

To: Mr David Sassoli,
President of the European Parliament

Mr Bernd Lange,
Chair of the International Trade Committee

Mr David McAllister,
Chair of the Foreign Affairs Committee

Ms Marie Arena,
Chair of the Human Rights Subcommittee

Mr Tomas Tobé,
Chair of the Development Committee

And to all Members of the European Parliament

Brussels, 4 November 2019

RE: Joint NGO Call to Postpone Consent to EVFTA and IPA

Dear Members of the European Parliament,

We, the undersigned Vietnamese and international civil society organisations, are writing to urge you to ensure that the European Parliament **postpones its consent** to the EU-Vietnam Free Trade Agreement (EVFTA) and Investment Protection Agreement (IPA) **until certain human rights benchmarks are met** by the Vietnamese government.

As you may know, in recent years the Vietnamese government has **intensified its crackdown** on human rights defenders, members of civil society, religious groups and individuals who express opinions deemed critical of the government or otherwise disfavoured. The rights to free expression, opinion, association and assembly remain strictly curtailed and the judiciary is under tight state control, as are the press, civil society, and religious groups. Any expression of dissent is harshly punished by state authorities, either directly or through state-sponsored thugs. Hundreds of human rights, environmental or labour activists, lawyers, religious figures and bloggers have been convicted or otherwise detained for the peaceful exercise of their freedom of expression, in application of a draconian penal code which explicitly criminalises criticising the government.

Against this background, we regret that **negotiations** for the EVFTA and the IPA **did not lead to more tangible human rights commitments from the Vietnamese authorities** than the meagre ones included in the EVFTA's sustainable development chapter, and that even for those there is no binding timeline nor penalties foreseen in case of failure to comply. Furthermore, we are concerned about the monitoring of the implementation of those agreements, which the EVFTA's text assigns to independent civil society from both sides, overlooking the fact that

there is hardly any independent civil society in Vietnam, and certainly none which at this stage could openly emerge and thoroughly exercise such monitoring role without fear of repercussions. Finally, we remain deeply concerned about Vietnam's reluctance¹ to revise its **penal code**, whose provisions criminalising peaceful criticism of the government render **de facto impossible the full enjoyment of the rights enshrined in the International Labour Organisation's Conventions** to which Vietnam is or has pledged to become a party.

If and once the agreements will be in force, **threats to suspend them for human rights violations pursuant to the link with the EU-Vietnam Partnership and Cooperation Agreement would lack any credibility**: firstly, there are no EU precedents of FTAs suspended on human rights grounds; secondly, the suspension of the deal, especially of the IPA, could be extremely harmful to EU businesses and investments in the country; thirdly, Vietnam currently benefits of unilateral trade preferences through the Generalised Scheme of Preferences (GSP)², and the country's failure to uphold its numerous human rights obligations under the scheme is yet to result in any meaningful reaction by the EU, which has instead intensified negotiations for the EVFTA; fourthly, human rights violations in the country are already so widespread and severe that, were the agreements in place at the time of writing, there would arguably already be grounds to suspend them.

For all these reasons, the ongoing procedure at the European Parliament, which has to decide whether to grant, deny or postpone consent to the EVFTA and IPA, represents the **last, powerful opportunity** to leverage these deals to secure concrete human rights improvements in Vietnam.

Taking the same approach last used by the previous European legislature in March this year in relation to the EU-Turkmenistan Partnership and Cooperation Agreement³, Members of the European Parliament should put the Vietnamese government on notice that they will consider giving their consent to the deals only once a series of human rights concerns have been duly addressed by the state authorities. In particular, MEPs should ask Vietnam to:

- Release all **political prisoners and detainees** and, pending their release, as an immediate confidence-building measure, allow access to prisoners and detainees by families, legal counsel, and outside observers from the EU as well as international humanitarian and human rights groups; among the most prominent cases are human rights, labour, religious and environmental activists, journalists and bloggers, including Le Dinh Luong, Tran Huynh Duy Thuc, Ngo Hao, Luu Van Vinh, Ho Duc Hoa, Tran Anh Kim, Nguyen Van Tuc, Nguyen Trung Ton, Nguyen Trung Truc, Truong Minh

¹ Last officially reiterated by Vietnam in June 2019 in its response to the recommendations formulated by states, including several EU member states, during its latest Universal Periodic Review at the UN Human Rights Council: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/DEC/41/101&Lang=E>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012R0978>

³ https://www.europarl.europa.eu/doceo/document/TA-8-2019-0146_EN.html

Duc, Le Thanh Tung, Nguyen Bac Truyen, Nguyen Van Duc Do, Tran Thi Nga, Tran Thi Xuan and Ho Duc Hoa;

- Publicly and unequivocally announce its commitment, with a clear timeline, to repeal or amend articles 109, 116, 117, 118 and 331 of the **penal code** and articles 74 and 173 of the **Criminal Procedure Code**, bringing the criminal legislation in conformity with the country's obligations under the International Covenant on Civil and Political Rights (ICCPR);
- Put an end to the harassment, forced denunciation of faith, arrests, prosecutions, imprisonment, and ill-treatment of people because they are followers of disfavoured religions, and release anyone currently being held for peaceful exercise of their rights to **freedom of religion**, belief, expression, assembly and association; and ensuring that all domestic legislation addressing religious affairs is brought into conformity with international human rights law;
- Allow the publication of uncensored, independent, privately-run newspapers and magazines; remove filtering, surveillance, and other restrictions on internet usage, and release all people imprisoned or detained for peaceful dissemination of their views over the internet; publicly announce a timeline to revise the Law on **Cyber Security** and bring it into compliance with international human rights standards;
- Immediately recognise independent **labour** unions; publicly announce a detailed timeline for the ratification of ILO Conventions No. 87 (Freedom of Association and Protection of the Right to Organize) and No. 105 (Abolition of Forced Labour); and immediately and unconditionally release all persons detained for peaceful activities to promote workers' rights;
- Accepting outstanding requests for invitations by **UN Special Procedures**;
- Adopt a de facto moratorium on the **death penalty**, with a view to progressively abolish it.

Furthermore, MEPs should ask the European Commission to:

- Set up an **independent monitoring and complaint mechanism** to address the human rights impacts that the EVFTA and the IPA may have and that can be used by affected individuals and communities and their representatives; and
- Specify which Vietnamese independent civil society groups will compose the **Domestic Advisory Groups (DAGs)** foreseen by the Agreements, and what measures will be in place to ensure that they can exercise their role independently, impartially, thoroughly, and safely.

Yours sincerely,

Actions by Christian for the Abolition of Torture (ACAT)

ASEAN Parliamentarians for Human Rights (APHR)

Bau Bi Tuong Than Association
Boat People SOS (BPSOS)
CIVICUS: World Alliance for Citizen Participation
Defend the Defenders (DTD)
Human Rights Watch
International Commission of Jurists (ICJ)
International Federation for Human Rights (FIDH)
Legal Initiatives for Vietnam
Reporters Without Borders (RSF)
Swiss-Vietnam Committee (COSUNAM)
The 88 Project
Vietnam Association of Independent Journalists
Vietnamese Professional Society (VPS)
Viet Tan