

Release on bail of Messrs. Born Samnang and Sok Sam Oeun / Ongoing impunity in Mr. Chea Vichea's assassination

New information

KHM 001 / 0805 / OBS 070.2

Release on bail / Impunity

Cambodia

January 6, 2009

The Observatory for the Protection of Human Rights Defenders, a joint programme of the World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH), has received new information and expresses its deepest concern regarding the following situation in Cambodia.

New information:

The Observatory has been informed by reliable sources, including the International Trade Union Confederation (ITUC), about the release on bail of Messrs. Born Samnang and Sok Sam Oeun, who were arbitrarily detained in the Prey Sar prison since 2005 after being falsely accused of murdering Mr. **Chea Vichea**, President of the Trade Union of Workers of the Kingdom of Cambodia (FTUWKC), who was shot dead on January 22, 2004.

According to the information received, on December 31, 2008, the Cambodian Supreme Court ordered the release on bail Messrs. Born Samnang and Sok Sam Oeun and sent the case back to the Court of Appeals to be retried.

The two men have spent close to five years in prison on false charges of killing Mr. Chea Vichea in a judicial process marred by political interference, intimidation of witnesses, and other violations of international legal standards. In particular, the investigation into Mr. Vichea's murder was marred by alleged police brutality, a forced confession by one of the suspects and intimidation of witnesses (See background information).

The Observatory welcomes Messrs. Born Samnang and Sok Sam Oeun's release on bail, and thanks all the persons, institutions and organisations who intervened in their favour. However, the Observatory expresses its deep concern about the persistence of the judicial harassment against them. The

Observatory also denounces the ongoing impunity for Mr. Chea Vichea's assassination, and calls upon the Cambodian authorities to launch a full and impartial investigation into his murder and finally bring those responsible to justice.

Background information:

On August 1, 2005, the Phnom Penh Municipal Court had sentenced Messrs. Born Samnang and Sok Sam Oeung to 20 years' imprisonment and 3,800 Euros in damages.

On August 10, 2006, Ms. Var Sothy, the owner of the newspaper stand in front of which Mr. Chea Vichea was killed, had produced a precise account showing the innocence of the two men, describing in detail the assassination, the murderer and his accomplice, their vehicle, etc.

In August 2006, the police officer responsible for the arrest of the two men, Mr. Hent Pov, former Superintendent of Phnom Penh, had admitted, in an interview given to the French magazine L'Express, that from the outset of the enquiry he had believed the two men to be innocent. He has since fled Cambodia.

On April 12, 2007, the Court of Appeal had upheld the sentencing of Messrs. Born Samnang and Sok Sam Oeun. The ruling was handed down following a trial marred with numerous irregularities, and despite overwhelming evidence of the innocence of the two men. Indeed, the judges of the Court of Appeal rejected the conclusions and recommendations of the Prosecutor, who had admitted that there were gaps in the first police investigation, and who had recommended that the Court order an additional investigation to find out the truth. The Court also refused to accept the validity of testimonies in favour of Mr. Born Samnang, expressing doubts about the reliability of witnesses who had asserted that the accused was in Neak Loeung on the day of the murder, whereas the Municipal Court had accepted the written statements of witnesses for the prosecution, who never appeared in court. Nor did the Court accept Mr. Born Samnang's recanting of his initial confession. Lastly, the judges refused to take into account the new evidence produced by Ms. Var Sothy, in a statement made under oath and certified by a notary in Thailand.

Action requested:

Please write to the Cambodian authorities and ask them to:

0. Guarantee in all circumstances the physical and psychological integrity of all human rights defenders in Cambodia;
0. Put an end to the judicial proceedings against Messrs. Born Samnang and Sok Sam Oeun;
0. Conduct a fair, impartial and independent inquiry into the assassination of Mr. Chea Vichea, in order to identify the authors, bring them to justice and pronounce sentences proportional to the gravity of their crimes;
- 0.

0. Guarantee that adequate reparation is provided to Mr. Chea Vichea's family;
0. Put an end to all forms of harassment against human rights defenders in Cambodia;
0. Conform with the provisions of the Declaration on Human Rights Defenders adopted by the UN General Assembly on December 9, 1998, in particular its article 1 which provides that “every person has the right, individually or collectively, to promote the protection and fulfilment of human rights and fundamental liberties at the national and international levels”, as well as its article 12.2, which provides that “the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually or in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”;
0. Guarantee the respect of human rights and fundamental freedoms in accordance with the Universal Declaration on Human Rights and other international human rights instruments ratified by Cambodia.

Addresses:

- Mr. Hun Sen, Prime Minister, Office of the Prime Minister, Phnom Penh, Kingdom of Cambodia, Fax: +855 23 36 06 66 / 855 23 88 06 24 (c/o Council of Ministers), Email: leewood_phu@nida.gov.kh
- Mr. Sar Kheng, Deputy Prime Minister and Minister of Interior, Ministry of Interior, 275 Norodom Blvd, Phnom Penh, Kingdom of Cambodia, Fax: + 855 23 212708. Email: moi@interior.gov.kh
- Mr. Hor Nam Hong, Minister of Foreign Affairs, 161 Preah Sisowath Quay, Phnom Penh, Kingdom of Cambodia, Fax: + 855 23 21 61 44 / + 855 23 21 69 39. Email: mfaicasean@bigpond.com.kh
- Ambassador Mr. Sun Suon, Permanent Mission of Cambodia to the United Nations in Geneva, Chemin de Taverney 3, Case postale 213, 1218 Grand-Saconnex, Switzerland, Fax: + 41 22 788 77 74. Email: cambodge@bluewin.ch

Please also write to the diplomatic representations of Cambodia in your respective countries.

Geneva-Paris, January 6, 2009

Kindly inform the Observatory of any action undertaken quoting the code number of this appeal in your reply.

The Observatory, a FIDH and OMCT venture, is dedicated to the protection of Human Rights Defenders and aims to offer them concrete support in their time of need.

To contact the Observatory, call the emergency line:

Tel and fax FIDH: +33 (0) 1 43 55 20 11 / 33 1 43 55 18 80

Tel and fax OMCT: + 41 22 809 49 39 / 41 22 809 49 29

Email: Appeals@fidh-omct.org

L'OMCT a son siège à Genève, en Suisse. Elle coordonne le réseau SOS-Torture composé de 282 organisations régionales et internationales dans 93 pays sur cinq continents.

Contact : omct@omct.org