

No. 52101/ ๔๙๕



PERMANENT MISSION OF THAILAND
GENEVA

/๙ April B.E. 2560 (2017)

Dear Sirs,

With reference to your joint letter ref. AL THA 2/2017 dated 11 April 2017, concerning the criminal procedures against Ms. Sirikan Charoensiri, a Thai lawyer, and the request for additional information of the said case as well as the clarification on Thailand's derogations to the International Covenant on Civil and Political Rights (ICCPR) and measures to protect human rights defenders, I would like to inform you that your letter has been duly forwarded to the relevant agencies in Thailand for their consideration and their response will be conveyed to you as soon as it is received.

In the meantime, I wish to provide initial clarification as follows:

1. The case of Ms. Sirikan Charoensiri involves several allegations and offences that need to be proved by facts as well as supporting evidences. These alleged offences are yet to be decided by the prosecutor whether to issue the prosecution order. A prosecution order has to be made in order to start legal proceedings in the court.

2. The summon dated 20 September 2016 had the objective to call Ms. Charoensiri to report to the Samranrat Police Station in Bangkok to be informed of the alleged offences under Section 116 (sedition) of the Criminal Code and the NCPO Order 3/2016 (political gathering). It was by no means due to her participation in the 33rd Session of the Human Rights Council.

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Mr. David Kaye,

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

Mr. Maina Kiai,

Special Rapporteur on the rights to freedom of peaceful assembly and of association;

Mr. Michel Forst,

Special Rapporteur on the situation of human rights defenders;

Mr. Diego Garcia-Sayan,

Special Rapporteur on the independence of judges and lawyers;

Office of the United Nations High Commissioner for Human Rights,

GENEVA.

3. On 19 January 2017, the public prosecutor decided to issue a non-prosecution order for the offence under the Criminal Code Section 142 on concealing evidence. The public prosecutor also issued an order to discontinue the prosecution for the offence under Section 368 on refusal to comply with an official order as the limitation period for the offence had already expired. The two actions clearly illustrate that the Thai judiciary system upholds the principle of independence and is guaranteed with impartiality.

4. The Government is aware of the duty to ensure that human rights defenders and lawyers can carry out their work in a safe and enabling environment. All persons in Thailand, including Ms. Charoensiri, are protected under Thai law and all cases are investigated under due process of law. Ms. Charoensiri also has the right to start a legal proceeding. She already filed a case against police officers for the offence under Section 157 of the Criminal Code on wrongful act. Ms. Charoensiri also exercised her right to submit a request to the prosecutor for additional investigation in order to seek further justice.

5. The Government also strives to develop measures that could render better protection for human rights defenders. The Rights and Liberties Protection Department (RLPD) under the Ministry of Justice has therefore established the Working Committee on development of measures to protect human rights defenders who are at risk of being violated. The Committee comprises representatives from the RLPD, relevant agencies, civil societies and the Office of the High Commissioner for Human Rights in Bangkok.

6. Regarding the derogation to the obligation under Articles 12(1), 14(5), 19 and 21 of the ICCPR, it was deemed necessary to ensure public order as well as to prevent any actions that might create more social divisiveness and polarisation given that the country is still in the transitional period. The non-derogable rights as set forth in Articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 of the Covenant have not been affected. The exercise of right of derogation is hence in line with Article 4 of the Covenant.

7. It is also important to note that the Government is also fully aware that some orders may affect the rights of the people and has therefore tried to ensure that authorized officials will carry out the duties in good faith, only by necessity, and proportionately as well as review these orders regularly. Many measures were eased to allow people to exercise greater rights and freedom, even though the derogation remains in effect. These are, such as, the lifting of nationwide curfew on 10 July 2014, the revocation of the Martial Law on 1 April 2015, and the termination of the use of military court to try civilian for offences that took place after 12 September 2016.

In reassuring you of Thailand's continued commitment to cooperating with all Special Procedures under the Human Rights Council to promote and protect the human rights of all people, I remain,

Yours sincerely,



(Sek Wannamethee)

Ambassador and Permanent Representative