



## Briefing for the EU-ASEAN summit

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## 1. Myanmar

### *a) Detention conditions of political prisoners and detainees*

There are currently over 2,100 political prisoners in Myanmar's prisons, the highest number for more than 20 years. Many are held in poor conditions which have led to serious deterioration in their health or the exacerbation of existing medical conditions. Political prisoners, including those with health problems, are routinely denied access to appropriate medical care. Moreover, they are often subjected to torture and other ill-treatment. The International Committee of the Red Cross has not been able to visit prisons in Myanmar since the end of 2005.

Since November 2008 at least 210 political prisoners have been transferred to other prisons, many of which are in remote locations in Myanmar. The new locations require family members to undertake long journeys to visit them. Prisoners in Myanmar routinely rely on family members to supply medicines and supplement their food, which is made much more difficult when they are held a long distance from their family home. The health of the 210 political prisoners is now at increased risk.

**The Presidency should call on the Myanmar authorities to immediately provide appropriate medical care to all political prisoners, most urgently for those with health problems.**

### *b) Imprisonment of protesters in the August/September 2007 peaceful anti-government demonstrations*

In October 2008, the Myanmar government started sentencing en masse people who were arrested for taking part in the August/September 2007 anti-government demonstrations. Between October 2008 and mid-January 2009, at least 280 people were given jail terms for their peaceful political activities. In November 2008, 23 members of the 88 Generation Students group were each sentenced to at least 65 years in prison.

Judicial proceedings have failed to show any regard for due process, and trials have been held in special closed courts, without access to legal counsel or adequate time to prepare a defence. Many of the protesters were sentenced under vaguely-worded security laws that the authorities have routinely used to criminalize peaceful political dissent.

**The Presidency should call on the Myanmar authorities to immediately and unconditionally release all those detained in connection with the August/September 2007 peaceful anti-government demonstrations. These individuals are prisoners of conscience, meaning that they have been imprisoned solely on account of their political, religious or other conscientiously held beliefs, ethnic origin, sex, colour, language, national or social origin, economic status, birth, sexual orientation or other status - who have not used violence, or advocated violence or hatred.**

### *c) Imprisonment of Cyclone Nargis relief volunteers*

One year after Cyclone Nargis hit Myanmar on 2-3 May 2008, 21 people remain behind bars for their independent post-cyclone relief efforts. So far 20 people have been sentenced in grossly unfair trials. Six are serving sentences ranging from 10 to 35 years. All of them had been arrested for delivering aid to the victims, for reporting on the cyclone, and even for burying the dead in the devastated Ayeyarwady (Irrawaddy) Delta.

**The Presidency needs to call for the immediate and unconditional release of these 21 prisoners of conscience.**

## 2. Thailand

### a) *Human rights abuses in southern Thailand*

The first four months of 2009 witnessed a sharp spike in the number and brutality of attacks by insurgents in the southern provinces, the majority of which are Muslim, which constitute serious human rights abuses. The insurgents directed some of their attacks at Thai security forces, and others at civilians they deemed to be cooperating or collaborating with the authorities. They also carried out indiscriminate attacks that result in deaths and injuries to civilians. These attacks against civilians are unlawful and unacceptable.

**The Presidency must call on leaders of the insurgency to immediately cease all attacks on civilians, to instruct all those under their command not to attack civilians or their property under any circumstances, to remove anyone suspected of perpetrating such attacks from positions where they could repeat them, and to publicly condemn all such attacks.**

The Thai government has a right and a duty to protect its citizens from such abuses. But the government's heavy-handed security response over the past five years has led to widespread human rights violations.

Since 2004, counter-insurgency has been marked by the use of both Martial Law and an Emergency Decree, which, among other things, allows for lengthy periods of pre-charge detention and immunity from prosecution for officials who committed human rights violations. There has also been the systematic use of torture.

In April 2009, Prime Minister Abhisit Vejjajiva renewed the Emergency Decree in the southern Muslim-majority provinces for a 15th time, since it was first invoked in July 2005.

To date, no official has been held accountable in relation to the case of imam Yapha Kaseng, whose death in custody in March 2008 was determined by a court in December 2008 to have been on account of torture.

**The Presidency should urge the Thai authorities to take immediate steps to halt all acts of torture and other ill-treatment in the counter-insurgency in the south of the country.**

**Specifically, the Presidency should call on the Thai government to immediately close all unofficial places of detention, and amend Section 12 of the Emergency Decree of 2005 to expressly prohibit such secret and unlawful detentions.**

**The Presidency should also press the Thai government to amend Section 17 of the Emergency Decree of 2005 to remove the immunity for officials who violate human rights in the course of carrying out their official duties; then prosecute all alleged perpetrators of torture and ill-treatment.**

### b) *Lao Hmong refugees and asylum-seekers*

Around 5,000 Lao Hmong people, including an unknown number of asylum-seekers, have been living in Huay Nam Khao camp in Phetchabun province since 2004. The vast majority have not had the opportunity to seek asylum through full and fair procedures. The Thai authorities have returned more than 2,000 to Laos since 2008, under a bilateral agreement between the Thai and Lao governments, and those remaining are due to be returned by mid-2009. Many of those returned are sent to designated Hmong villages after so-called "re-education". The Lao authorities have arranged several visits to resettlement sites for diplomats and local journalists, but refused to allow UN agencies, human rights organizations or third party monitoring of returnees. Some returnees have been arbitrarily detained for several months, some subjected to torture and ill-treatment, while the fate of most is not known.

