



# Vietnam Worker Defenders

- *Social Justice*
- *Create greater opportunities to decent employment and income*
- *Work in harmony with management of the company for sustained growth*

Based on the above fundamental notions, Vietnam Worker Defenders' foremost mission is to provide the moral and legal support to the workers so they have the requisite ability to organize independent trade unions.

VWD is comprised of members located all over the world and inside Vietnam, who are concerned about the quality of life and happiness of workers in Vietnam with the primary goal of providing the laborers the skills and leverage needed to negotiate decent jobs and reasonable pay for themselves.



by Vietnam Worker Defenders

**Is the Socialist Republic  
of Vietnam's  
willing to implement  
the ILO Core Convention 87 ?**

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## abbreviation

VCP	Vietnamese Communist Party
VLC2019	Vietnam Labor Code 2019
FTA	Free Trade Agreement
ILO	International Labour Organization
C87	ILO Core Convention 87
EV-FTA	European-Vietnam Free Trade Agreement
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
VTU	Vietnam Trade Union
ITU	independent trade unions

## sources

Most of the documents cited as references are Vietnamese government decrees. They can be found, including an English version, on the official website <https://luatvietnam.vn/>

Below is their list :

**24-CT/TW** : is a confidential document. It's not possible to access to it from the website

**02-NQ/TW**

**126/2024/NĐ-CP**

Some other reference's documents only exist in Vietnamese version. Their links are given.

# Summary

By ratifying the CPTPP (12 November 2018) and the EV-FTA (30 June 2019), Vietnam is committed to respecting ILO Conventions, including Convention 87 on Freedom of Association and Protection of the Right to Organise, 1948.

Vietnam claims that with the amendments to the new VLC2019, it has fully met all the labor rights requirements specified in the FTA.

Indeed, according to the report “1 August 2023: report of the first Joint Forum on Trade and Sustainable Development” under the free trade agreement between Viet Nam and the United Kingdom (UKV-FTA also requires the respect of the ILO Conventions)

*<https://www.gov.uk/government/publications/uk-vietnam-committee-documents/1-august-2023-report-of-the-first-joint-forum-on-trade-and-sustainable-development>*





**FREE  
THE WORLD OF WORK  
FROM VIOLENCE AND HARASSMENT**

*« Regarding labour, the Vietnamese government informed the DAG representatives about the ratification status of ILO conventions and affirmed that the amended Labour Code 2019 is fundamentally compatible with ILO conventions »*

**But the reality is quite different.**

Does Vietnam really intend to implement C87 ? Would Vietnam's one-party dictatorial political system allow it to do so ? These question deserve to be asked because like any totalitarian system, the VCP has never tolerated the existence of any independent mass organization outside its control.



**In the rest of this document, we will try to answer these questions by examining the following 5 key points that will be developed in the next sections**



# 5 key points

- 1-** The political regime in Vietnam
- 2-** The VCP's strategy to stay in power
- 3-** The VCP has never tolerated and would never tolerate independent mass organizations
- 4-** How does the VCP plan to introduce C87 into Vietnamese law ?
- 5-** C87 and law on freedom of association

# The political regime in Vietnam

1

- Vietnam is a dictatorship with a one-party political regime
- The VCP does everything it can to stay in power.

Article 4 of the 2013 Constitution of Vietnam explicitly states that :

*The Communist Party of Vietnam is the leading force of the State and society.*

On the ground, to control civil society, in addition to the :

- VCP (about 5 million members (1 member for every 20 citizens)
- internal security forces of 1.5 million police officers

there are 5 other political and social organizations to indoctrinate and monitor society:

- *Ho Chi Minh Communist Youth Union* : to monitor the youth
- *Vietnam Women's Union* : to monitor women
- *Vietnam Farmers' Union* : to monitor farmers

- *Vietnam Veterans Association* : to monitor veterans
- *Vietnam Trade Union* : to monitor workers

And finally, to coordinate all these organizations, there is the *Vietnam Fatherland Front*.

The existence and role of these six organizations are formalized in the 2013 Constitution of Vietnam.

