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No. 52101/ 366

PERMANENT MISSION OF THAILAND  
GENEVA

25 May 2012

Dear Mr. Sow, Ms. Knaul, Mr. La Rue, Ms. Sekaggya,

With reference to the letter of the Permanent Mission of Thailand No. 52101/223 dated 4 April 2012 sending sending clarification in response to your joint communication on the cases of Mr. Somyot Prueksakasemsuk, I have the honour to forward herewith additional clarifications addressing your concerns on this case.

I also take this opportunity to highlight that the lèse-majesté law is part of Thailand's Criminal Code, which also contains general provisions on defamation and libel of private individuals. The law gives protection to the rights or reputation of the King, the Queen, the Heir-Apparent, or the Regent in a similar way libel law does for commoners. Its aim should not be misinterpreted as curbing people's rights to freedom of opinion and expression nor the legitimate exercise of academic freedom including debates about the monarchy as an institution.

Mr. El Hadji Malick Sow,

Chair-Rapporteur of the Working Group on Arbitrary Detention;

Ms. Gabriela Knaul,

Special Rapporteur on the independence of judges and lawyers;

Mr. Frank La Rue,

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression;

Ms. Margaret Sekaggya,

Special Rapporteur on the situation of human rights defenders;

Office of the High Commissioner for Human Rights,

Palais des Nations, CH-1211,

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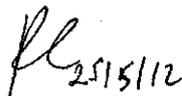
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Lastly, the Permanent Mission of Thailand stands ready to continue our engagement with all relevant Special Procedures mandate holders.

Sincerely yours,



(Pisanu Chanvitan)  
Ambassador

Permanent Representative



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**Additional Clarification by the Royal Thai Government  
regarding the case of Mr. Somyos Prueksakasemsuk  
in relation to the lèse-majesté law in Thailand**

*1) The arrest of Mr. Somyos Prueksakasemsuk came only five days after he held a press conference in Bangkok launching a campaign to collect 10,000 signatures to petition for a parliamentary review of Section 112 of the Criminal Code, which allegedly in the opinion of Mr. Somyos Prueksakasemsuk, contradicts democratic and human rights principles. He is reportedly facing two counts of charges which could carry a maximum of 30 years of imprisonment if found guilty.*

It should be noted that Mr. Somyos Prueksakasemsuk was arrested for printing messages or pictures in a magazine which were deemed to defame, insult or threaten the King in accordance with Section 112 of the Penal Code, and not for organizing a press conference about the campaign to collect signatures to abolish Section 112. A debate about the lèse-majesté law or campaign activities to amend or repeal the law does not constitute lèse-majesté offence. The two matters should not be linked, which may create confusion.

Before requesting permission to arrest Mr. Prueksakasemsuk from the Criminal Court, the Department of Special Investigation (DSI) issued three summonses to Mr. Prueksakasemsuk, but he refused to report to the police. He was then arrested while attempting to cross the border to Cambodia. His application for bail was denied following the DSI's objection on the ground that he had refused to report to the police despite the issuance of three summons and that there is a risk that he might attempt to abscond or compromise witnesses or tamper with evidence in the case.

The duration of sentence depends on the gravity of the case, the loss suffered and any other factual circumstance which is beneficial or detrimental to the defendant, as well as the evidence of defendant. Therefore, the decision of the Court cannot and should not be prejudged.

*2) Why is the hearing of prosecution and defence witnesses scheduled to take place in different locations and heard by different judges?*

The trial process of Mr. Somyos Prueksakasemsuk has been carried out in accordance with Section 230 of the Thai Criminal Procedure Code which states that *"In case of necessity, the Court may take evidence out of Court or direct its registrar to do so or commission another Court to take*

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*such evidence*". Since the prosecution witnesses of this case do not reside in Bangkok where the Criminal Court is situated, it is not convenient for all prosecution witnesses who live in various provinces to travel for the trial in Bangkok. The Criminal Court thus commissioned the respective Provincial Courts to take evidence from the prosecution witnesses. The commissioned Courts have also been provided with the list of issues by the Criminal Court for the course of inquiry. It should be noted that the commissioned Courts only have powers and duties to take and gather evidence for the Criminal Court. They cannot decide or rule on the case.

With respect to the right of the defendant, Mr. Prueksakasemsuk may request to attend the proceedings by the commissioned Courts in order to hear the prosecution witnesses' testimony. The Court will then issue an order to make arrangements in accordance with his request. This demonstrates the fact that his right to contest the charge has been fully guaranteed and protected by the Court. In addition, observers who wish to hear the witness' testimony can freely attend the trial without any restrictions. Since the whole trial process is in accordance with the Thai Criminal Procedure Code, there should be no doubt about its consistency with the ICCPR.

**Ministry of Foreign Affairs of Thailand**  
**17 May 2012**

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