

(Unofficial Translation)  
**Summary of the Decision of the Constitutional Tribunal  
Case Group 2**

Decision no.1-2/2550

Dated 30 May B.E. 2550

Subject: The petition of the Attorney- General to dissolve the Prachatippatai Kao Na Party and the Democrat Party.

The Attorney- General filed a petition to dissolve the Prachatippatai Kao Na Party and the Democrat Party on the grounds of commission of acts that violated Article 66 (2) and (3) of the Organic Act on Political Parties of B.E. 2541. After the consideration of evidence in the enquiring process, the Tribunal has reached a decision as follows:

1. The Election of Members of Parliament and Senators Act B.E. 2541 is still applicable and has not been revoked by Announcement No. 3 of the Council for Democratic Reform unlike the Constitution of the Kingdom of Thailand B.E. 2540.

2. The Registrar of the political parties is able to file this case to the Attorney-General for further submission of the petition to the Constitutional Court without it being considered by the Election Commission. This power is specifically given to the Registrar according to Article 67 of the Political Parties Act.

3. The fact that the Registrar of the political parties filed the petition to dissolve the Democrat Party on account of 8 issues and the Attorney-General further submitted such petition arguing on only four issues, shall be deemed that the Attorney-General has submitted the petition to the Constitutional Court. Accordingly, there is no need to set up a committee to collect the evidence and submit it to the Attorney-General in order to re-submit it to the Constitutional Court for this is not the case where the Attorney- General has not filed the petition to the Constitutional Court under Article 67 paragraph 1 of the Political Parties Act.

4. The fact that the Constitutional Court ruled in its case no. 9/2549 that the general election of the members of Parliament held on 2 April B.E.2549 up until the day of the decision was considered to be an unlawful election under the Constitution of Thailand, has an implication on all activities in relation to the election which falls within the scope of duties of the Election Commission. However, such implication does not give any effect on the nullification or revocation of the commission of acts by the political parties which caused the dissolution of the parties.

As a result, the accusation against the Prachatippatai Kao Na Party, filed by the Attorney-General is not invalid.

5. With respect to the speech given by leader and executive committee members of the Democrat Party in relation to the performance of Pol. Col. Thaksin Shinnawatra while in office as Prime Minister, as having the behavior which can be understood that Pol. Col. Thaksin Shinnawatra and some members of the government have hidden and joint interests, it is thus, by making such public criticism, considered sound because Pol. Col. Thaksin Shinnawatra is the Prime Minister who is a public figure. The speech encouraging people to cast the ballot 'no vote' is a right of the people under the Constitution of the Kingdom of Thailand B.E.2540, Article 326 (4) and the Election of Members of Parliament and Senators Act B.E.2541, Article 56. Thus, this is not considered to be an act of giving false statement or encouraging a misunderstanding of the popularity of Pol. Col. Thaksin, the Party leader, and Thai Rak Thai members who submitted their candidacy for election nor is it considered to be an act of inducing people to cast a 'no vote' for any candidate or party in every constituency.

6. On the accusation that the Democrat Party conspired with Mr. Taksanai Keesun in taking Ms. Nipa Junpo, Ms. Ratchanu Tangsri and Mr. Suwit Ob-oon to apply for membership to the Prachatippatai Kao Na Party and to submit their candidacy for election to the House of Representatives of Trang Province, then held a press conference that the Thai Rak Thai Party hired the said three persons. The Tribunal believes that Mr. Taksanai had taken the three candidates to apply for membership to the said party and to submit their candidacy for election, knowing that these three persons had been members of the Prachatippatai Kao Na Party for less than 90 days. However, Mr. Satit and the Democrat Party did not know nor supported the act done by Mr. Taksanai. The Tribunal does not believe that Mr. Suthep Tueksuban made a press statement to defame the Thai Rak Thai Party in its hiring of these three persons to submit their candidacy for election.

7. On the accusation that the Democrat Party through Mr. Taikorn Polsuwan hired Mr. Watawarit Tantipirom, leader of the Shewitteedekwa Party, to defame Mr. Suwat Lipatapanlop, the executive member of Thai Rak Thai Party, the Tribunal views that such accusation is unjustified; however, it believes that Mr. Taikorn was seeking evidence from Mr. Watawarit because Mr. Taikorn thought that the Thai Rak Thai Party hired smaller parties to contest in the general election.

8. On the accusation that there has been an obstruction by the Democrat Party in submitting candidacy for election of Ms. Pattama Chaikate and colleagues at Songkla Province, the Tribunal believes that

there has been an obstruction. However, it does not believe that the executive members and MPs of the Democrat Party took part in such obstruction.

9. On the accusation that the Prachatippatai Kao Na Party issued the fault affidavit with the knowledge that the said three persons had not been the party members for 90 days in submitting their candidacy for election to the House of Representatives, the Tribunal believes that Miss Issara or Pornnarin Youngprasit, leader of the Prachatippatai Kao Na Party issued the fault affidavit with the knowledge that such three persons had not been the party members for 90 days.

Regarding the revocation of election rights of the executive members of the parties for five years since the day which the court decides that there should be a dissolution of the party, in accordance with the Announcement of the Council for Democratic Reform, No. 27 (3), such revocation is not a criminal sanction but it is a legal measure which resulted from the laws empowering such parties' dissolution if the parties had carried out activities in violation of the Political Parties Act. The objective of this law is to prevent the party's executive directors having caused damages to the country and to the democratic system to have an opportunity to repeat the same commission during such period of time. Even though the right to vote is a basic right in democratic system, it is not prohibited to have the law identifying persons who are entitled to have such right. Thus, in this case, the Announcement of the Council for Democratic Reform can be applied retroactively with this party's dissolution.

The Tribunal has come to the conclusion that the Democrat Party did not commit the act as it had been accused. Therefore, the Tribunal hereby dismisses the case. The Prachatippatai Kao Na Party, however, committed the act as it had been accused. Such act was considered to be against the administrative tradition of the Kingdom of Thailand under the Constitutional Monarchy with the King as Head of State and such act is in violation of the law and good public moral of the people under the Political Parties Act B.E. 2541, Article 66 (2) (3) since the commission of the act lacked good consciousness of the people without paying due regard to the damages and consequences to the country. The Tribunal, therefore, declared to dissolve the Prachatippatai Kao Na Party and withdraw the election rights of the party's executive directors for five years since the issuing date of the dissolution, in accordance with Announcement of the Council for Democratic Reform No. 27 (3).

With the aforementioned reasons, the Tribunal hereby issues the order to dissolve the Prachatippatai Kao Na Party, the 2<sup>nd</sup> accused, under

the Political Parties Act B.E. 2541, Article 67, in conjunction with Article 66(2) and (3), and also to withdraw the election rights of the nine executive directors of the 2<sup>nd</sup> accused, under the announcement of the Political Registrar Re: the Notification of the Establishment of the Prachatippatai Kao Na Party, dated 24 March B.E.2548 for the period of five years from the issuing date of the dissolution and in accordance with Announcement of the Council for Democratic Reform No. 27 (3), dated 30 September B.E. 2549 and dismissed the request to dissolve the Democrats Party, respondent No. 1.

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