



KINGDOM OF CAMBODIA
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**Permanent Mission of the Kingdom of Cambodia
to the United Nations Office and other
International Organizations at Geneva**

No. 2021/05/365

The Permanent Mission of the Kingdom of Cambodia to the United Nations Office and other International Organizations at Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, with reference to the Joint Communication from Special Procedures No. AL KHM 3/2021 dated 7 April 2021, has the honor to transmit to the latter herewith a response from the Ministry of Post and Communications of the Kingdom of Cambodia as to the establishment of the National Internet Gateway.

The Permanent Mission of the Kingdom of Cambodia would be greatly appreciated if the said detail could be conveyed to its high destinations.

The Permanent Mission of the Kingdom of Cambodia to the United Nations Office and other International Organizations at Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 24 May 2021



Office of the High Commissioner
for Human Rights
Geneva

Aide Memoire:

Response letter AL KHM 3/2021, dated 7 April 2021 from UN Special Rapporteurs Rhona Smith, Irene Khan, and Joseph Cannataci

The Royal Government of Cambodia expresses appreciation for your letter, Reference: AL KHM 3/2021, dated 7 April 2021 concerning the establishment of the National Internet Gateway.

Under the leadership of Prime Minister Samdech Akka Moha Sena Padei Techo Hun Sen, the Royal Government of Cambodia adopted Rectangular Strategy - Phase 4 in 2018. This adopted strategy strengthens and expands the development of necessary supporting infrastructures, such as information and communications technology infrastructure, domestic postal and express delivery infrastructure, logistics and electronic payment infrastructure, and the development of a national internet gateway.¹ As a result, the Inter-Ministerial Committee on the Establishment of National Gateway was formed in 2019 and Sub-Decree No. 23 ANK/BK on the Establishment of the National Internet Gateway was issued on 16 February 2021. Prior to issuing the Sub-Decree, the Ministry of Post and Telecommunications (MPTC) extensively studied infrastructure models from countries around the world. After consultation and research on the subject of an internet gateway, the Royal Government of Cambodia found that most countries have internet gateways and respective regulations. Cambodia is not that different from any other country. The Sub-Decree is a telecommunication infrastructure regulation, and was prepared in a transparent manner and consultations were held with experts in the sector, private operators, and relevant institutions on numerous occasions except civil societies because the establishment of national internet gateways is related to telecommunication operators.

The Royal Government of Cambodia expresses serious concern regarding the accuracy and credibility of the source of information the Special Rapporteurs received. The author of the information wrongfully alleged that the Sub-Decree permits Cambodian authorities to monitor and conduct surveillance of internet activity, intercept and censor digital communications, and collect, retain, and share personal data of users, creating risks to the right to freedom of expression, including the right to seek, receive, and impart information and ideas, as well as the right to privacy. These untrue allegations are contradictory to the Sub-Decree.

¹ Rectangular Strategy Phase 4, p.30, retrieved from http://cdc-crdb.gov.kh/en/strategy/documents/Rectangular_Strategy_Phase_IV_Eng.pdf

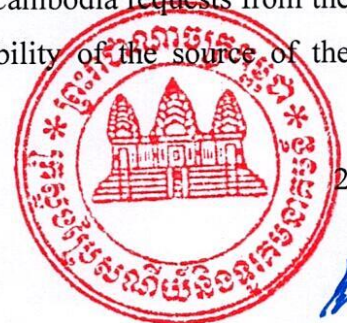


The Royal Government of Cambodia respects the individual's right to privacy and freedom of expression, and protects personal data, all of which are enshrined in laws in the Kingdom of Cambodia, including the Constitution, ratified international human rights treaties, the Civil Code, the Criminal Code, and the Law on Telecommunications. As stated in press statement dated on 19 February 2021, the MPTC reiterates that no provision in the Sub-Decree authorizes the collection of consumers' data or conduct of individual surveillance, or particularly restricts the freedom of expression. Therefore, it does not violate the right to privacy under Article 17 of the International Covenant on Civil and Political Rights (ICCPR).

Furthermore, the Special Rapporteurs' concern with Article 6 of the Sub-Decree is unfounded. Article 6 fully complies with Article 19(3) of the ICCPR, in that the right to freedom of expression may be subject to certain restrictions provided by law and are necessary "[f]or respect of the rights or reputations of others" and "[f]or the protection of national security or of public order (ordre public), or of public health or morals." Article 6 allows the government to restrict communications necessary for, among many legitimate aims, the protection of morals, culture, national security, and public order.

The Sub-Decree was adopted for legitimate objectives. The express purpose of the National Internet Gateway is to increase the effectiveness of national revenue collection on the basis of fair and honest competition, and transparency between the state and operators, and to prevent illegal cross-border network connections, illegal online gambling, cyberthreats, illegal online pornography, online child abuse, online frauds, and national and international crimes of all kinds. The false allegation in the information the Special Rapporteurs received regarding the Sub-Decree permitting "Cambodian authorities to monitor and conduct surveillance of internet activity, intercept and censor digital communications, and collect, retain and share personal data of users" is imaginary and was made irresponsibly against a sovereign state with baseless assumptions.

The Royal Government of Cambodia seriously questions the credibility of the source of such information and expresses great disappointment and concern with the Special Rapporteurs' report. It is unfortunate that the Royal Government of Cambodia was not first asked to comment before the Special Rapporteurs' reliance on such information. The Royal Government of Cambodia finds that the distribution of such misinformation by the author to be highly irresponsible. For this reason and in the interest of transparency, the Royal Government of Cambodia requests from the Special Rapporteurs to provide information regarding 1) the credibility of the source of the



information that the Special Rapporteurs received; and 2) the process, analysis, and methodology that the author of the information adopted that led them to make such unfounded allegations.

A more rigorous and detailed approach would benefit all. The Royal Government of Cambodia is ready to fully cooperate and provide observations to the Special Rapporteurs' requested clarifications on page 4 of the letter once the Royal Government of Cambodia has received the above requested information so that it is in a position to respond.



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