



**IN THE NAME OF THE KING**  
**The Constitutional Court**

**Ruling No. 6/2541\***

**Dated 11<sup>th</sup> August B.E. 2541 (1998)**

**Re : Political party registrar's application for an order to dissolve  
Mualchon Party**

.....

The Chairman of the Election Commission as the political party registrar submitted an application dated 22<sup>nd</sup> June B.E. 2541 (1998) stating that on 9<sup>th</sup> June B.E. 2541 (1998), the Leader of Mualchon Party and the Leader of Kwamwangmai Party notified of the amalgamation of Mualchon Party and Kwamwangmai Party which was the principal party. In this amalgamation, the two Parties had fully complied with the Political Parties Act, B.E. 2524 (1981) which was enforceable at the time and was later repealed by the Organic Act on Political Parties, B.E. 2541 (1998) coming into force as from the date of 10<sup>th</sup> June B.E. 2541 (1998). The amalgamation of political parties would not be completed, unless the general meeting of each political party seeking for the amalgamation approved thereof. Accordingly, the extraordinary general meeting of Mualchon Party unanimously resolved the approval of the amalgamation on 10<sup>th</sup> May B.E. 2541 (1998), and the extraordinary general meeting of Kwamwangmai Party unanimously resolved the same on 2<sup>nd</sup> June B.E. 2541 (1998). Section 73 paragraph two the Organic Act on Political Parties, B.E. 2541 (1998) provided that when the general meeting of each political party had approved the amalgamation, the leaders of every political party seeking the amalgamation had to jointly notify such amalgamation to the political party registrar. In this connection, the political party registrar had to proceed with section 65 paragraph two of the said Organic Act, under which the registrar had to submit an application to the Constitutional Court for an order to dissolve a political party intending to be amalgamated with the principal political party within fifteen days as from the date that the amalgamation was appeared to the political party registrar. To be in compliance with section 73 paragraph two as aforesaid, the Chairman of the Election Commission as the political party registrar therefore submitted an application to the Constitutional Court for an order to dissolve Mualchon Party due to being amalgamated with Kwamwangmai Party.

---

\* Published in the Government Gazette, Vol. 115, Part 66a, dated 29<sup>th</sup> September B.E. 2541 (1998)

The Constitutional Court considered the application and supporting evidences and held that the facts were sufficient to accept the case for ruling. Additional opinions or evidences needed not be heard. The preliminary issue to be considered was whether the Constitutional Court had the power to consider and hear this application and whether that the Chairman of the Election Commission as the political party registrar submitted the application to the Constitutional Court for an order to dissolve Mualchon Party under the Organic Act on Political Parties, B.E. 2541 (1998), was deemed as extending the powers of the Constitutional Court from those provided by the Constitution.

The issue according to the application was the request for the dissolution of a political party. As regards this issue, the Constitution provided certain cases where a political party could be dissolved. For example, section 63 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) provided that in the case where a political party exercised the rights or committed an act to overthrow the democratic regime of government with the King as Head of the State or to acquire the power to rule the country by any means which is not in accordance with the modes provided in this Constitution, the Constitutional Court had the power to order the cessation of such act and may order the dissolution of such political party, or section 118 paragraph one subparagraph (9) of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) dealt with the case where membership of a political party was terminated. The problem arose with respect to the proceedings after the Constitutional Court ordered the dissolution of a political party, specifically when considering section 328 being a transitory provision of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) which provided as follows:

“Section 328. In addition to the provisions of this Constitution, the organic law on political parties shall at least contain the following matters as its substance:

(1) the formation of a political party, which shall be carried out by at least not less than fifteen persons, and the entry of the formation of a political party in the Register of Political Parties;

(2) the dissolution of political party; provided that failure of a political party to send candidates to stand for election or to have a member who has been elected in an election shall not be invoked as a ground for the dissolution

etc.”

Under the above mentioned section 328 (2), the Constitutional Court was of the opinion that the Constitution provided that the organic law on political parties had to contain details and rules on the termination, the amalgamation and the dissolution of a political party, and those required by the Constitution were thereafter provided in section 65 of the Organic Act on Political Parties, B.E. 2541 (1998) reading as follows:

“Section 65. A political party is dissolved upon any of the following grounds:

- (1) being under the cases provided by its bylaws;
- (2) having less than fifteen remaining members;
- (3) being dissolved to amalgamate with other political party under chapter 5;
- (4) being dissolved by the order of the Constitutional Court;
- (5) failing to comply with section 25, section 26, section 29, section 35 or section 62.

