

Summary of the Constitutional Court Ruling No. 46/2546

Dated 18th November B.E. 2546 (2003)*

Re : The Leader of Chivit Ti Di Kwa Party applied to the Constitutional Court for a ruling under section 33 of the Organic Act on Political Parties, B.E. 2541 (1998).

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1. Background and summarized facts

Chivit Ti Di Kwa Party was acknowledged its establishment as a political party under section 14 of the Organic Act on Political Parties, B.E. 2541 (1998) on 6th October B.E. 2542 (1999). Later on 15th December B.E. 2544 (2001), the Party held the extraordinary general meeting (No. 1/2544) by which the amendment of the Bylaws was approved. The Party notified such amendment to the political party registrar pursuant to section 33 of the Organic Act on Political Parties, B.E. 2541 (1998).

The political party registrar notified in writing to Chivit Ti Di Kwa Party as summarized that, after consideration, the registrar ordered the acknowledgement of the amendment of some provisions of the Party's Bylaws and the denial of acknowledgement of the amendment of others. The acknowledged amended provisions of the Bylaws were article 9, article 19, article 20 paragraph one, article 28, article 31, article 39, article 42, article 47 and article 55. Accordingly, the registrar submitted the notification of such acknowledgement to the Office of the Secretariat of the Council of Ministers to publish such notification in the Government Gazette pursuant to section 33 paragraph four and section 18 of the Organic Act on Political Parties, B.E. 2541 (1998). The provisions of the Bylaws, the amendment of which were not acknowledged, were article 20 paragraph two, article 27, article 29, article 40, article 44 and article 45.

Chivit Ti Di Kwa Party therefore submitted the application to the Constitutional Court under section 33 of the Organic Act on Political Parties, B.E. 2541 (1998) for a ruling that the political party registrar had to acknowledge the amendment of article 20 paragraph two subparagraph (10), article 27, article 29, article 40, article 44 and article 45 of the Bylaws of Chivit Ti Di Kwa Party.

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2. Preliminary issue

Could the Constitutional Court accept this application for consideration?

The Constitutional Court held that where the political party registrar notified the denial of acknowledging the amendments of Chivit Ti Di Kwa Party's Bylaws, the case was then under section 33 paragraph two of the Organic Act on Political Parties, B.E. 2541 (1998) which provided that section 17 of the Organic Act on Political Parties, B.E. 2541 (1998) had to apply *mutatis mutandis*. When the leader of Chivit Ti Di Kwa Party submitted the application to the Constitutional Court for the ruling on the order of the political party registrar, the Court could therefore accept such application of the Party's leader for consideration.

3. The issue considered by the Constitutional Court

The issue under the application to be considered by the Constitutional Court was whether the order of the political party registrar denying the acknowledgement of the amendment of Chivit Ti Di Kwa Party's Bylaws was in compliance with section 33 of the Organic Act on Political Parties, B.E. 2541 (1998).

The Constitutional Court held the following opinion. The political party registrar denied acknowledging the changes of the Bylaws of Chivit Ti Di Kwa Party, i.e. repealing article 20 paragraph two subparagraph (10) which provided that "If two-thirds of the executive committee members vacate offices, the membership of remaining shall also terminate. When a member of the executive committee becomes vacant under subparagraph (1) to subparagraph (7), the Leader of the Party shall appoint an appropriate member thereof to replace his office. But, if the office vacated is that of the Leader of the Party himself, the first deputy leader shall replace his office", amending article 27 which provided that "The executive committee shall have a power to establish political branches in any region or constituency as it think fit. The operation of the election of political branch committees shall be completed within thirty days. Each established political branch should have not less than fifteen members", amending article 29 which provided that "The election of members of a political branch committee shall be held in the general meeting of such political branch. There shall firstly elect the chairman of the political branch followed by other subsequent positions respectively. The nomination of members to be candidates shall be endorsed not less than 5 members. The endorsers and voters shall present in the general meeting of political branch. When all members of the political branch committee have been elected, the leader of the Party shall notify thereof to the political party registrar within fifteen days", amending article 40 which provided that "The quorum of the general meeting of the Party shall consist of at least 30 members under article 39 subparagraph (1) to subparagraph (5) presenting at the meeting", amending article 44 which provided that "The political branch committee shall hold an ordinary general meeting at least once a year. An extraordinary general meeting may be held, when a political branch committee calls the meeting or not less than half of members of the political branch committee existing at the time submit a petition

in writing to the Chairman of the political branch to held the meeting”, and amending article 45 which provided that “The quorum of the general meeting of a political branch shall consist of at least fifteen members of the political branch committee and members of the Party in the region altogether”. Such denial by the political party registrar was important in the light of reflecting the political operation of a political party that have to significantly take into account public participation and participation of its members. Therefore, that the political party registrar denied the acknowledgement of the amendment of Chivit Ti Di Kwa Party’s Bylaws was reasonable under section 10 of the Organic Act on Political Parties, B.E. 2541 (1998) which provided that the bylaws of a political party had not to provoke racial or religious segregation in the nation, endanger the security of the State and be contrary to law, public order or good morals, democratic regime of government with the King as Head of the State under the Constitution. The case therefore fell within section 33 of the Organic Act on Political Parties, B.E. 2541 (1998).

4. Ruling of the Constitutional Court

The Constitutional Court ruled that the order of the political party registrar denying the acknowledgement of the amendment of article 20 paragraph two, article 27, article 29, article 40, article 44 and article 45 of the Bylaws of Chivit Ti Di Kwa Party was in compliance with section 33 of the Organic Act on Political Parties, B.E. 2541 (1998).
