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22 February 2007

VNM101948.E

Vietnam: Arrest warrants, including procedures followed when the person sought is out of the country
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

An international human rights lawyer specializing in Southeast Asia who is also the Deputy Director of Human Rights Advocates International, an international public service law group, states in correspondence that the public prosecutor must sign off on Vietnamese arrest warrants (Special Counsel 2 May 2001), adding that these warrants can be initiated by the police, a representative of the court, or the public prosecutor (ibid. 14 Nov. 2006). *Country Reports on Human Rights Practices for 2005* corroborates this information, saying that arrest warrants in Vietnam are issued by the Supreme People's Procuracy (public prosecutor), mostly in response to requests from the police (US 8 Mar. 2006, Sec.1d). *Country Reports 2005* further clarifies that police may arrest a suspect without a warrant, provided they then obtain a retroactive arrest warrant from the public prosecutor (ibid.). However, Human Rights Watch (HRW) reports that suspects are "routinely" arrested and detained by police without written warrants (12 July 2006).

Moreover, according to HRW, police can use Administrative Detention Decree 31/CP to arrest and detain individuals for up to two years without trial (12 July 2006). A Vietnamese human rights activist and former prisoner of conscience (AI USA 14 Dec. 2004) stated in correspondence with the Research Directorate that arrests using Administrative Detention Decree 31/CP are undertaken without the public prosecutor's warrant (Human Rights Activist 9 May 2001). Corroborating information related to arrest warrants and Administrative Detention Decree 31/CP could not be found among the sources consulted by the Research Directorate.

Viet Nam News reports that the Government of Vietnam is "considering" abolishing Administrative Detention Decree 31/CP (2 Nov. 2006). There has, however, reportedly been no formal announcement of the law's repeal (Radio Free Asia 10 Nov. 2006). Moreover, an article written by Le Thi Cong Nhan - a lawyer and prominent dissident who has spoken out against human rights abuses (BBC 16 Nov. 2006) - states that although Administrative Detention Decree 31/CP is no longer being enforced, its withdrawal will not amount to the removal of "all stipulations on administrative detention" (Vietnam Reform Party 13 Nov. 2006). As Nhan states in an article published on the Web site of the pro-democracy Vietnam Reform Party (ibid. 18 Sept. 2004), the powers of Administrative Detention Decree 31/CP were "repackaged" in the Ordinance on Settlement of Administrative Violation 2002 (ibid. 13 Nov. 2006)

Arrest warrants when the person sought is out of the country

Among the sources consulted by the Research Directorate, information was limited on the process by which an arrest warrant is issued when the person sought is out of the country. In a telephone interview, the Advocacy Director for Asia and the Pacific at the United States (US) branch of Amnesty International commented that Vietnam does not cross borders in order to arrest people (27 Nov. 2006).

However, according to *Time Asia*, in April 2006 Nguyen Huu Chanh, a US resident and Vietnamese citizen, was recently arrested in South Korea by Korean authorities on behalf of the Vietnamese government,

when he was there on business (17 April 2006). Chanh's supporters describe him as a "prominent pro-democracy activist," (*Time Asia* 17 April 2006), but the government of Vietnam regards him as a terrorist and issued a warrant for his arrest for weapons trafficking and terrorism (Vietnam 19 May 2006). In addition, the government of Vietnam indicates that Interpol also transmitted "an international arrest warrant" for Chanh (*ibid.*). Chanh was released from a Korean jail in July because the Seoul High Court had not found sufficient proof to warrant his extradition to Vietnam (*JoongAng Daily* 28 July 2006).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum. Please find below the list of additional sources consulted in researching this Information Request.

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Additional Sources Consulted

Oral sources: Representatives from the Embassy of Vietnam in Canada and in the United States, Interpol, Montagnard Foundation Inc., Movement for Human Rights in Vietnam, Royal Canadian Mounted Police, Vietnam Human Rights Network, and the Vietnam Committee on Human Rights did not provide information within the time constraints of this Response.

Internet sites, including: Amnesty International (AI), British Broadcasting Corporation (BBC), European Institute for Crime Prevention and Control affiliated with the United Nations, Interpol, Factiva, Freedom House, Free Vietnam Alliance, RCMP, Office of the United Nations High Commissioner for Human Rights (UNHCR), United States House of Representatives.

[▲
Top of Page](#)

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