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Delegation of the European Union to Vietnam
Attn. of Mr. Bruno Angelet
24th floor West Wing, Lotte Centre
54 Lieu Giai
Hanoi, Vietnam

Re: *Arbitrary arrest and detention of Nguyễn Văn Đài and Lê Thu Hà*

Amsterdam, 13 January 2016

Dear Mr. Angelet,

Further to our letter of 23 December 2015 regarding Nguyễn Văn Đài and Lê Thu Hà, please be advised as follows.

Nguyễn Văn Đài and Lê Thu Hà are held incommunicado ever since their arrest on 16 December 2015. They are still being denied access to legal counsel. Nguyễn Văn Đài's wife requested permission to provide him with a bible, but was denied access to him.

International human rights jurisprudence has determined that the duty of a State to ensure and protect the right to a fair trial implies a set of obligations. Firstly, State officials must allow lawyers the contact with clients necessary to the preparation and presentation of a full defence. Articles 7, 8, and 14 of the ICCPR have been interpreted by the HR Committee to give detainees the right to consult a lawyer from the moment of arrest.¹ The HR Committee has concluded that all laws that allow for incommunicado detention violate Articles 7, 9, and 10 of the ICCPR.² The Special Rapporteur on torture stated similarly that "all detainees should be effectively guaranteed the ability to challenge the lawfulness of their detention before an independent court ... and have an effective right to have access

¹ Human Rights Committee, Consideration of Reports Submitted by State Parties under Article 40 of the CCPR/CO/84/TJK (18 July 2005) para 17. See also Human Rights Council, Implementation of the General Assembly Resolution 60/251 of 15 March 2006 Entitled Human Rights Council, forth sess., A/HRC/4/33/Add.3, 5 January 2007, at para 72. See also the General Assembly, Promotion and Protection of All Seventh sess., A/HRC/7/3/Add.4, 22 November 2007 at para 75.

² Human Rights Committee, Consideration of reports submitted by state parties under Article 40 of the Covenant concluding observations of the Rights Right Committee Switzerland, 73rd sess., CCPR/CO/73/CH (12 November 2001) at para. 14.



to legal counsel.”³ The importance of timely access was emphasized by the European Court of Human Rights.⁴ The Court determined that denial by State authorities of access to counsel by a detained person for a period of 48 hours violated and irretrievably prejudiced the accused’s right to a fair trial. This same period is reflected in article 7 of the UN Basic Principles on the Role of Lawyers.

L4L requests the delegation of the European Union to raise this issue with the Vietnamese authorities, and specially request that:

- (a) Nguyễn Văn Đài and Lê Thu Hà are granted access to legal counsel; and
- (b) family members of Nguyễn Văn Đài and Lê Thu Hà are allowed to visit them and provide them with a bible.

Please inform us as to when the delegation of the European Union will raise this issue, and keep us up to date of the reply of the Vietnamese authorities.

We look forward to hearing from you.

On behalf of the President of Lawyers for Lawyers, Phon van den Biesen,

Your sincerely,

LAWYERS FOR LAWYERS

Adrie van de Streek
Executive Director L4L

³ Human Rights Council, Promotion and Protection of all Human Rights, Civil, Political, Economic, Social, and Cultural Rights, Including the Right to Development, A/HRC/7/3/Add.3, 1 October 2007 at para 90.

⁴ *Magge v. UK* (ECHR, 6 June 2000, para. 44).