

No. 52101/206



PERMANENT MISSION OF THAILAND
GENEVA

25 August B.E. 2566 (2023)

Dear Sirs and Madam,

With reference to your joint communication ref. AL THA 2/2023 dated 5 May 2023 seeking additional information on the case of [REDACTED] I have the honour to transmit herewith the response of the said case, as received from the Department of Observation and Protection of Children, the Department of Children and Youth, the Central Juvenile and Family Court and Nakhon Pathom Provincial Police, which was compiled by the Ministry of Foreign Affairs. I hope that the response will provide you a clarification of the alleged case.

In re-assuring 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,

(Suphatra Srimaitreephithak)
Ambassador and Permanent Representative

Ms. Irene Khan,

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

Mr. Matthew Gillett,

Vice-Chair on Communications of the Working Group on Arbitrary Detention;

Mr. Clément Nyaletsossi Voule,

Special Rapporteur on the rights to freedom of peaceful assembly and of association,
Office of the United Nations High Commissioner for Human Rights,

GENEVA.

Thailand's response to the Joint Communication
ref. AL THA 2/2023 dated 5 May 2023

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations
2. Please provide information on the criminal charges brought against [REDACTED] and explain how these are compatible with articles 9, 14, 19 and 21 of the ICCPR. In the absence of such a legal basis, please provide information about the date of her release.

- Thailand has continued to strengthen its legal infrastructure and put in place laws and policies to facilitate, safeguard and promote the exercise of the right to freedom of expression and peaceful assembly, which are guaranteed by the Thai Constitution, as well as the rights of children and the empowerment of youth.

- The **established legal infrastructure for juvenile justice in Thailand** was designed specifically to take care of the cases of children and youth with due consideration of their specific needs and the importance to respect as well as protect their rights.

- Children and juvenile in Thailand have been treated in **separate Courts** since 1951 with **specifically dedicated law** that provides for **specific procedures** in relation to their apprehensions, investigations, court procedures and punishment/ rehabilitation.

- **The Juvenile and Family Court and its Procedure Act 2010¹**, which is the present law governing children and juvenile justice, among others, makes available special procedures as an alternative to criminal proceedings for children and juvenile. It also specifies how arrests, investigations and court procedures are to be conducted, taking into account needs and circumstances faced by children and youth. It also gives the courts power to substitute penal punishment with other alternatives, including training and probation.

- By 2003, Thailand has established Juvenile and Family Courts in all of its 77 provinces, two of which are located in Bangkok.

The case of [REDACTED]

- In the case of [REDACTED] the proceedings followed **stepped procedures in accordance with the established law**.

- [REDACTED] was allowed for visits, while [REDACTED] was at Ban Pranee Juvenile Vocational Training Center for Girls, by 11 of [REDACTED] "trusted persons" and 3 lawyers, who intended to act as [REDACTED] legal advisors, both in person and by video conference.

- Similar to other juveniles in the Center, tailor-made rehabilitation programme and nurses' visit were provided to support [REDACTED] physical, emotional and mental well-being. [REDACTED] also participated in vocational training programmes on manicure and barista, specifically arranged by the Center, that fit [REDACTED] interests. The Center also coordinated with [REDACTED] school regarding the School's admission.

¹ According to the Juvenile and Family Court and its Procedure Act 2010, "child" is defined as those aged above 10 and not exceeding 15, and "juvenile" is defined as those aged above 15 and below 18.

- [REDACTED] left the Center on 18 May 2023. Following [REDACTED] release, the Department of Children and Youth is coordinating with [REDACTED] family, [REDACTED] school and relevant agencies on [REDACTED] education and choice of school.

3. Please explain what measures have been taken to comply with recommendations from Human Rights Council's Special Procedures and the Human Rights Committee who both call upon your Excellency's Government to bring the lèse-majesté legislation into line with international standards related to freedom of expression. Please provide information in relation to any steps taken in order to bring article 112 of the Criminal Code into compliance with international human rights laws and standards

- As a party to the International Covenant on Civil and Political Rights (ICCPR), the Thai Government reiterates its commitments under its international obligations to protect human rights and assure its citizens' enjoyment of their rights to **freedom of expression and of peaceful assembly**. These rights include participation in public affairs and discussion and debate about various aspects related to the monarchy, so long as the exercise of such rights is within the bounds of the law. This is in line with Article 19 (3) of the ICCPR which states that the right to freedom of expression carries with it duties and responsibilities particularly in relation to the reputation of others and to the protection of public order and national security.
 - The purpose of **the lèse-majesté law**, enshrined in Section 112 of the Thai Criminal Code, is not solely to protect the Monarch, Queen or Heir apparent as an individual in the same way defamation law does for all citizens. As Thailand is a constitutional monarchy, the Section also protects the institution of the monarchy as one of the main pillars of the nation for the Thai people. Therefore, the law is also intended to uphold public order and national security, which warrants severe penalties, once thoroughly considered.
 - The Thai Government underlines that all legal proceedings **carefully follow stepped procedures**. After law enforcement officials investigate any reported incidents, a specific Committee designated for cases concerning national security considers and determines if the action in question meets the criteria of Section 112. If the Committee decides to pursue the case, the final decision whether or not to submit the case to the court still rests with the Attorney General.
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