Key point

## The political regime in Vietnam (*next*)

1

According to a report at the 8th Congress of the Vietnam Fatherland Front

organization name	year of counting	number of members (in millions)
Hội Nông dân Việt Nam (Vietnam Farmers' Union)	2013	10.4
Hội Liên Hiệp Phụ Nữ Việt Nam (Vietnam Women's Union)	2012	15.3
Hội Cựu chiến binh Việt Nam (Vietnam Veterans Association)	2014	2.7
Đoàn Thanh Niên Cộng Sản Hồ Chí Minh (Ho Chi Minh Communist Youth Union)	2012	7
Công đoàn Việt Nam (Vietnam Trade Union)	2011	7.1

if the VCP has so many members, it is because in Vietnam, there are 2 state apparatuses :

- The VCP apparatus
- the State apparatus

The VCP apparatus controls the state apparatus, but often governs instead of the state apparatus

### Key point

The space of civil society, including on the Internet, is meticulously controlled and its activities strictly monitored.

All associations are controlled. No independent organization is tolerated.



To ensure its monopoly on power, the VCP relies on the following two lines of action:

*- repression to instill a permanent climate of fear in the population, thanks to the political organizations described above*

*- economic development to avoid any social explosion.*

The path followed for economic development is the integration of the Vietnamese economy into the world economy, concretely through the various Free Trade Agreements (FTAs)

The price to pay for the VCP is that it must accept the constraints, in particular those on labor which are systematically present in the recent FTAs, and which require the adoption of the ILO conventions, in particular the Core Conventions, among which Convention 87 on freedom of association and protection of the right to organize, 1948.

But there are not only constraints on labor. The VCP must proceed to various and profound economic and structural reforms at all administrative levels of the State, to benefit from or at least not to suffer too much from the consequences of this economic opening.

*The VCP considers that deep changes are inevitable, some of which could undermine the unity of the VCP and threaten the regime.*

To face threats following the opening of its economy, the Politburo regularly *issues Directives to warn VCP* members, political and social organizations that are subordinate to it, including the Vietnam Trade Union. Some of them are discussed in the next sections.

## The VCP has never tolerated and would never tolerate independent mass organizations

The recent [Directive 24-CT/TW](#) of 13/07/2023, issued by the Central Committee of the VCP, is one of these mentioned in the « Key point 2 ». It follows another [Directive 12-CT/TW](#) of 05/01/2017.

3

In Directive 24-CT/TW, there is a passage that illustrates the extreme suspicion of the VCP towards independent unions, because it considers them a prelude to the formation of political organizations in opposition to the PCV, like Solidarnosc which greatly contributed to the collapse of the communist regime in Poland in the 80s of the last century :

*« các thế lực thù địch, phản động triệt để lợi dụng quá trình hội nhập quốc tế tăng cường hoạt động chống phá, chuyển hóa nội bộ; tác động vào việc xây dựng chính sách, pháp luật, thúc đẩy liên kết, phát triển lực lượng, hình thành các liên minh, mạng lưới "xã hội dân sự", "công đoàn độc lập"...tạo tiền đề cho việc hình thành tổ chức chính trị đối lập trong nước..."*

*« Hostile and reactionary forces are taking full advantage of the process of Vietnam's integration into the world economy to increase activities of protest and internal transformation; influence the development of policies and laws, promote ties, develop forces, form alliances, networks of "civil society", "independent trade unions"... **to create a prelude to the formation of political opposition organizations in Vietnam...** »*

To get an idea of the VCP's extreme distrust of independent unions, just do a search on the Internet for the keyword "công đoàn độc lập" (independent union), and we will see dozens of pages of results. All of them warn of the risk of independent unions drifting towards political organizations.

Recently, two *senior officials of the regime* were arrested, and not just any officials:

- Hanoi police have arrested Nguyen Van Binh, the director general of the Legal Affairs Department at Vietnam's Ministry of Labor, Invalids and Social Affairs (MOLISA). Binh is being detained under Article 337 of the criminal code by the Hanoi Security Investigation Agency (Cơ quan an ninh điều tra - Công an TP Hà Nội). Article 337 criminalizes the 'deliberate disclosure of classified information; appropriation, trading, [and] destruction of classified documents'.

At the time of his arrest, Binh was leading efforts to ratify ILO Convention 87, which, if passed, would guarantee workers the right to form independent trade unions without prior authorization. Binh's arrest is the first arrest of a government reformer in recent years.

- Vietnamese police have arrested the trade unionist Vu Minh Tien, the latest labor activist to have fallen afoul of the ruling Communist Party of Vietnam (CPV).

Project88, an international nonprofit that campaigns for freedom of speech in Vietnam, said in a statement on Monday that Tien, the head of policy and legal affairs at the Vietnam General Confederation of Labor (VGCL), was detained under Article 337 of the country's criminal code. The statement did not mention the date of Tien's arrest, only that he was last seen in public on March 21 at a workshop in Ho Chi Minh City.

