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**Re: Update and request for urgent action on behalf of Nguyen Văn Đài
 (Opinion No. 26/2017)**

To the UN Working Group:

We write further to the update on behalf of Nguyen Văn Đài dated 27 November 2017 ([Annex 1](#)), in which we informed you that the Government of Viet Nam had not implemented the Working Group's Opinion in *Nguyen Văn Đài v. Government of the Socialist Republic of Viet Nam* dated 8 June 2017 (the "Opinion").¹

The Working Group requested the Government of Viet Nam "to take the steps necessary to remedy the situation of Mr. Đài without delay and bring it into conformity with the relevant international norms". Taking into account the circumstances of the case and the risk of irreparable harm to Mr Đài's health and physical integrity, the Working Group further opined that "the appropriate remedy would be to release the Petitioner immediately, and accord him an enforceable right to compensation and other reparations, in accordance with international law."²

Despite the Working Group's requests, no action has been taken to implement the Opinion. Instead, Mr Đài will be put on trial on 5 April 2018 alongside human rights defenders Pham Van Troi, Nguyen Trung Ton, Nguyen Bac Truyen, Truong Minh Duc and Le Thu Ha He ([Annex 2](#)). They are each charged with "attempting to overthrow the government" under Article 79 of the 1999 Penal

¹ See UNWGAD, *Nguyễn Văn Đài v. Government of the Socialist Republic of Viet Nam*, Opinion No. 26/2017,

http://www.ohchr.org/Documents/Issues/Detention/Opinions/Session78/A_HRC_WGAD_2017_26.pdf

² *Id.* paras. 70-71.

Code (Annex 3), which is punishable by life imprisonment or death. According to Human Rights Watch, Article 79 of the 1999 Penal Code is vaguely defined and often used arbitrarily to punish critics, activists and bloggers.³ Meanwhile, Mr Đai remains detained in B14 Detention Center in Hanoi, where he has been held since December 2015 under restrictive conditions. Mr Đai's wife has for instance only been allowed to visit him five times since his arrest.

There are serious concerns regarding the fairness of the upcoming trial. According to Human Rights Watch, Vietnamese courts are firmly under government control.⁴ Trials of human rights activists consistently failed to meet international fair trial standards.⁵ Amnesty International reported a lack of adequate defence as well as denial of the presumption of innocence.⁶

It is expected that the upcoming trial will be no different, most likely lasting only a few hours, despite the fact that there are six accused who have all been charged with a crime so serious that it is punishable by life imprisonment or death. On 3 April 2018, less than 48 hours before of the trial, it was still unclear if the trial would be open to the public, including the families of the six defendants. Mr Đai and his co-defendants have furthermore only been given a little over two weeks' notice with regard to their trial date, and visits from counsel have been curtailed. Where meetings did take place, these could not be conducted in private and were only allowed to last one hour at a time. This violates Mr Đai's fair trial rights as guaranteed by Article 14 ICCPR and by Article 10 and 11 UDHR, in particular his right to adequate time and facilities for the preparation of his defence and to confidential communications with counsel of his own choosing.

While most human rights defenders and bloggers have been sentenced to lengthy terms of imprisonment, the death penalty is implemented in Viet Nam. Amnesty International reported that figures published by the Ministry of Public Security in February 2017 revealed that there have on average been 147 executions annually between August 2013 and June 2016, and that five new lethal injection centres were to be built.⁷ Only one execution was reported by official media during 2017, but more were believed to have been carried out.⁸

³ Human Rights Watch, *Vietnam: Reform Criminal Law to Respect Rights* (17 October 2016), available at: <https://www.hrw.org/news/2016/10/17/vietnam-reform-criminal-law-respect-rights>

⁴ Human Rights Watch, *Vietnam, Events of 2017*, available at: <https://www.hrw.org/world-report/2018/country-chapters/vietnam>.

⁵ *Id.* See also Amnesty International, *Vietnam 2017/2018*, available at:

<https://www.amnesty.org/en/countries/asia-and-the-pacific/viet-nam/report-viet-nam/>

⁶ Amnesty International, *Vietnam 2017/2018*, available at: <https://www.amnesty.org/en/countries/asia-and-the-pacific/viet-nam/report-viet-nam/>

⁷ *Id.*

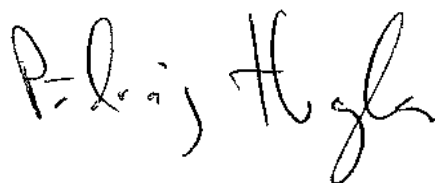
⁸ *Id.*

As the Working Group has found that Mr Đài is detained arbitrarily and his situation has now become time-sensitive and potentially life-threatening, the signatory organisations request the Working Group to urge the Government of Viet Nam to implement the Opinion without further delay by:

- a) immediately and unconditionally releasing Mr Đài and withdrawing the charges against him;
- b) providing just compensation to Mr Đài for the arbitrary detention that he has suffered; and
- c) taking such steps as are necessary to prevent further violations of Mr Đài's rights as recognised and guaranteed by the ICCPR and the UDHR.

Please do not hesitate to let us know if any additional information would be helpful for the Working Group in its follow-up to Mr Đài's case.

Yours faithfully,

A handwritten signature in black ink, appearing to read "P. Dr. Hughes". The signature is fluid and cursive, with the first name "P." and "Dr." written in a smaller, more compact style than the last name "Hughes".

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On behalf of:
Lawyers for Lawyers
Lawyer's Rights Watch Canada
Media Legal Defence Initiative
PEN International
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