

# KEM SOKHA

## Summary

In September 2016, Cambodia National Rescue Party (CNRP) then-Deputy President Kem Sokha was sentenced in absentia to five months in prison for failing to appear as a witness in response to summons under Article 538 of the Criminal Code in relation to a case against CNRP MPs Pin Ratana and Tok Vanchan, who were accused of procurement of prostitution in relation to an affair Kem Sokha was alleged to have had (the case against the two was subsequently suspended after the National Assembly declined to lift their immunity). An appeal against the conviction was denied on 4 November 2016. Kem Sokha stayed in hiding at the CNRP headquarters until a December 2016 royal pardon was issued and cleared him of the conviction.

## Charges

### Criminal Code, Article 538: Refusal to Appear

Any person who is summoned to testify as witness before a prosecutor or an investigating judge or a criminal court and refuses to appear himself/herself following the summon without any valid reason is punishable by an imprisonment from 1 (one) month to 6 (six) months and a fine from 100,000 (one hundred thousand) Riels to 1,000,000 (one million) Riels.

## Other Relevant Articles

### Criminal Code, Article 284: Procuring

Procuring shall mean:

1. Making a financial gain out of the prostitution of others;
2. Aiding in or protecting the prostitution of others or organizing, in whatever manner, prostitution;
3. Recruiting, abducting or inducing a person into prostitution;
4. Exercising pressure on any person to become a prostitute.
5. Procuring shall be punishable by imprisonment from two to five years and a fine from four million to ten million Riels.

### Law on the Suppression of Human Trafficking and Sexual Exploitation, Article 24: Soliciting

A person who willingly solicits another in public for the purpose of prostituting himself or herself shall be punished with imprisonment for 1 to 6 days and a fine of 3,000 to 10,000 riel. A minor shall be exempted from punishment of the offense stipulated in this article.

### Law on Monogamy, Article 7: Adultery

Adultery is the act of a married man having sexual intercourse with a woman who is not his wife, or the act of a married woman having sexual intercourse with a man who is not her husband. A person commits the offence of adultery if:

- he has sexual intercourse with another woman while he is still married to his wife, and his marriage is not yet dissolved.
- she has sexual intercourse with another man while she is still married to her husband, and her marriage is not yet dissolved.

### Law on Monogamy, Article 10:

Anyone convicted of the offences in article 6 and article 7 of this law will be sentenced to a term of imprisonment of between 1 month and 1 year or a fine of between 200,000 riels and 1,000,000 riels, or both.

**2014** – **26 August** – Kem Sokha is elected by the National Assembly as its First Vice President and becomes the first opposition MP to hold that office.<sup>1</sup>

**2015** – **26 October** – Pro-CPP demonstrations against Kem Sokha result in the beating of CNRP MPs Nhay Chamrooun and Kong Sophea in front of the National Assembly and an attack on Kem Sokha's house by protestors.<sup>2</sup>

**30 October** – Kem Sokha is stripped of his position as First Vice-President of the National Assembly in vote boycotted by opposition.<sup>3</sup>

**24 November** – Kem Sokha returns to Cambodia after visiting beaten MPs in Thailand.<sup>4</sup>

**2016** – **2 March** – Audio recordings surface of Kem Sokha allegedly talking on the phone with a mistress.<sup>5</sup>

**9 March** – Khem Chandaraty (a.k.a. Srey Mom) is identified as Kem Sokha's alleged mistress; she speaks out and denies having had an affair with Kem Sokha.<sup>6</sup>

**11 March** – Khem Chandaraty is questioned by the anti-terrorism unit police; she continues to deny the affair.<sup>7</sup>

**5 April** – Khem Chandaraty is questioned by a prosecutor over claims she lied to the police and that she previously worked as a prostitute.<sup>8</sup>

**18 April** – Khem Chandaraty is summoned for questioning again.<sup>9</sup>

**20 April** – Khem Chandaraty changes her story, now admitting that it is her voice in the leaked recording from 2 March and that she is Kem Sokha's mistress.<sup>10</sup>

