



Inter-Parliamentary Union
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Thailand

TH/83 - Jatuporn Prompan

***Decision adopted by consensus by the IPU Governing Council
at its 198th session (Lusaka, 23 March 2016) ¹***

The Governing Council of the Inter-Parliamentary Union,

Referring to the case of Mr. Jatuporn Prompan, a former member of the House of Representatives of Thailand, and to the decision it adopted at its 192nd session (March 2013),

Taking into account the information provided by the Deputy Speaker of the National Legislative Assembly on 19 March 2016 in the hearing held with the Committee on the Human Rights of Parliamentarians,

Considering also that the IPU Secretary General conducted an official visit to Thailand between 29 February and 2 March,

Recalling the following:

- Mr. Jatuporn, then one of the leaders and now the leader of the United Front for Democracy against Dictatorship (UDD), and at the time a member of the House of Representatives, played a prominent role in the “Red Shirt” demonstrations that took place in central Bangkok between 12 March and 19 May 2010. In the weeks following the demonstrations, Mr. Jatuporn and his fellow UDD leaders were officially charged with participating in an illegal gathering that contravened the state of emergency declared by the Government and with terrorism in relation to arson attacks on several buildings that took place on 19 May 2010, when the UDD leaders had already been taken into police custody. Mr. Jatuporn was quickly released on bail thereafter;
- More specifically, he was charged under articles 116, 135/1, 135/2, 215 and 216 of the Thai Criminal Code. The charge under article 216 has since been withdrawn. The maximum penalty for these charges is life imprisonment or death. Mr. Jatuporn was also charged with violating article 9 of the Emergency Decree, the penalty for which is imprisonment of not more than two years and a fine of 20,000 baht;
- These charges arise from Mr. Jatuporn’s speech at the rally, which was broadcast nationally on cable television. In his speech, Mr. Jatuporn demanded that the then Prime Minister Abhisit dissolve parliament and asked for justice for political prisoners. People had by then already died in the crackdown of 10 April 2010, which resulted in the death of 22 civilians and five soldiers;
- On the morning of 19 May 2010, armed soldiers smashed open the barricades erected by the demonstrators, but by then most had left the area after UDD leaders had declared the protest at an end. Red shirts claimed that it was after armed soldiers occupied the area that several buildings were torched and that they were the ones responsible for the arson;

¹ The delegation of Thailand expressed its reservations regarding the decision.

- The complainant affirms that the charges against Mr. Jatuporn are entirely inappropriate, that the specific charge of participation in an illegal gathering stemmed from the previous government's unlawful use of emergency powers, and that the terrorism charges on which Mr. Jatuporn and other Red Shirt leaders were indicted in August 2010 are politically motivated, but that, while the Red Shirts were accused by the Government of committing various acts of violence, there exists no evidence that their leaders played a role in planning the attacks, or even knew about them,

Recalling the IPU's concerns that Mr. Jatuporn, who stood and was elected on behalf of the Pheu Thai in the legislative elections held on 3 July 2011, was subsequently disqualified by the Constitutional Court on 18 May 2012 on unjustifiable grounds that run counter to his right to take part in the conduct of public affairs,

Recalling further that Mr. Jatuporn was sentenced on 10 July and 27 September 2012 respectively in two criminal cases to two six-month prison sentences (with a two-year suspension) and fines of 50,000 baht on charges of defaming the then Prime Minister Abhisit, but that an appeal was filed in both cases; *considering* that, in January 2015, Mr. Jatuporn was reportedly sentenced, apparently in appeal in these same cases, to two years' imprisonment for defaming the former Prime Minister; *bearing in mind* that the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression repeated in his report (A/HRC/17/27 of 16 May 2011) the call for all States to decriminalize defamation,

Considering that, in November 2015, the army reportedly briefly detained Mr. Jatuporn and another opposition leader as they were about to visit Rachabhakti Park, built on army property in the seaside town of Hua Hin, in connection with allegations that the authorities had misused funds for the park,

Considering the following political developments in Thailand since May 2014:

- Following half a year of political paralysis, on 22 May 2014, Army General Prayuth Chan O Cha announced that the military had taken control of the Government and established the National Council for Peace and Order (NCPO). On 30 May 2014, the NCPO announced a three-stage roadmap for restoring democracy within a year. On 31 July 2014, a 200-member National Legislative Assembly was appointed;
- According to the roadmap, a new constitution was expected to be promulgated by July 2015 and general elections would be held roughly three months after that (i.e. in October 2015). Although the Constitution Drafting Committee (CDC) completed the draft constitution in April 2015, the National Reform Council, composed of 250 members nominated by the NCPO and appointed by the King, rejected it on 6 September 2015;
- On 5 October 2015, the NCPO appointed Mr. Meechai Ruchupan – the President of the previous National Legislative Assembly – as Chairman of the second CDC. The following day, a new 21-member CDC held its first meeting with the aim of finalizing the draft constitution by April 2016,