Thailand claims that the returns are voluntary are contradicted by reports of asylum-seekers having been forcibly returned, in contravention of international human rights law and standards. More than 370 asylum-seekers are known to have been forcibly returned since 2005. In June 2008 Thai authorities returned more than 800 people following a mass protest at the Huay Nam Khao camp. The lack of transparency around the circumstances of the

return, with hundreds of families forced on to buses on the side of the road, raises serious concerns that in this case also, people were returned forcibly and in violation of international human rights law and standards.

One hundred and fifty-eight Lao Hmong individuals, including over 90 children, have been arbitrarily detained at the Immigration Detention Centre (IDC) in Nong Khai for more than two years, in violation of several human rights treaties to which Thailand is a state party. They are recognized refugees and several governments have offered to consider them for resettlement. They are held in chronically overcrowded conditions and are only allowed out of their cells for three hours a day. Recurring incidents of threats of suicide and hunger strikes by the refugees are symptomatic of their desperation.

**The Presidency must call on the Thai authorities to allow individuals in Huay Nam Khao camp to exercise the right to seek asylum through full and fair procedures.**

**The Presidency should also call for the Thai government to respect the principle of non-refoulement when individuals risk serious human rights violations if returned to a country where they have a valid fear of persecution and stop the forcible return of Hmong refugees to Laos.**

**The Presidency should call for the Thai government to immediately release the 158 Lao Hmong refugees detained at Nong Khai Immigration Detention Centre to a safe location. The Thai government should accept the help of other governments which have offered to process the refugees' cases for resettlement.**

**The Presidency should urge the Lao authorities to allow access for independent monitors to all returning Lao Hmong refugees and asylum-seekers, and resettlement sites.**

### **3. Cambodia**

#### *a) Forced evictions*

Forced evictions are one of the most widespread human rights violations in Cambodia, and those affected are almost exclusively marginalized people living in poverty, in both urban and rural areas. In 2008, at least 27 forced evictions, affecting over 20,000 people, were reported in the media and by local organizations.

In one case in January 2009, Cambodian security forces and demolition workers forcibly evicted 402 families from Dey Kraham community, leaving the vast majority of them homeless. Local authority representatives sold the land they were living on to the company "7NG" in 2005 without the knowledge, participation or consultation with the affected community. Some 300 other families had already been coerced into moving amid threats, harassment and intimidation, while of the 402, 152 families evicted have continued to dispute the validity of the sale and refused to give up the land without compensation. Another 250 families who were renting were also forcibly evicted.

The government must immediately address the humanitarian needs of these people, who have lost their homes and face food and potable water shortages. The Phnom Penh municipality has provided less than 30 families with shelter. Most of the other structures at the resettlement site are still under construction, as a result there is a lack of shelter and basic services, including sanitation. The people are living under tents and makeshift shelters.

Another community, close to Dey Kraham in Phnom Penh, also faces imminent forced eviction to another inadequate resettlement site, and the Municipality of Phnom Penh issued a final eviction notice on 20 April 2009. They were given 15 days to dismantle their own homes and move out of the area. The authorities have failed to engage in genuine consultation with the community, including on adequate alternative housing with security of tenure and compensation should this be necessary.

Hundreds of land activists are facing spurious charges, and dozens have been imprisoned, as the rich and powerful are increasingly abusing the criminal justice system to acquire land and evict those living there. At least nine community representatives from Dey Kraham have been charged for criminal offences as a result of their peaceful defence of their right to housing.

As a state party to the International Covenant on Economic, Social and Cultural Rights Cambodia is obliged to ensure, before any planned evictions, that all alternatives are explored in consultation with those affected by the eviction. Evictions may only occur in accordance with the law and in conformity with international standards, including genuine consultation with those affected; adequate notice and information on the proposed eviction; and provisions of legal remedies for those affected. Evictions may only occur if they do not render individuals homeless or vulnerable to the violation of other human rights.

In May 2009, the Committee on Economic, Social and Cultural Rights will consider Cambodia's first and considerably delayed report on its compliance with the treaty.

**The Presidency must call on the Cambodian authorities to respect all commitments undertaken under the International Covenant on Economic Social and Cultural Rights, including protecting the population from and ending forced evictions.**

**The Presidency must also call on the Cambodian authorities to address the humanitarian needs of all victims of forced evictions.**

#### **4. The ASEAN human rights mechanism**

All ten ASEAN member states have now ratified the ASEAN Charter, which contains several provisions addressing human rights, including one that calls for the establishment of a human rights body. This body must be strong, professional, independent, and representative and apply international standards. All ASEAN states should ratify key human rights treaties, which the human rights body can then assist states in implementing.

While ASEAN has made a start in recognizing human rights concerns in the region, much more needs to be done. The ASEAN member states must place human rights at the top of their agenda if they are to demonstrate their commitment to the ASEAN Charter.

**The Presidency needs to call for a robust ASEAN human rights mechanism and should encourage ASEAN members to work together on regional issues, especially Myanmar.**