**22 April** – Khem Chandaraty turns on her lawyers and advocates, accusing them of having bribed her to deny the affair.<sup>11</sup>

**28 April** – Four staff from the human rights NGO ADHOC – Ny Sokha, Yi Soksan, Nay Vanda, and Lem Momy – and National Election Committee (NEC) Deputy Secretary Ny Chakrya (a former ADHOC staff member) are taken into custody after appearing for questioning over accusations that they directed Khem Chandaraty to deny having had an affair with Kem Sokha.<sup>12</sup>

**28 April** – Her alleged recording of Kem Sokha is released on Facebook, this time featuring a conversation with a Kampong Cham commune chief jailed on bribery charges.<sup>13</sup>

**1 May** – ADHOC and NEC staff are questioned by the court.<sup>14</sup>

**2 May** – The four ADHOC staffers – Ny Sokha, Yi Soksan, Nay Vanda and Lem Momy – are charged with bribing a witness (Article 548 of Criminal Code); NEC Deputy Secretary Ny Chakrya and UN OHCHR staff Sally Soen are charged as accomplices (Articles 29 and 548 of the Criminal Code). All, except Sally Soen, are sent to Prey Sar prison.<sup>15</sup>

**3 May** – The Phnom Penh Municipal Court issues a summons for Kem Sokha for questioning on 11 May in relation to a defamation case brought by former CNRP youth activist Thy Sovantha, who was mentioned in the alleged phone conversations between Kem Sokha and Khem Chandaraty. Summons are also issued for CNRP MPs Tok Vanchan and Pin Ratana to appear on 16 May for questioning "related to prostitution."<sup>16</sup>

**9 May** – It is reported that Kem Sokha has been summoned to appear for questioning before the Phnom Penh Municipal Court on 17 May in relation to a case of "procurement of prostitution."<sup>17</sup>

**17 May** – Kem Sokha fails to appear at the Phnom Penh Municipal Court after being summoned for questioning over alleged procurement.<sup>18</sup>

**18 May** – Kem Sokha is summoned to appear as a witness at the Phnom Penh Municipal Court on 26 May in a case of alleged procurement of prostitution.<sup>19</sup>

**26 May** – Kem Sokha's lawyers tell the Phnom Penh Municipal Court that Kem Sokha will not attend court that day to testify as a witness in a case related to prostitution due to the fact that no suspects had yet to be charged in the alleged case.<sup>20</sup>

**27 May** – Kem Sokha is charged with committing a "flagrant crime" by failing to appear for questioning as a witness the previous day.<sup>21</sup>

**30 May** – In a vote boycotted by the CNRP, the National Assembly decides to allow the court to continue the prosecution of Kem Sokha. Following this decision, Kem Sokha remained in hiding at the CNRP's headquarters to avoid arrest until December 2016.<sup>22</sup>

**16 June** – Khem Chandaraty appears in court in relation to a "procurement of prostitution" charge against Kem Sokha; she accuses Kem Sokha of having cheated her after promising her money, a salon, and a house.<sup>23</sup>

**30 June** – Justice Minister Ang Vong Vathana writes a letter formally requesting National Assembly President Heng Samrin to lift the parliamentary immunity of CNRP MPs Pin Ratana and Tok Vanchan (citing Article 80 of the Constitution and Article 8 of the Law on the Status of National Assembly Members) because they are "suspects" in relation to the Kem Sokha "prostitution" case.<sup>24</sup>

**18 July** – The National Assembly's Standing Committee holds a session to discuss lifting the parliamentary immunity of CNRP MPs Pin Ratana and Tok Vanchan.<sup>25</sup>

**5 September** – The Court of Appeal denies Kem Sokha's motion to overturn the Municipal Court's order to try him. The Supreme Court delays a bail hearing in the case of the four jailed ADHOC staffer and NEC official Ny Chakrya.<sup>26</sup>

**9 September** – Kem Sokha is sentenced in absentia to five months in prison for failing to appear as a witness in court.<sup>27</sup>

**28 September** – The National Assembly votes to uphold the parliamentary immunity of CNRP MPs Tok Vanchan and Pin Ratana.<sup>28</sup>

