

URGENT ACTION

OKINAWA ACTIVIST CONTINUES TO BE DENIED BAIL

Hiroji Yamashiro remains in detention following the denial of his Special Appeal for bail by the Supreme Court on 20 February 2017. Arrested for his role in protests against new U.S. military construction projects in Okinawa, Hiroji Yamashiro has not been able to see his family since 17 October 2016. His next court hearing is scheduled for 17 March 2017.

Hiroji Yamashiro, a prominent activist leading the peace movement in Okinawa, had his bail request rejected by the Naha District Court, to “avoid the destruction of evidence”, on 8 February 2017. Shortly after, Hiroji Yamashiro submitted a Special Appeal to the Supreme Court in Tokyo, which was in turn denied on 20 February 2017. In response, civil society groups organised over several hundred protestors’ to rally outside the Naha District Court, in Okinawa, on 24 February 2017 to oppose its decision to deny Hiroji Yamashiro bail.

Purportedly to “avoid destruction of evidence”, Hiroji Yamashiro has not been allowed to see his family since his arrest on 17 October 2016 for allegedly cutting a wire fence around a construction site during protests against the installation of new U.S. Marine Corps facilities near Takae, Okinawa. His lawyer questions the legitimacy of restricting his right of access to family, as the family’s visits take place only under the supervision of detention staff, making any “destruction of evidence” unlikely.

The District Court is scheduled to hear the case against him on 17 and 27 March 2017 however, according to his lawyer, the timing of release is unclear as his detention could be further extended by a continued denial of bail. Despite there being no clear indication of a deterioration of Hiroji Yamashiro’s health at the moment, some activists are concerned for his well-being following his surgery and hospitalization for malignant lymphoma in 2015.

Please write immediately in Japanese, English or your own language urging authorities to:

- Immediately release Hiroji Yamashiro unless they prove that the presumption of release pending trial should not apply;
- Ensure that, pending his release, Hiroji Yamashiro is provided with adequate medical care and has effective access to his family without delay;
- Comply with their international obligations to respect, protect and fulfil everybody’s human rights to freedom of expression, association and peaceful assembly, as well as the rights of people in detention.

PLEASE SEND APPEALS BEFORE 11 APRIL 2017 TO:

Prosecutor General

Katsuyuki Nishikawa
The Supreme Public Prosecutors Office
1-1-1, Kasumigaseki, Chiyoda-ku,
Tokyo, Japan

Salutation: Dear Prosecutor General

Director of Detention Centre

Naha Detention Centre
1-14-2 Higawa Naha-shi,
Okinawa-ken
Japan

Salutation: Dear Director

And copies to:

Prime Minister

Shinzo Abe
1-6-1 Nagata-cho, Chiyoda-ku, Tokyo
100 - 8968, Japan

Twitter: @AbeShinzo or @JPN_PMO

Facebook:

<https://www.facebook.com/Japan.PMO>

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date. This is the first update of UA 23/17. Further information:

<https://www.amnesty.org/en/documents/asa22/5552/2017/en/>

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ADDITIONAL INFORMATION

Hiroji Yamashiro was held in police custody until 26 December 2016. Under the Japanese criminal justice system, a person can be detained under the authority of the police for up to 23 days without charge. Amnesty International have raised concerns about the lack of rules or regulations regarding interrogations during this period, including duration, restricted access of lawyers and the absence of any recordings. In this case, police continued to lay new charges against Hiroji Yamashiro while requesting extensions to his detention.

Three days after his arrest on 17 October 2016, an additional charge was brought against him for obstructing and assaulting an Okinawa defence bureau officer at the protests. On 29 November 2016, more than a month later, a third charge was brought against Hiroji Yamashiro for allegedly laying blocks and forcibly obstructing site construction in late January 2016, effectively extending his pre-trial detention further.

Under the Japanese Criminal Procedure Law, the court may order the detention of the accused pending trial when there is probable cause to suspect that he/she has committed a crime and when the accused has no fixed residence; there is probable cause to suspect that he/she may conceal or destroy evidence; or the accused has fled or there is probable cause to suspect that he/she may flee

Under international legal standards, anyone arrested or detained must be brought promptly before a judge or equivalent judicial officer for a ruling on whether both the initial arrest and the continued detention are lawful, necessary and proportionate, i.e. the lawfulness of both the detention as such, as well as whether the detainee should be released or detained pending trial. There is a presumption that to remain in custody pending trial should not be the norm but the exception, with the burden of proof to show special circumstances on the state. If persons are charged, they are further entitled to a trial within a reasonable time. In order to prevent the risk of arbitrary detention, authorities must ensure that proper grounds and procedures for deprivation of liberty are adhered to at all times, as established by national law and required by international human rights law.

Any person deprived of liberty has the right to communicate with the outside world, including by being visited by family members. This right is a key safeguard against torture and other ill-treatment and other human rights violations. The UN Committee against Torture has stated that “[c]ounsel, family members and the doctor of their own choice must be guaranteed immediate access to persons deprived of liberty” and has recommended “the free access of a person deprived of his liberty to a lawyer and to a doctor of his choice and to his relatives at all stages of detention”. Access can only be restricted if necessary and proportionate to a legitimate aim [such as in the interests of justice or security and good order in the institution]. For example, regular access to family members can be carried out under appropriate supervision when the investigation so requires. Denying visits may amount to inhuman treatment.

Name: Hiroji Yamashiro

Gender: m

Further Information on UA: 23/17 Index: ASA 22/5789/2017 Issue Date: 28 February 2017