To His Excellency Sar Kheng
Deputy Prime Minister, Minister of Ministry of Interior

Phnom Penh,
11 April 2014

Open Letter calling on His Excellency Sar Kheng Deputy Prime Minister, Minister of Interior, to take all measure necessary to ensure that the 21 accused attend their hearing at the Phnom Penh Court of First Instance.

Subject: Transportation concerns for the 21 accused detained in Correctional Center 3 (“CC3”) regarding their forthcoming hearing at the Phnom Penh Court of First Instance on 18 April 2014.

Reference:
- An article published in the Phnom Penh Post on 07 April 2014.

Dear Excellency,

In reference to the above mentioned subject, the Cambodian Center for Human Rights (“CCHR”) would like to inform his Excellency that on 18 April 2014 at 8:00AM the Phnom Penh Court of First Instance is going to hear the above mentioned criminal cases. CCHR is concerned by reports stating that the 21 accused held in detention at CC3 (Tra Paing Phlong, Kampong Cham province) may not be transported to attend their upcoming hearing.

According to an English article published in the Phnom Penh Post issued on 07 April 2014 Mr. Kea Sovanna, CC3 Director stated that “There are more than 20. How can I have a car to bring them to trial? My car is only for going to the nearby market to buy food to cook for them. This car can’t be used for long-distance trips of about 200 kilometers.”

Article 31 (1) of the Constitution of the Kingdom of Cambodia stipulates that “The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human rights, the covenants and conventions related to human rights, women’s rights and children’s rights.” Therefore, the International Covenant on Civil and Political Rights (“ICCPR”) that Cambodia acceded to in 1992 is part of Cambodian Law. Article 14 (3) (d) of the ICCPR states that: “In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: to be tried in his presence [...]”

Moreover, Article 300 of the Cambodian Code of Criminal Procedure of 2007 states that “the accused shall appear in person during the hearings at the court.” As such, any accused has the fundamental right to be
present during his trial hearing. In addition, Article 60 of the 2011 Prison Law stipulates that “the detainee can be temporarily allowed to leave the prison under a court warrant for the purpose of appearing in court […]” In addition, Article 61 of the same law states that “Prison’s Director shall be responsible for the security and safety of the detainee during transportation to the court […]” Therefore, according to the law, the transportation of the accused to the court is the responsibility of the host prison and the General Department of Prison which is under the authority of the Ministry of Interior.

If the 21 accused do not attend their trial hearing on 18 April 2014 at the Phnom Penh Court of First Instance, this would seriously violate their right to a fair trial, as well as a violate Cambodia’s obligation under domestic and international laws.

Considering the above, we would like, your Excellency, to call on you to take all necessary practical and legal measures to ensure that the 21 accused that are being held in CC3 will attend their upcoming hearing on 18 April 2014.

Yours Sincerely,

Chak Sopheap
Executive Director
The Cambodian Center for Human Rights

CC:
- H.E. Ang Vong Vathana, Justice Minister
- H.E. Chiv Keng, President of Phnom Penh Municipal Court