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# Thailand

*Decision adopted by the Committee on the Human Rights of Parliamentarians at its 164<sup>th</sup> session (virtual session, 8 to 20 March 2021)*



© Courtesy the complainant

## THA-183 – Jatuporn Prompan

### Alleged human rights violations

- ✓ Arbitrary arrest and detention
- ✓ Violation of freedom of opinion and expression
- ✓ Arbitrary invalidation of the election of a parliamentarian
- ✓ Other violations: Right to take part in the conduct of public affairs

### A. Summary of the case

By June 2010, Mr. Jatuporn, then an incumbent member of the Thai House of Representatives, and a prominent leader of the “Red Shirts” movement, was 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 he and other Red Shirt leaders had already been taken into police custody. Mr. Jatuporn was quickly released on bail thereafter.

On 10 April 2011, Mr. Jatuporn took the stage during the commemoration organized at the Democracy Monument in Bangkok to mark the first anniversary of the Government’s response to the Red Shirt demonstrations. In his speech, he criticized the then government and the Royal Thai Army for using the pretext of “protecting the monarchy”. The Thai Army filed a complaint alleging that Mr. Jatuporn had committed lese-majesty in his speech. The Department of Special Investigations asked the

### Case THA-183

**Thailand:** Parliament affiliated to the IPU

**Victim:** Member of the majority

**Qualified complainant(s):** Section I.(1)(a) of the [Committee Procedure](#) (Annex I)

**Submission of complaint:** June 2012

**Recent IPU decision:** [March 2016](#)

**IPU Mission(s):** - - -

**Recent Committee hearing:** Hearing with the Thai delegation to the 134<sup>th</sup> IPU Assembly (Lusaka, March 2016)

### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the House of Representatives (February 2021)
- Communication from the complainant: January 2018
- Communication addressed to the authorities: Letter addressed to the Speaker of the House of Representatives (January 2021)
- Communication addressed to the complainant: February 2021

Criminal Court to revoke his bail following the complaint, which it did on 12 May 2011. Mr. Jatuporn was subsequently held in Bangkok Remand Prison until 2 August 2011. The Department of Special Investigations subsequently dismissed the charge and the case was referred to the Office of the Attorney General for consideration. It seems that no further action was taken on this matter subsequently.

In July 2011, Mr. Jatuporn stood in the legislative elections while in detention. His requests to be allowed to vote on Election Day were denied, although he was released on bail one month later. Mr. Jatuporn was elected to the House of Representatives, and his election was initially certified by the Election Commission. However, in May 2012, the Constitutional Court disqualified Mr. Jatuporn's election on the grounds that he was no longer a member of his political party owing to his failure to vote on Election Day. The complainant states that the decision violates Mr. Jatuporn's human rights and Thailand's international obligations. It also states that the legal basis for the charges brought against Mr. Jatuporn and for his detention violate international standards. An IPU trial observer attended the hearings on 30 and 31 May and 6 and 7 June 2013 in this case before the Bangkok criminal court.

On 14 August 2019, the Criminal Court acquitted Mr. Jatuporn and 23 other United Front for Democracy against Dictatorship co-defendants of the terrorism charges. On 17 February 2021, the parliamentary authorities shared updated information on the case, confirming that Mr. Jatuporn had no longer been the subject of any judicial proceedings against him since his release and subsequent acquittal. They also claimed that the former member of parliament had been able to fully exercise his civil and political rights, as illustrated by the active role he has played in diverse political activities since his release from prison on 4 August 2018.

On 20 July 2017, Mr. Jatuporn was sentenced to a one-year prison term for defamation, following a lawsuit filed by the then prime minister, Mr. Abhisit Vejjajiva, with allegations that Mr. Jatuporn had defamed the former prime minister during speeches made on 11 and 17 October 2009. Mr. Jatuporn served the prison sentence in full. However, he still appears to be subject to a legal prohibition barring him from taking part in parliamentary elections for 10 years following his release from prison.

## **B. Decision**

### The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Speaker of the House of Representatives for his letter of 17 February 2021 and the information contained therein;
2. *Notes* that Mr. Jatuporn was acquitted on the terrorism charge and that he is no longer subject to any other legal proceedings;
3. *Reaffirms its view* that the disqualification in 2012 of Mr. Jatuporn's election to the House of Representatives was based on grounds that appear directly to contravene Thailand's international human rights obligations; *considers* in this regard that denying an incumbent member of parliament temporary release from prison to exercise the right to vote was an "unreasonable restriction" and was at odds with the provisions of the International Covenant on Civil and Political Rights, in particular the right to take part in the conduct of public affairs (Article 25);
4. *Is concerned* that Mr. Jatuporn was prosecuted, sentenced and convicted on appeal on charges of defamation, which led to a suspension of his right to take part in elections to parliament for a prolonged period of time; *concurs* with the recommendation made by the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression that defamation should not be considered an offence under criminal law;
5. *Reaffirms*, in this regard, that legislation on defamation should be in line with international standards on freedom of expression and the right to take part in public life; *considers* that it is imperative that Thai legislation regarding defamation be reviewed in order to avoid the recurrence of such situations; *underscores* that the Thai Parliament has a particular

responsibility to promote steps to this end, including so as to ensure that all of its members can speak out freely without fear of suspension of their right to take part in elections to parliament;

6. *Calls on* the authorities to make use of the expertise of the United Nations special procedures, in particular the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, to ensure that existing legislation is amended so as to comply with relevant international human rights standards; *suggests* also that the IPU offer assistance to the Thai authorities in any such legal review;
7. *Decides* to close the case in accordance with section IX, paragraph 25(b), of Annex I of its Procedure for the examination and treatment of complaints, given that no new information has been forthcoming from the complainant, despite several requests made for this purpose;
8. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.