*The suppression and intimidation of independent intellectuals and even government officials who dare to demand workers' rights is an act of intimidation against anyone who dares to proactively establish **truly independent unions in Vietnam.***

## How does the VCP plan to introduce C87 into Vietnamese law ?

4

Not allowing the creation of independent organizations/unions, after signing EVFTA and CPTPP, would not be defensible, and would certainly have consequences in trade relations with the EU and the CPTPP signatory countries.

*So, how will the VCP then proceed to implement C87 ? When it prohibits all forms of independent associations*

There is an article :

<https://tapchicongthuong.vn/cong-uoc-so-87-cua-ilo-va-kha-nang-gia-nhap-cua-viet-nam-duoi-goc-nhin-noi-luat-hoa-dieu-uoc-quoc-te-117066.htm> (Link1)

titled :

*« Công ước số 87 của ILO và khả năng gia nhập của Việt Nam dưới góc nhìn nội luật hóa điều ước quốc tế »*

*"ILO Convention No. 87 and the possibility of Vietnam's adoption in the perspective of transposing international treaties into Vietnamese laws"*

that provides a reflection *to examine the risks* when implementing C87.

The website tapchicongthuong.vn is not an official reference website of the regime, like the website <https://www.tapchiconsan.org.vn/>, but the article can be taken into consideration as all media are very controlled in Vietnam.

In this article there is a passage :

*« Tuy nhiên, một vấn đề lớn đòi hỏi cần phải xử lý khéo léo, đó chính là việc không để sự xuất hiện của các tổ chức đại diện NLD và hoạt động của các tổ chức này gây ra bất ổn về chính trị, ảnh hưởng đến sự lãnh đạo của Đảng Cộng sản Việt Nam. Với những đặc thù về mặt chính trị, lịch sử, việc áp dụng những nội dung của CO87 cần có sự linh hoạt và khéo léo để phù hợp với điều kiện của Việt Nam. Nếu thực hiện nóng vội có thể gây ra mất ổn định chính trị!«*

Key point

## How does the VCP plan to introduce C87 into ... (next)

4

*"However, a major issue that requires skillful management is not to let the establishment of workers' representative organizations and their activities cause political instability and **harm the leadership of the Communist Party of Vietnam**. Given the political and historical specificities, implementing the contents of CO87 requires flexibility and ingenuity to adapt to the conditions of Vietnam. If done hastily, it may cause political instability.«*

This passage illustrates the fact that in Vietnam, whatever the political or social problem and the angles from which you examine it, its solution must necessarily take into account the following dogma:

***"the authority of the VCP must not be challenged, contested, or threatened"***

If ITU are authorized and have the right to federate (according to C87), how can we be sure that their activities will be limited to the defense of workers, and will not drift into political protests, the author of the article wonders ?

To be sure, there must be control mechanisms **during their creation, their operation, the way they are financed...** But in this case, it will be contrary to C87 !

the VCP has only 2 solutions:

- not authorize the creation of independent unions
- authorize them while limiting their capacity for action as much as possible, hoping that the signatory countries with which Vietnam signed the FTAs would be satisfied with this situation.



Key point

## How does the VCP plan to introduce C87 into ... (next)

4

It is the second solution that is chosen, and the *VCP strategy* would be as follows:

1. authorize the creation of independent unions
2. ensure that their capacity for action is as limited as possible, by:
  - o limiting their size
  - o confining their actions within the company.
    - A union can only be created within (inside a precinct) of a company.
    - Which deprives independent workers of the right to have their own unions.
  - o prohibiting them from federating
  - o imposing criteria on them (minimum number of members, etc.): all these criteria must be met to have the right to demand the opening of collective negotiations, to call a strike.
3. encourage workers to choose the VTU (a union under the VCP control).

***To achieve this strategy, the VCP relies on the following 3 instruments:***

1. ***By the laws (via the VLC2019)***
2. ***By the repression, to maintain a permanent feeling of fear among the population. This feeling still remains very effective today in tempering people's desire to protest.***
3. ***By the VTU, which has the merit of already existing in several companies.***

**Key point**

## How does the VCP plan to introduce C87 into ... (next)

*By the laws :*

4

If we examine in detail the Articles of the VLC 2019 relating to independent unions (ITU), we will see that all the measures limiting their capacity for action, *as described in bullet 2 above*, are indeed present.