**5 October** – Kem Sokha leaves the CNRP headquarters for the first time since May to register to vote. Despite the threat of arrest, the authorities do not apprehend him and he subsequently returns to the CNRP headquarters.<sup>29</sup>

**4 November** – The Court of Appeal rejects Kem Sokha's appeal of the conviction for failing to appear as a witness.<sup>30</sup>

**2 December** – Kem Sokha is given a royal pardon after a request by Prime Minister Hun Sen, clearing him of the conviction for failing to appear as a witness.<sup>31</sup>

**2017** – **2 March** – Kem Sokha is elected as President of the CNRP after Sam Rainsy resigned from the post on 11 February following the passage by the National Assembly of controversial amendments to the Law on Political Parties.<sup>32</sup>

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<sup>2</sup> Cambodia Daily, "CNRP Lawmakers Beaten Outside National Assembly," 26 October 2015, <https://www.cambodiadaily.com/news/cn-rp-lawmakers-beaten-outside-national-assembly-98320/>.  
<sup>3</sup> Cambodia Daily, "Kem Sokha Removed as Assembly Vice President," 30 October 2015, <https://www.cambodiadaily.com/news/kem-sokha-removed-as-assembly-vice-president-98833/>.  
<sup>4</sup> Phnom Penh Post, "Sokha, beaten MPs return to Phnom Penh," 25 November 2015, <http://www.phnompenhpost.com/national/sokha-beaten-mps-return-phnom-penh>.  
<sup>5</sup> Phnom Penh Post, "Recordings hint at CNRP deputy leader Sokha's infidelity," 2 March 2016, <http://www.phnompenhpost.com/national/recordings-hint-cn-rp-deputy-leader-sokhas-infidelity>.  
<sup>6</sup> Phnom Penh Post, "Mon Srey 'denies Sokha affair,'" 10 March 2016, <http://www.phnompenhpost.com/national/mon-srey-denies-sokha-affair>.  
<sup>7</sup> VOA, "Anti-Terror Police Question Woman Embroiled in Kem Sokha Affair Allegations," 11 March 2016, <http://www.voacambodia.com/a/anti-terror-police-question-woman-embroiled-in-kem-sokha-affair-allegations/3231834.html>.  
<sup>8</sup> Phnom Penh Post, "Prosecutor grills boss of Sokha's 'Mon Srey,'" 6 April 2016, <http://www.phnompenhpost.com/national/prosecutor-grills-boss-sokhas-mon-srey>.  
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<sup>11</sup> Phnom Penh Post, "Alleged mistress files complaints against Sokha, Adhoc," 25 April 2016, <http://www.phnompenhpost.com/national/alleged-mistress-files-complaints-against-sokha-adhoc>.  
<sup>12</sup> Phnom Penh Post, "Rights group staffers, NEC official detained by ACU over Chandaraty case," 29 April 2016, <http://www.phnompenhpost.com/national/rights-workers-two-others-bribed-witness-court-says-un-holds-firm>. For more details, see: Phnom Penh Post, "Is the evidence there in the Adhoc Case?," 12 May 2016, <http://www.phnompenhpost.com/analysis-and-op-ed/evidence-there-adhoc-case>.  
<sup>13</sup> Phnom Penh Post, "New 'Sokha' recording out amid ACU grilling," 29 April 2016, <http://www.phnompenhpost.com/national/new-sokha-recording-out-amid-acu-grilling>.  
<sup>14</sup> Phnom Penh Post, "ACU keeps the heat on as PM dismisses UN's claims to immunity," 2 May 2016, <http://www.phnompenhpost.com/national/acu-keeps-heat-pm-dismisses-un-claims-immunity>.  
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<sup>18</sup> Phnom Penh Post, "Kem Sokha snubs court questioning," 18 May 2016, <http://www.phnompenhpost.com/national/kem-sokha-snubs-court-questioning>.  
<sup>19</sup> Phnom Penh Post, "New summons for Sokha as local chief questioned," 19 May 2016, <http://www.phnompenhpost.com/national/new-summons-sokha-local-chief-questioned>.  
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