

KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council
N° 06/2005 CC.I

To His Majesty Preah Bat Samdech Preah Boromneath NORODOM SIHAMONI
King of Cambodia

Subject: Mr. KHEM VEASNA's complaint.

Reference: Royal message dated March 09, 2005.

Sire,

We have the honor to bring to the Highest Information of Your Majesty that on March 14, 2005, the Constitutional Council received Your Royal Message dated March 09, 2005 enclosing herewith Mr. KHEM VEASNA's complaint of February 26, 2005, and also received his complaint N° 0024 FNMP of February 26, 2005 on March 11, 2005. In its meeting on March 23, 2005, the Constitutional Council found that the complaint sent through Your Majesty and the complaint to the Constitutional Council contained the same substance mixed up with legal and political aspects. The Constitutional Council cannot review the political aspect due to the fact that it is not within its competence.

Concerning the legal aspect, the complaint is related to the establishment of political parties provided for in the Articles 9 and 11 of chapter 2 of the Law on Political Parties, and Registration of Political Parties provided for in the Articles 19, 20, 21, 22, 23, 24, 25, and 26 of chapter 5 on the registration of political parties of this law. Therefore, the concerned parties shall implement the above-mentioned 10 Articles.

The substance of the complaint reveals that the litigation arose after Mr. KHEM VEASNA had received the letter N° 478 I of December 24, 2004 of the Ministry of Interior.

After having examined the file and questioned the two parties, it shows that:

- Mr. KHEM VEASNA had submitted an application for establishment and registration of "the Federation of the Nationalist Movement Party," to the Ministry of Interior through his letter N° 005 FNMP of August 09, 2004 along with his curriculum vitae.

- The Ministry of Interior had replied through its letter N° 083 I of August 21, 2004, that it had received the notification on the establishment of the

Federation of the Nationalist Movement Party, but the Ministry did not permit its creation, for the party had not fulfilled the conditions of the Article 9 of Chapter 2 of the Law on Political Parties requiring at least 80 people having permanent addresses in the Kingdom of Cambodia, and its logo had not been in accordance with the point 3 of the Article 11 of Chapter 2 of the law, (the logo of political parties shall not be copied or reproduced from National Emblem, image representing religion, Angkor temple, royal portrait, or statue of any Khmer King.)

- Mr. KHEM VEASNA had resubmitted the application to establish his party through the letter N° 0013 FNMP of October 21, 2004 along with the curriculum vitae of 7 members.

- The Ministry of Interior by letter N° 328 I of November 10, 2004 responded that Mr. KHEM VEASNA had not yet submitted sufficient documents required by the previous notification.

- Mr. KHEM VEASNA sent the application to establish his party through the letter N° 0014 FNMP of November 22, 2004 along with the logo of the party (rectified) and a list of 80 founding members including their date of birth and their address which is the temporary Headquarter of the party.

- The Ministry of Interior replied by the letter N° 478 I of December 24, 2004, that it had examined the above-mentioned application file and still found irregularities about thumbprints and the address of the 80 founding members. Therefore, the Ministry of Interior did not allow him to establish the party because prior investigation is needed. The Ministry of Interior would notify its decision after the investigation.

Based on paragraph 1 of the Article 9 in chapter 2 on the establishment of political parties, a minimum number of 80 people who are at least 18 years of age and who reside permanently in the Kingdom of Cambodia shall be entitled to establish a political party by simply notifying in writing to the Ministry of Interior, without the requirement for applying for the establishment. The above-mentioned paragraph requires the Ministry of Interior to acknowledge the receipt of the notification in writing in 15 days at the most, without requirement for permission or refusal of the establishment of political parties.

Concerning the address, Mr. KHEM VEASNA mentioned that the Ministry of Interior had insisted on a single family book for all the founding members. But Mr. KHEM VEASNA thought that it was not mandatory to have the family book as demanded by the ministry and he considered that it was a violation of law.

If both parties cannot settle their difference relating to the family book, this legal matter is considered as administrative case which shall be dealt with through courts in conformity with Paragraph 3 of the Article 128N of the Constitution which reads: *“The judiciary power shall cover all lawsuits including administrative ones.”*

The thumbprint matter as raised by Mr. KHEM VEASNA required the investigation on its irregularity by the Ministry of Interior, but Mr. KHEM VEASNA stated that thumbprints are really those of the founding members of the Federation of the Nationalist Movement Party; he also alleged that the

Ministry of Interior did not yet have adequate technical means for the verification.

Mr. LAY VORHARITH, representative of the Ministry of Interior, asserted that, *“The letter N° 015 Iof February 08, 2005 of His Excellency Commissioner General of the National Police, confirmed that after the verification by the Technical Science Department, the 80 thumbprints on the list of the founding members of the Federation of the Nationalist Movement Party were appended by only one person.”*

The difference on the thumbprint matter shall be settled through courts.

Referring to the complaint, the verification of the files and the interrogation of both parties, the Constitutional Council found that both parties had been implementing various procedures for the establishment of political parties required by this Law.

Therefore, the Ministry of Interior has not yet reached the stage of implementing the provisions of the Articles 21, 22, 23, and 24 of the Law on Political Parties which would lead to the agreement or to the refusal of the political party’s registration.

Filing the complaint to the Constitutional Council before the refusal of the political party’s registration by the Ministry of Interior cannot permit the Constitutional Council to review it in conformity with the paragraph 1 of the Article 25 of the Law on Political Parties which stipulates: *“A political party which has been notified by the Ministry of Interior that its registration has been refused, as provided by the Article 24 of this law, shall be entitled to lodge an appeal to the Constitutional Council,”* and point 4 of the Article 26 of the Law on the Organization and the Functioning of the Constitutional Council which states: *“All complaint of a political party contesting the refusal of its registration, this complaint shall be deposited within 5 days from the date of reception of the letter of notification by the Ministry of Interior.”*

We would like to bring to the Highest Information of Your Majesty that we have sent the letter N° 05/2005 CC.I of March 23, 2005 to Mr. KHEM VEASNA, which we would like to request Your High Permission to enclose herewith.

Deign Your Majesty, Sire, accept the expression of our most profound respect.

Phnom Penh. March 23, 2005
For the Constitutional Council
The President
Signed and Sealed

BIN CHHIN