious affairs. The source further states that Hieu was held in a centre for interrogation in Ho Chi Minh City, on the charge of having committed acts of propaganda against the socialist regime.
6. Tran Ngoc Nghiem, known under the pseudonym of Hoang Minh Chinh, aged 76 and former director of the Institute of Marxist-Leninist Philosophy, is reported to have been arrested on 14 June 1995 and accused of "anti-socialist propaganda". The source states that Nghiem had already been imprisoned from 1967 to 1973 and from 1981 to 1987 and that those periods of detention were linked to accusations of "revisionism". Since his release, he is said to have written and issued several appeals to the Vietnamese Communist Party for his name to be cleared. In a recent article, he urges the deletion from the Vietnamese Constitution of article 4, relating to the predominant role of the Vietnamese Communist Party.
7. According to the source of the communication, the above-mentioned persons were arrested and taken into custody for the non-violent exercise of their right to freedom of expression.

8. In its reply, the Government of Viet Nam states that the two persons in question were arrested on 14 June 1995 and tried in a public hearing by the People's Court of the City of Hanoi, which sentenced them to 15 and 12 months' imprisonment, respectively, for defamation of State bodies and social organizations, under article 205 of the Vietnamese Penal Code, which punishes any person who "abuses democratic freedoms to jeopardize the interests of the State and social organizations".

9. As the Working Group has had occasion to emphasize in several decisions concerning Viet Nam and in the report it prepared following its visit to that country, the major defect of vague and imprecise charges of the kind provided for the above-cited article 205 is that they do not distinguish between armed and violent acts capable of threatening national security, on the one hand, and the peaceful exercise of the rights to freedom of opinion and of expression, on the other. The Working Group is once again convinced, therefore, that the above-mentioned persons were arrested and taken into custody solely on account of their opinions, in violation of the rights guaranteed by article 19 of the Universal Declaration of Human Rights and by article 19 of the International Covenant on Civil and Political Rights, to which the Socialist Republic of Viet Nam is a party.

10. In the light of the above the Working Group decides:

The detention of Do Trung Hieu and Tran Ngoc Nghiem is declared to be arbitrary being in contravention of article 19 of the Universal Declaration of Human Rights and of article 19 of the International Covenant on Civil and Political Rights, to which the Socialist Republic of Viet Nam is a party, and falling within category II of the principles applicable in the consideration of the cases submitted to the Working Group.

11. Consequent upon the decision of the Working Group declaring the detention of the above-mentioned persons to be arbitrary, the Working Group requests the Government of the Socialist Republic of Viet Nam to take the necessary steps to remedy the situation in order to bring it into conformity with the provisions and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 23 May 1996.