



a joint programme



The Observatory
for the Protection
of Human Rights Defenders



H.E. Yingluck Shinawatra,
Prime Minister of the Kingdom of Thailand
Office of the Prime Minister
Government House
Thanon Phitsanulok, Dusit
Bangkok 10300
Thailand

10 February 2012

Re: Thailand – Upcoming trials of human rights defenders Somyot Prueksakasemsuk and Ms Chiranuch Premchaiporn

Your Excellency,

We, the undersigned independent human rights organizations, write to you to reiterate our serious concerns about the ongoing use of the *lèse majesté* law, particularly against human rights defenders, and its deleterious effect on fundamental freedoms. We deeply regret the continued resistance by members of the Thai government, including high-level members of your Cabinet, political parties, and the military, to enter into a reasoned, broad-based debate of the necessary reforms of the *lèse majesté* law in order to improve Thailand's observance of its obligations under international human rights law and constitutional guarantees of freedom of expression and fair trial rights, including the right to bail.

Next week, two high-profile *lèse majesté* trials will resume and Thailand's failure to respect freedom of speech and fair trial standards will again be placed under public scrutiny.

The hearings of the trial of Ms. **Chiranuch Premchaiporn**, a known advocate for freedoms of expression and the media and Executive Director of the online news website *Prachatai*, will resume on 14 February and conclude on 16 February. She is facing ten counts of charges of violations of Article 15 of the 2007 Computer Crimes Act and Article 112 of the Criminal Code on *lèse majesté* for allegedly not removing quickly enough anonymous third-party posts deemed offensive to the monarchy on a public forum on the *Prachatai* website.

Chiranuch faces up to 20 years imprisonment if found guilty.

The trial of Mr. **Somyot Prueksakasemsuk**, long time labour rights activist and Editor of Voice of the Oppressed (*Voice of Taksin*), who is facing charges of *lèse majesté* for the publication of two articles that allegedly made negative references to the monarchy, has been detained since 30 April 2011. Somyot's trial started in November 2011 and continues on 13 February in Songkhla province. He is facing a maximum of 30 years' imprisonment if found guilty. Following the 13 February hearing, the Defence witnesses will be called to appear before the Bangkok Criminal Court on 18-20 April 2012, 24-26 April 2012, and 1-4 May 2012.

We are troubled by the fact that the three previous hearings of Somyot's trial have all been held outside Bangkok, in Sa Kaeo, Petchabun and Nakorn Sawan provinces. Somyot reports that he had to stand up throughout the transfers between trials in an overcrowded truck, with his ankles shackled and without access to rest room facilities. Somyot suffers from hypertension and gout, a painful condition that affects the joints. While in Petchabun province, he was moved to the prison infirmary due to aggravation of his medical conditions.

A number of prosecution witnesses in fact work and live in Bangkok, although their original registered residences are in the provinces. On 12 September 2011, the Criminal Court rejected Somyot's lawyer's request to hold hearings in Bangkok. Three other similar subsequent requests put forward to the Sakaeo, Petchabun and Nakorn Sawan Courts were also denied.

We reiterate our concern that the holding of the trials from province to province places undue physical and psychological burden on Somyot and his family. The transfers also undermine his fair trial rights, including the right to a speedy trial considering there are ten more hearings scheduled up to 4 May, by which time he will have been in detention for over a year. We are disturbed that Somyot's application for bail has been denied for the 7th time on 6 February. The authorities have still not provided an adequate justification for his continued detention or a legally sound explanation as to why less restrictive and non-custodial measures are not sufficient to prevent flight and non-tampering with evidence. The repetition of the ill-defined concept of "national security" as a ground for rejecting the bail applications of those charged under the *lèse majesté* laws reinforces the perception that the criminalization of speech, a common practice by authoritarian regimes to silence criticisms, is increasingly becoming a tool of institutionalized oppression in Thailand, including against those documenting human rights violations.

In light of the numerous commitments to respect human rights and fundamental freedoms made by Thailand under the International Covenant on Civil and Political Rights and during the Universal Periodic Review of its human rights record in October 2011, we strongly urge the Thai authorities to:

1. Immediately grant Somyot Prueksakasemsuk his constitutional right to bail, in accordance with fair trial standards under domestic and international law;
2. Request the court to refrain from bringing new charges against individuals under the *lèse majesté* laws pending a comprehensive review of the said laws;
3. Immediately drop all charges against Chiranuch Premchaiporn, Somyot Prueksakasemsuk and all other human rights defenders based on the *lèse majesté* laws and, more generally, guarantee in all circumstances that all human rights defenders in Thailand, especially those working on freedoms of expression and the media, are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions, including judicial harassment, in line with the UN

Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;

4. Facilitate the review of the *lèse majesté* laws by the Law Reform Commission and the National Human Rights Commission's working group on the *lèse majesté* law with an aim to develop concrete proposals to bring the relevant laws into line with Thailand's international human rights obligations, as recommended by the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression;
5. Encourage and foster a civil, reasoned and public debate regarding the need to amend the *lèse majesté* laws and cease to portray respect for the universally recognized freedom of expression and opinion as contradictory to the protection of the monarchy;
6. Honor its voluntary pledge made at the UPR to issue a standing invitation to UN human rights experts by inviting the UN Special Rapporteur on freedom of opinion and expression and the UN Special Rapporteur on the situation of human rights defenders to visit Thailand at the earliest instance.

Yours Sincerely,

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