*By the Vietnam Trade Union*

Let's translate certain passages from the article cited in (Link1) above:

« Một vấn đề khác cũng rất cần được lưu tâm, đó là củng cố và tăng cường năng lực của các tổ chức công đoàn các cấp thuộc Tổng Liên đoàn Lao động Việt Nam, để thu hút và lôi cuốn NLD tham gia. Có thể thấy, mặc dù vẫn còn không ít hạn chế, nhưng so với các tổ chức đại diện của NLD khác, các tổ chức công đoàn thuộc Tổng Liên đoàn Lao động Việt Nam vẫn có những lợi thế rất lớn, đó là: (i) uy tín gắn với lịch sử lâu dài của Công đoàn và Đảng Cộng sản Việt Nam, (ii) hệ thống tổ chức chặt chẽ ở các cấp từ trung ương đến địa phương, (iii) sự hỗ trợ rất lớn về nhiều mặt từ các tổ chức chính trị - xã hội khác trong hệ thống chính trị do Đảng Cộng sản Việt Nam lãnh đạo. Đây là những tiền đề rất quan trọng cho việc đổi mới toàn diện tổ chức và hoạt động của Công đoàn Việt Nam. Dù không còn là đại diện duy nhất cho NLD như trước đây, nhưng nếu được tổ chức tốt, hệ thống Công đoàn Việt Nam vẫn chiếm ưu thế lớn, thậm chí là tuyệt đối so với các tổ chức đại diện của NLD khác. »

In translation, the term Vietnam General Confederation of Labor refers to the state-run VTU.

« Another issue that needs to be paid attention to is to consolidate and enhance the capacity of trade union organizations at all levels under the **Vietnam General Confederation of Labor**, to attract and engage workers to participate. It can be seen that, although there are still many limitations, compared to other workers' representative organizations, trade union organizations under the Vietnam General Confederation of Labor still have great advantages, which are: (i) prestige associated with the long history of the Trade Union and the Communist Party of Vietnam,

**Key point**

## How does the VCP plan to introduce C87 into ... (next)

4

*(ii) a tight organizational system at all levels from the central to local levels, (iii) great support in many aspects from other political and social organizations in the political system led by the Communist Party of Vietnam. These are very important premises for the comprehensive innovation of the organization and operation of the Vietnam Trade Union. Although it is no longer the sole representative of workers as before, if well organized, the Vietnamese Trade Union VTU system still has a great advantage, even absolute, compared to other workers' representative organizations. »*

This passage illustrates very well, as mentioned above, the fact that the VTU is a instrument of effectiveness, combined with fear, **to dissuade workers from creating their own unions**, or to neutralize the capacity for actions of the latter in case they will be created.

If any doubt remains about the place of VTU in the VCP strategy, just take a look at **Directive 02-NQ/TW** . This is a directive from the VCP Political Bureau to the VTU. It contains quantified objectives that the VTU must achieve between now and 2045 !!!

Let's translate the VTU objective for 2045 :

“Hầu hết người lao động tại cơ sở là đoàn viên Công đoàn Việt Nam; 99% doanh nghiệp, đơn vị có tổ chức công đoàn ký kết được thỏa ước lao động tập thể.”

### Key point

« Most of the workers at the enterprises are members of the Vietnam Trade Union ; 99% of enterprises and units with trade unions have signed collective labor agreements. »

By assigning this objective to VTU, the intention of the VCP is clear : the VTU must become by far the most dominant union in all companies to leave only limited space for other independent unions (ITU).



## How does the VCP plan to introduce C87 into ... (next)

4

The risk is great for ITU, even jeopardizing their existence, because :

- workers only join a union that will benefit them. Not to mention the fact that joining an ITU in Vietnam is a risky act, workers could be subject to intimidation and reprisals from the regime.
- An ITU is *only useful* if it has the following 2 combat instruments :
  - the power to call a strike to obtain concessions from employers
  - the power to open collective negotiations to formalize concessions (on condition of having a required number of members, number still not specified by Decree)

If deep changes will not be made to VLC2019, *the ITU* that will be created within the framework of VLC2019 *would have very little chance of having these 2 instruments*, which are the privilege reserved for the VTU

**If an ITU does not have these 2 instruments:  
there is no point in joining it !**

Key point



# C87 and law on freedom of association

Vietnam claims that with the amendments to the new VLC2019, it has fully met all the labor rights requirements specified in the FTA.

5

So, let's start by recalling the essential points of C87:

1. the possibility of creating a union without prior authorization
2. the possibility of federating
3. the State must not interfere with the internal management of unions
4. the State must not be able to dissolve unions without reason

The first observation is that these 4 requirements do not only concern labour relations, but a broader and very important aspect of life in society : **freedom of association**.

Currently in Vietnam, there are only 4 types of associations :

- Core associations, like the Vietnam Trade Union..., the existence of which is stated in the Vietnam Constitution 2013
- religious associations
- The ITU (*the new type of association* in labor domain after Vietnam signed the CPTPP and EV-FTA)
- Associations other than the 3 types above

Each type of association is subject to its own laws. VLC2019 law for ITU. The common point between these laws is :

**the creation of an association is subject to authorization**  
(which is contrary to the C87)

Key point

In addition to this limitation, the VLC2019 imposes other restrictions on the ITU. Indeed, according to the VLC2019

**Article 170.** The right to establish, join and participate in the activities of organizations representing employees at the workplace

2. Employees in an enterprise have the right to establish, join and participate in the activities of employees' organizations in the enterprise according to the provisions of Articles 172, 173 and 174 of this Code.

## C87 and law on freedom of association

5

This article has two major consequences,

- **First consequence** : Workers are only allowed to create their 'unions' *within the confines of their own company*. As a result, they are not permitted to federate their 'unions' with those created in other companies. This right is exclusively reserved for the state-controlled union VTU.
- **Second consequence** : Independent workers (who do not work within the premises or a clearly defined perimeter of a company) are not allowed to create their own 'unions'

*And the result is ITU is prohibited from federating*, which again are contrary to the C87.

VLC2019 represents the first step in the right direction towards independent trade union. But there is still a long way to go towards *freedom of association* :  
an essential condition for the implementation of C87

The 2013 Constitution of Vietnam recognizes freedom of association. It is up to the law to specify the terms of application.

But from 2013 until now, no law on freedom of association has been adopted by the Parliament. There was a debate in 2018. In 2023, responding to a voter in Ben Tre, *the Vietnamese Parliament said it was waiting for the assessment of the VCP Politburo*.

### Key point

Why such an important law has been postponed from year to year ?

The answer probably is :

the creation of an independent association is contradictory to the nature of the dictatorial regime.

In the current state, claiming that with the amendments to the new VLC2019, Vietnam has fully met all the labor rights requirements specified in the FTA (including the C87 implementation) is a lie

# Conclusion

As a dictatorship, the VCP would probably never tolerate the creation of independent mass organizations such as independent trade unions (ITU). ***The VCP does not even hide that fact***, and we can see it through its directives, such as Directive 24-CT/TW, Directive 12-CT/TW, ...

But by ratifying EVFTA and CPTPP, the VCP will not be able to maintain the status quo regarding the creation of ITU. This will be unacceptable for the signatory countries of these FTAs.

So, ***the VCP will have to pretend***, as usual every time it signs an international treaty, to take into account the commitments regarding labor relations.

“Pretending” consists of doing the minimum, that is to say :

- authorizing the creation of ITU, while conditioning their creation, their operation (which is contrary to the true freedom of association).
- While limiting their scope of operation, reducing their effectiveness

This is what emerges from the Articles of the VLC2019.

The bet of the VCP is that in the current international context, where :

- Vietnam is not considered a threat to its neighbors, nor to the world order
- Vietnam could be everybody's ally in the USA-China conflict

and therefore favorable to the VCP. In this context, « pretending » could be enough, would perhaps lead to protests, pressures rather of form... and would not force the VCP to grant more rights to the ITU...

**This is the reason why 5 European associations have taken a more proactive way, filing a complaint, to force the VCP to comply with its international commitments.**

# Requirements

After amendments to the new VLC2019, Vietnam will no longer make any efforts to modify the VLC2019 to better match the C87. There are several measures Vietnam needs to take, to correct non compliances that we pointed out in our complaint,

but the most urgent are as follows :

1. publish a decree to detail the procedures for creating an ITU
2. amend article 170 of the VLC2019 to :
  - authorize independent workers to create their ITUs
  - authorize ITUs to federate

These urgent measures allow to initiate a step towards the creation of an independent trade union.

Then, Vietnam must implement Convention 87, necessary for a harmonization of labor markets, in particular in terms of workers' rights and social dialogue. It is essential for the acceptance and implementation of the EVFTA through respect for trade and sustainable development

