

Thailand:

Dissolution of the ruling party rejected – Government crisis is not solved

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On November 29th 2010, the Constitutional Court of Thailand made an initial ruling at the request of the Election Commission concerning the dissolution of the Democrat Party (DP) of Prime Minister Abhisit Vejjajiva. The request was rejected on formal reasons. The parliamentary opposition was not surprised by this judgment. They accused the judges of a lack of impartiality. However, the Democrat Party can only relax for a short time because of the upcoming decision in a second case, which could also result in the dissolution of the ruling party.

Reproaches and manipulation from all sides

The case, decided on November 29th 2010, related to the accusation of incorrect use of state funds. The DP got 29 million Bath (about 725 000 Euro) from the Election Commission for election campaigning. Supposedly, these funds were not used for the campaign to the election of the parliament on April 2nd 2005, but paid indirectly and illegally to Members of Parliament and party members. Therefore the Constitutional Court had to examine a possible violation of the Electoral Law.

This case was not an easy one for the original nine judges. Three of them were recused in the course of the proceedings. Some of the Constitutional Court Judges received anonymous death threats should they decide in favour of

the DP. As a result, security measures for these judges were significantly tightened.

Furthermore, videos were published on YouTube on October 14th 2010. They show judges apparently discussing how they could act to favour the DP. The authenticity of the videos has been contested by the judges and the DP. But they are intended to defame the judges in public and put the independence of the court into question. The spokesman of the Puea Thai Party (PTP), the most important opposition party, presented the videos at a press conference and demanded the exclusion of these three judges.

Verdict of the Constitutional Court

The verdict of the highest court in Thailand in this case, which had already lasted for 20 months, was tensely awaited. It was not merely a question of whether the DP violated the Electoral Law. The result of a conviction would involve the dissolution of the party along with the likely prohibition of the former party leadership of 2005 from taking part in politics for five years. This would affect ten cabinet members of the current government, including the Prime Minister himself and one of his deputies.

First the court had to decide what legal basis to use, since the Political Parties Act of 1998 had been replaced in 2007. This was important because under the new law the legal consequences of a violation have become more serious. The judges decided to judge this case on the basis of both versions of the Political Parties Act. While the legal questions with regards to content were to be decided with the law of 1998, the law of 2007 was relevant for the rules of procedure.

On Monday, November 29th 2010, at 2 pm the judges started to read out the verdict. Previously final statements were given by the Election Commission and the DP. On behalf of the DP, principal adviser and former two times Prime Minister, Chuan Leekpai, gave an impressive 75 minute speech. The judges rejected the request of the Election Commission for dissolution of the Democrat Party in a four to two decision.

The judges based their decision on the violation by the Election Commission of several rules of procedures in proceeding and transferring the case to the Constitutional Court. In particular, a 15 day deadline to prosecute the DP after the accusations became known had not been kept by the Election Commission. Additionally, the judges didn't interpret the report of the chairman of the Election Commission as official, but as a personal opinion. The court didn't deal with aspects of the prosecution relating to content.



Prime Minister Abhisit Vejjajiva

Relevance of the verdict

The oldest party of Thailand (64 years old) escaped the dissolution by a close shave. The government can remain in power for the present and can continue with its work. The crisis in the DP, as well as questions concerning the future of Prime Minister Abhisit Vejjajiva, has not been solved by this verdict.

Just one day after the verdict, there was a small demonstration of 50 black clad anti-government protesters in front of the building of the Constitutional Court. Further protests by the "Red Shirts", the non-parliamentary opposition, can not be excluded. The "Red Shirts" feel particularly hard done by the justice system, since parties associated with them have already been dissolved twice, although in their opinion the same 15 day deadline had also been overstepped. However, these cases didn't concern a violation of the Political Parties Law, but rather electoral fraud. That's why the judges had to deal with them in a different way.

The parliamentary opposition, the Puea Thai Party (PTP), supports the protesters. For the

PTP this verdict represents a further splitting of Thai society and is proof of the existence of a "double standard" of justice. The PTP wants to act politically against it. This could lead to bigger demonstrations and more political trouble. Also new riots are not excluded. For December 10th and 11th 2010, the "Red Shirts" have announced a demonstration in Bangkok to commemorate the victims of the protests from March to May 2010.

Furthermore, the Constitutional Court is now under very strong pressure. There is a growing impression that the justice system is not independent but exercises political influence on behalf of the government. In first reactions, the opposition expressed disappointment at this verdict, but not surprise. Chalerm Yubamrung, chairman of the PTP, announced the intention to initiate impeachment proceedings against the four judges who voted against the dissolution of the DP. In addition, he held the chairman of the Election Commission personally responsible for the rejection of the suit and demanded his resignation. But a further suit for the dissolution of the DP is not planned, a spokesman of the PTP said on December 1st 2010.

The second case

In a second case, the DP is accused of not declaring to the Election Commission a donation from a company of about 258 million Bath (about 6.45 million Euro). This is mandatory according to Electoral Law. In addition, it is alleged this money was not used for the election campaign, but paid instead to private people. Furthermore, it seems that the complete board of the company was not informed about this donation to the DP. That is why the governing party is not only exposed to the reproach of a violation of the Electoral Law, but also to carrying out an illegal financial transaction.

The verdict of the Constitutional Court in this second case could come as early as December

2010. It seems no further official hearings are planned. Since this case is based on other legal principles, there is no deadline. A dissolving of the DP is again possible. It is possible that the parliamentary election scheduled for the end of 2011 may have to be postponed. However, in this case Prime Minister Abhisit Vejjajiva is not involved personally, only his party.

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