Considering the following information provided by the Deputy Speaker of the National Legislative Assembly at the hearing with the Committee:

- The military intervention in May 2014 had been a measure of last resort and necessary because of continued political deadlock, strong divisions in society and the violence which had ensued as a result. The authorities were now actively working to bring democracy back to the country. The Thai authorities were keen to complete the roadmap through the adoption of a new constitution and the organization of general elections, implementation of reform to address social and economic inequality and division and the promotion of harmony and reconciliation;
- On 29 January 2016, the CDC unveiled a complete first draft of the constitution. On 8 and 9 February 2016, a 200-member National Reform Steering Assembly (appointed by the NCPO on 5 October 2015 to replace the National Reform Council) debated the draft constitution. The first draft of the constitution had been given to the public and extensive public fora had been organized throughout most of Thailand to seek input from citizens. The draft was going to be finalized before the end of March 2016 and put to a national

referendum by July 2016. General elections were foreseen for the end of July 2017, but would be preceded by the adoption of 10 organic laws;

- Mr. Jatuporn Prompan's case dates back from before the military intervention. He is being tried in connection with his role in demonstrations that got out of hand and in which many people died. He was charged with terrorism, as was the then Prime Minister, for the use of force against demonstrators. Both sides had been charged according to the law. The trial against Mr. Jatuporn required the hearing of some 100 witnesses and would continue until July 2017;
- The Deputy Speaker, who was unaware of Mr. Jatuporn's whereabouts, said that he and the movement that he represented were fully able to participate in the current political process, provided that he and his supporters respected law and order. He also pointed out that the National Reform Council comprised members of political parties on either side of the political divide and therefore helped ensure that their respective views were taken into account;
- The Deputy Speaker stated that persons could be summoned by the authorities to prevent them from inciting to violence and further conflict. This action was necessary to ensure that Thailand did not return to the situation before. If the summoned persons had done nothing wrong, then they would be released without any charge,

Considering that there are several reliable international reports attesting to the regular use of NCPO Order 3/2015, which allows NCPO-appointed "Peace and Order Maintenance Officers" to detain people without charge or trial in unofficial places of detention for up to a week without any safeguards, such as access to lawyers, family or courts. Moreover, individuals face up to six months' imprisonment and a fine if they take part in "political" gatherings of five persons or more, which are criminalized. The Order is said to violate fair trial rights by granting jurisdiction to military courts to try civilians charged with offences against "internal security", "security of the monarchy", and infringements of NCPO orders. According to the reports, the reliance on NCPO Order 3/2015 appears designed to intimidate potential opponents. Many Red Shirts who were detained immediately after the coup are required to report to authorities weekly and give advance notification of travel outside the provinces in which they live,

Bearing in mind that Thailand is a party to the International Covenant on Civil and Political Rights and therefore obliged to protect the rights enshrined therein,

1. *Thanks* the Deputy Speaker of the National Legislative Assembly for the information provided and his cooperation;
2. *Is deeply concerned* that Mr. Jatuporn's trial has still not come to completion, almost six years after he was charged, and that a ruling is not expected before July 2017; *stresses* the important principle that "justice delayed is justice denied"; therefore *urges* the competent authorities to do everything possible to accelerate the proceedings;
3. *Takes note* of the authorities' assurances that Mr. Jatuporn is fully able to contribute to the political process; *is nevertheless concerned*, given the serious reports about restrictions to freedom of expression and assembly, to what extent he can effectively make a meaningful contribution; *wishes* to receive further information from the authorities on this point;
4. *Is concerned* as well in this regard about Mr. Jatuporn's reportedly brief arbitrary arrest in November 2015 in connection with what appears to be the legitimate exercise of his rights to freedom of expression, movement and assembly; *wishes* to receive official information on the arrest and, if confirmed, details of the facts and legal grounds for the arrest;
5. *Is concerned* that Mr. Jatuporn was reportedly prosecuted, sentenced and convicted on appeal on charges of defamation; *wishes* to receive official information thereon and, if confirmed, to receive a copy of the rulings so as to understand the facts and reasoning underpinning the sentence; *concurs* with the recommendation made by the United Nations Special Rapporteur that defamation should not be considered an offence under

criminal law; *wishes to ascertain*, therefore, whether the Thai authorities are contemplating reviewing the existing legislation with this in mind;

6. *Requests* the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be in a position to supply relevant information;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.