

1 June 1995

Dear Mr. Rainsy,

Thank you for your fax letter of 25 May, 1995, with attachments.

I am grateful for the clarification you have provided relating to the use of the word 'dismissal' in the English version of Article 95 of the Cambodian Constitution vis-a-vis the French and the official Khmer versions of the same.

The circumstances in which a member of the National Assembly may be replaced are specified in Article 95 of the Constitution. Such replacement other than in the case of death or resignation would be if he were to 'lose' or 'abandon de la qualite de membre' (relinquish the attributes of a member).

It is opined

- (a) that the circumstances in which a member of the National Assembly may be replaced due to 'loss'/'abandon de la qualite de membre' are specified in Principle 83 of the Internal Rules of Procedure (IRP), namely 'abandon of work for three months without permission';
- (b) that the words 'otherwise becomes unable to serve as a member during the term of the Assembly' in Article 78(2) of the Electoral Law be read in conjunction with Article 95 of the Cambodian Constitution and Principle 83 of the IRP;
- (c) from the excerpts of the English translation of the IRP you have provided that the word 'dismissal' though mentioned, relates to dismissal for a while (vide Principles 72, 73, 78 and 79).

Thus, dismissal or expulsion (due to expulsion from the Party or otherwise) does not appear to be specifically provided for either in the Constitution, the IRP or the Electoral Law. In the absence of such provisions, it is opined that a member of the National Assembly cannot be expelled from the National Assembly unless specific legislation is adopted in this regard in accordance with the relevant provisions of the Constitution (vide Articles 91, 92 and 93).

Regarding Article 77 of the Constitution it would appear that

it emphasises the representative nature of the members of the National Assembly and the fact that such representation overrides any prior existing obligation.

With best wishes,

Former senior advisor  
and legal expert  
to Mr. AKASHI, former head of UNTAC

Sincerely yours,

V. Krishnadasan  
V. Krishnadasan