When it appeared to the Registrar that any political party is under the ground specified in (1), (2), (3) or (5), the Registrar shall submit an application to the Constitutional Court within fifteen days as from the date of the appearance of such ground. When the Constitutional Court considers and is of the opinion that the political party is under the ground being in accordance with the application of the registrar, the Constitutional Court shall order the dissolution of such political party.

etc.”

Apart from the power to order the dissolution of a political party under section 63 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997), the Constitutional Court had the power to do so under section 65 paragraph one subparagraph (4) of the Organic Act on Political Parties, B.E. 2541 (1998). Moreover, the Constitutional Court could order the dissolution of a political party under section 65 paragraph one subparagraph (1), (2), (3) and (5) because they were the matters of dissolving a political party which was similar to the dissolution thereof under section 63 of the Constitution. Above all, section 72 of the Organic Act on Political Parties, B.E. 2541 (1998) provided what a member of the House of Representatives affiliated with the dissolved political party should proceed when such political party was dissolved. This provision of section 72 of the Organic Act was provided in accordance with section 118 (9) of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997). In the past, the Political Parties Act, B.E. 2524 (1981) provided that in the case of the dissolution of a political party, the political party registrar had to submit an application to the Supreme Court for an order of such dissolution. Thereafter, when the Political Parties Act, B.E. 2524 (1981) was repealed, the law provided the power to order the dissolution of a political party to the Constitutional Court. The Constitutional Court was of the opinion that the law conferring such power to the Constitutional Court was the organic law enacted by virtue of section 328 (2) of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997), which it already contained the matter of the termination and the dissolution of a political party. Even though such organic law did not clearly specify that the power to order the dissolution of a political party belonged to the Constitutional Court, it had such power under the Constitution. Accordingly, that the organic law provided the Constitutional Court with the power to order the dissolution of a political party in other cases could not be deemed as conferring the powers apart from those prescribed by the Constitution, because it was only the specific matter of the dissolution of a political party. Therefore, the Constitutional Court held that it had the power to consider the application of the political party registrar under the Organic Act on Political Parties, B.E. 2541 (1998) in the case where the latter submitted an application to the Constitutional Court for an order to dissolve a political party.

As for the issue on whether the case constituted a cause for an order to dissolve Mualchon Party according to the application made by the political party registrar, the Constitutional Court considered the application. It appeared that the extraordinary general meeting of Mualchon Party passed an unanimous resolution approving its amalgamation with Kwamwangmai Party. The extraordinary general meeting of Kwamwangmai Party also passed an unanimous resolution approving that Mualchon Party was amalgamated with itself. Thereafter, the Leaders of Mualchon Party and Kwamwangmai Party jointly notified their amalgamation, which Kwamwangmai Party was the principal party, to the political party registrar on 9<sup>th</sup> June B.E. 2541 (1998). This was to comply with the Political Parties Act, B.E. 2524 (1981). Under this Act, the registrar had to investigate the case and submit an application to the Supreme Court for an order to dissolve Mualchon Party. However, before the registrar had completed the said proceedings, the Organic Act on Political Parties, B.E. 2541 (1998) came into force as from the date of 10<sup>th</sup> June B.E. 2541 (1998). The said Organic Act repealed the Political Parties Act, B.E. 2524 (1981) and as amended. The political party registrar therefore had to proceed with section 73 of the Organic Act on Political Parties, B.E. 2541 (1998) which provided that:

“Section 73. In the case where the amalgamation of political parties is that a political party or political parties be amalgamated with another political party which is the principal party, each political party to be amalgamated shall request for a prior approval from its general meeting.

When the general meeting of each political party has approved the amalgamation, the leaders of every political party seeking the amalgamation shall jointly notify such amalgamation to the political party registrar. The political party registrar shall proceed with section 65 paragraph two for the Constitutional Court to order that the political party intending to be amalgamated with the principal political party be dissolved as from the date the Constitutional Court issues such order, and section 72 shall apply mutatis mutandis.”

After considering the facts as stated in the application and all supporting evidences, it appeared that Mualchon Party and Kwamwangmai Party completely complied with conditions set forth in section 73 of the Organic Act on Political Parties, B.E. 2541 (1998). Moreover, the Leaders of the two Parties jointly notified the amalgamation of their political parties to the political party registrar. The case therefore constituted a cause for the Constitutional Court to order the dissolution of a political party under section 65 paragraph one subparagraph (3) and section 65 paragraph two of the Organic Act on Political Parties, B.E. 2541 (1998).

By reasons stated above, the Constitutional Court ordered the dissolution of Mualchon Party.

---