

## DECISION No. 2/1992 (LAO PEOPLE'S DEMOCRATIC REPUBLIC)

Communication addressed to the Government of the Lao People's Democratic Republic on 14 October 1991.

Concerning: Latsami Khamphoui and Thongsouk Saysangkhi on the one hand and the Lao People's Democratic Republic on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it (see E/CN.4/1992/20, chapter II), and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the communication received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.
2. The Working Group notes with concern that to date no information has been forwarded by the Government concerned in respect of the cases in question. With the expiration of more than ninety (90) days from the transmittal of the letter by the Working Group, it is left with no option but to proceed to render its decision in respect of each of the cases of alleged arbitrary detention brought to its knowledge.
3. (Same as in Decision No. 1/1992.)
4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Lao Government. In the absence of any information from the Government, the Working Group believes that it is in a position to take a decision on the facts and circumstances of the case, especially since the facts and allegations contained in the communication have not been challenged by the Government.

5. It is alleged in the communication from the source that Latsami Khamphoui, former Deputy Minister of Agriculture and Forestry, and Thongsouk Saysangkhhi were arrested on 8 October 1990 after having written and circulated in Vientiane and elsewhere letters addressed to the leaders of the Lao People's Democratic Republic, in which they criticized the country's economic and social system.

6. In his letters dated 9 and 12 January 1990 (circulated in June 1990), addressed to Kaysone Phomvihan, President of the Lao People's Democratic Republic and head of the ruling party, the Lao People's Revolutionary Party, Latsami Khamphoui denounced the anarchy, corruption and laxity prevailing in the country and the fact that many people were in prison or had been compelled to flee the country for having challenged the President's erroneous assessment of the situation. He also criticized the President for having distorted the ideals of Marxism-Leninism and for having introduced a system of economic exploitation in conjunction with political authoritarianism.

7. In his letter dated 26 August 1990, Thongsouk Saysangkhhi for his part submitted his resignation from the post of Deputy Minister of Science and Technology and from his membership of the Lao People's Revolutionary Party to President Kaysone Phomvihan. He explained his resignation by his opposition to an "antiquated regime that restricts the people's freedoms and democracy" and to the "dictatorial power of cliques revolving around personalities". In addition, he demanded the holding of free elections, the practical enjoyment of the people's freedoms and of democracy and the establishment of democratic institutions, opposed to the preservation of a feudal communist system. In addition, he expressed his conviction that the history of mankind had demonstrated the incapacity of the single-party system, based solely on coercion, to provide people with prosperity and happiness.

8. According to the source, Latsami Khamphoui and Thongsouk Saysangkhhi have been detained without charge since their arrest and have not been brought before a court.

9. On 3 November 1990, the official media announced that Latsami Khamphoui and Thongsouk Saysangkhhi were to be questioned and tried under article 51 of the Criminal Code, which prohibits treason. According to other sources, they were accused by the authorities of having violated articles 51 and 59 of the same Code, which prohibit "insurrection" and "propaganda against the Lao People's Democratic Republic". Moreover, the source reports that it has received information indicating that on several occasions the victims asked to be allowed to challenge the lawfulness of their detention before a court, but their request was always rejected, as was their right to a defence. Thus, they have been unable to obtain access to a lawyer, although they have been informed that three Lao and four foreign lawyers have been appointed on their behalf, although they have been unable to meet them, and the lawyers have not been given access to the case documents in order to prepare the defence. This was contrary to the provisions of the Lao Code of Criminal Procedure itself, article 18 of which stipulates that any suspect, whether or not charges have been brought against him, may choose a lawyer to defend his case and to examine the trial documents once the investigation and examination proceedings have been completed.

10. Latsami Khamphoui and Thongsouk Saysangkhi are reportedly in "temporary detention" under article 50 of the Code of Criminal Procedure in Xam Khe prison in Vientiane, the country's main prison, where they are being held in complete isolation and are being denied the medical care their state of health requires.

11. It is clear from the facts as reported that Latsami Khamphoui and Thongsouk Saysangkhi have now been held in detention for over 17 months, without being charged or brought to trial, for having sent letters to the authorities of the Lao People's Democratic Republic in which they severely criticized their country's Government and demanded an end to the single-party system. It would appear that their arrest in October 1990 and subsequent detention are due solely to the fact that they have freely exercised their right to express their opinions, a right which is guaranteed by article 19 of the Universal Declaration of Human Rights and by article 19 of the International Covenant on Civil and Political Rights. There is no record that, in doing so, they used violence or in any way threatened national security or public order. Nor is there any allegation that they have made any defamatory or insulting remarks about their country's authorities.

12. It should be added that, as well as having been held in detention since October 1990 without charge or trial, they have never been allowed access to a lawyer, they have never been able to challenge the lawfulness of their detention before a court and they are held in complete isolation in prison as well as being unable to receive the medical care their state of health requires.

13. In the light of the above, the Working Group decides:

The detention of Latsami Khamphoui and Thongsouk Saysangkhi is declared to be arbitrary, being in contravention of articles 9, 10, 11 and 19 of the Universal Declaration of Human Rights and articles 9, 14 and 19 of the International Covenant on Civil and Political Rights and falling within categories II and III of the principles applicable in the consideration of the cases submitted to the Working Group.

14. Consequent upon the decision of the Working Group declaring the detention of Latsami Khamphoui and Thongsouk Saysangkhi to be arbitrary, the Working Group requests the Government of the Lao People's Democratic Republic to take the necessary steps to remedy the situation in order to bring it into conformity with the norms and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.