

H.E. Mr. Khamsane Souvong

President of the People's Supreme Prosecutor

Ban Beung-kha-nyongThadeua Road Sisattanak District Vientiane, Lao PDR

Tel : (856) 21 832006, (856) 21 832008, (856) 21 316033

22 July 2014

Re: Enforced Disappearance of Sombath SOMPHONE

Your Excellency,

The International Commission of Jurists (ICJ) is an international organization that is dedicated to the rule of law and the protection and promotion of human rights throughout the world.

We write to you today to seek information about the status of the investigation of the enforced disappearance of Mr. Sombath Somphone, who has not been seen since 15 December 2012. Closed captioned television footage on that day showed him being stopped by traffic police at a checkpoint and taken away by unidentified men.

Ms. Ng Shui-Meng, the wife of Mr. Sombath Somphone, filed an Application pursuant to Article 6 of the Constitution of the Lao People's Democratic Republic 2003 seeking relief from the court, with the Office of the People's Supreme Prosecutor on 4 September 2013. According to information available to the ICJ, although more than five months have passed since Ms. Ng Shui-Meng filed the Application, she has not received a response from the People's Supreme Prosecutor.

The Application claimed that the Vientiane Police Department had hindered the investigation of the fate and whereabouts of Mr. Sombath Somphone. The Application noted that the failure to conduct a prompt, thorough and effective investigation is detrimental to Mr. Sombath Somphone's life, honour and well-being. A copy of the Application is attached for your convenience.

Accordingly, the Application requests the following:

- (a) that the Vientiane Police Department hasten investigations on the enforced disappearance of Mr. Sombath Somphone;
- (b) that the Vientiane Police Department accept expertise offered by foreign groups, including for instance with regard to the examination of the aforementioned CCTV footage, in order to accelerate the gathering of evidence that would lead to ascertaining the whereabouts of Mr. Sombath Somphone;
- (c) that the Vientiane Police Department release as soon as possible its findings to Ms. Ng Shui-Meng, as wife and next of kin of Mr. Sombath Somphone; and
- (d) that Mr. Sombath Somphone be released should there be a finding that he is being held in detention by any person or entity, including any governmental agency.

Rights of the Applicant

Ms. Ng Shui-Meng, as the wife of a victim of an enforced disappearance, is herself a victim of an enforced disappearance.¹ As such, she has a right to information,

¹ This status is recognized and guaranteed in a number of international standards, including Article 24(1) of the International Convention for the Protection of All Persons from Enforced Disappearance (ICED), a treaty that the Government of Lao People's Democratic Republic (PDR) signed on 29 September 2008. The Government of Lao PDR's act of signing the Convention obliges the authorities

particularly relating to the identity of the authority or authorities responsible for ordering and supervising his deprivation of liberty or abduction and the whereabouts of Mr. Sombath Somphone.² She is also entitled to regular updates on the progress of the investigation.³

Further, the Government of Lao is required to provide Ms. Ng Shui-Meng with an effective remedy and reparation by ensuring that a prompt, thorough and effective investigation of Mr. Sombath Somphone's enforced disappearance is conducted by independent and impartial bodies.⁴

Time-limits

Pursuant to Article 70 of the Civil Procedure Code of the Lao PDR, the maximum period a Court may consider a civil case is 60 days, while under Article 75 of the Criminal Procedure Code, the Court must consider a criminal case within one month from the date of receipt of the Public Prosecutor's order.

Using these Articles as guidance for the appropriate time within which a Court should respond to a constitutional application of this nature, we would be grateful if you could advise Ms. Ng Shui-Meng of the status of her Application as soon as possible. As you will no doubt appreciate, since it has now been more than one year since her husband's disappearance, Ms. Ng Shui-Meng is extremely anxious to learn of any news regarding the investigation.

Should you require any further information, please do not hesitate to contact us.

We look forward to hearing from you at your earliest convenience.

Yours faithfully,

Sam Zarifi

Regional Director, Asia and the Pacific
International Commission of Jurists

to ensure that state officials do not act in a manner that is contrary to the object and purpose of the Treaty. Even before its formal ratification, the signature of this Treaty represents an intention on the part of the Government of Laos PDR that all its agencies, including the General Police Department, will adhere to the ICED.

² This right is expressly set out in Article 18(1) of ICED, and is considered to be inherent in a number of other standards.

³This right is secured under a number of international standards, including the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which the Government is a party and thus bound to comply as well as under the Body of Principles for the Protection of All Persons Deprived of their Liberty, article 11(c) of the Basic Principles on the Right to a Remedy and Reparation for Victims of Gross Violations of Human Rights Law and Serious Violations of International Humanitarian Law as well as Articles 18(1) and 24 of the ICED. See also UN Working Group on Enforced or Involuntary Disappearances, General Comment on the Right to the Truth in Relation to Enforced Disappearances, para 1.

⁴This right to an effective remedy and reparation are secured under Article 2 of the ICCPR and Articles 13 and 14 of the CAT as well as in Article 3, 12 and 24 of the IECD. Human Rights Committee, General Comment 31, 'Nature of the general legal obligation imposed on State parties to the Covenant', UN Doc. CCPR/C/21/Rev.17/Add.13, para 15; Human Rights Committee, *Sharma v. Nepal*, Communication No. 1469/2006 (2008), UN Doc. CCPR/C/94/D/1469/2006, para 9; Committee Against Torture, General Comment No. 3, Implementation of article 14 by States parties, UN Doc CAT/C/GC/3, para 17 and 25