

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders**

REFERENCE: AL  
THA 8/2014:

19 August 2014

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 25/2 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the issuing of an arrest warrant and revocation of the national passport of Mr. **Pavin Chachavalpongpun**.

Mr. Chachavalpongpun is a Thai national, who is currently serving as associate professor at the Centre for Southeast Asian Studies at Kyoto University in Japan.

The issuing of an arrest warrant against Mr. Chachavalpongpun takes place in a context of multiple restrictions to freedom of opinion and expression. An urgent appeal and a public statement expressing concern on the summoning and arrest of academics and human rights activists by the National Council for Peace and Order (NCPO) was sent to your Excellency's Government on 28 May 2014. We take note of the response sent by your Excellency's Government on 13 June 2014. However, serious concern is expressed regarding the continued enforcement of restrictive measures, as exemplified by the allegations below.

According to the information received:

Following the military coup on 22 May 2014, Mr. Chachavalpongpun publicly voiced his criticism of the measures adopted by the National Council for Peace and Order after its establishment this military council took control of the Government of Thailand. He has also contested the legitimacy of the coup on the grounds that the coup makers have made no attempt to restore democracy and that they have continued to violate human rights of the Thais. Immediately after the coup, he gave a number of interviews to both Thai and international media.

On 24 May 2014, the National Council for Peace and Order (NCPO) ordered to summon Mr. Chachavalpongpun to Thailand. However, since he was teaching in Kyoto, he was not able to return to Thailand.

On 26 May 2014, the NCPO issued an order which specified that individuals who failed to report themselves could result in two years imprisonment and/or 40,000 Thai Baht fine.

On 9 June 2014, the NCPO issued a second order to summon Mr. Chachavalpongpun to report, specifying that individuals who failed to report themselves could result in two years imprisonment and/or a fine amounting to 40,000 Thai Baht. Mr. Chachavalpongpun did not appear after this order since he believed that he had done nothing wrong but only performed his role as an academic to present critical view of the NCPO. Reportedly, on 13 June 2014 the NCPO issued a warrant for his arrest for failing to turn himself in.

Furthermore, on 9 July 2014, Mr. Chachavalpongpun's passport was allegedly revoked, preventing him from travelling. This would have forced him to apply for refugee status in Japan on 15 July 2014. It is alleged that the Thai Foreign Ministry of Thailand had failed to notify Mr. Chachavalpongpun of the developments concerning his passport.

Additionally, it is reported that the Thai Consulate in Osaka was instructed to pressure the Centre employing Mr. Chachavalpongpun to question his academic competence. Allegedly, in a meeting held between the Thai diplomats in Tokyo and the Foreign Ministry of Japan in mid-July, the Thai diplomats urged the Ministry not to assist Mr. Chachavalpongpun in his application for the refugee status. Furthermore, it is reported that the NCPO ordered the Thai Ambassador in Japan to try the best of his ability to convince the Japanese authorities to deport Mr. Chachavalpongpun back to Thailand.

Grave concern is expressed at what appears to be reprisal for the legitimate exercise of the right to freedom of expression by Mr. Chachavalpongpun. In this vein, concern is expressed regarding the nature and grounds of the warrant for Mr. Chachavalpongpun's arrest and the subsequent revocation of his passport.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection to the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter, which cites international human rights instruments and standards relevant to these allegations. They include in particular: the International Covenant on Civil and Political Rights; the Human Rights

Council Resolution 12/16; and the Johannesburg Principles on National Security, Freedom of Expression and Access to Information of 1996.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information confirming the legal grounds for the warrant for Mr. Chachavalpongpun's arrest and the alleged revocation of his passport mentioned above and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.

We would appreciate a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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

Michel Forst  
Special Rapporteur on the situation of human rights defenders

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the articles 19 of the International Covenant on Civil and Political Rights, ratified on 29 Oct 1996, which guarantees the rights to freedom of opinion and expression.

We would also like to bring your Excellency's attention to the principle enunciated, inter alia, by the Human Rights Council in its Resolution 12/16, which calls upon all States to refrain from the use of imprisonment or the imposition of fines for offences relating to the media, which are disproportionate to the gravity of the offence and which violate international human rights law. In this vein, we would like to call to your Excellency's attention the principle of proportionality and the notion that criminal sanctions, particularly imprisonment, for libel and defamation are not deemed proportional with an effective exercise of the right to freedom of opinion and expression.

Furthermore, we would like to draw attention to the principle expressed in Article 5 of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information of 1996 (as endorsed in E/CN.4/1996/39), which states that no one may be subjected to any sort of restraint, disadvantage or sanction because of his or her opinion or beliefs. Accordingly, the principles in this instrument also affirm that no one may be punished for criticizing or insulting the nation, the State or its symbols, Government, agency or public official unless the criticism for insult was intended and likely to incite imminent violence.

We would also like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders: article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms; and article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights.