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Matt,  
File

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CONFIDENTIAL

Geneva, 20 June 1995

Dear Mr. President,

On behalf of the Chairperson of the Committee on the Human Rights of Parliamentarians and myself I wish to express our sincere gratitude for having seen to it that a copy of your statement regarding the case of MP Sam Rainsy, of which the Committee on the Human Rights of Parliamentarians has been seized, was conveyed to this Office. I shall not fail to bring it to the attention of the members of the Committee on the Human Rights of Parliamentarians at their forthcoming session (11-14 July 1995) in Geneva. The Committee will certainly be interested to know the National Assembly's final decision regarding the situation of Mr. Rainsy.

May I take this opportunity to inform you that, in response to the requests for information regarding the situation of MP Sam Rainsy which we addressed to you on behalf of the Committee, the President of FUNCIFEC, Mr. Norodom Ranariddh conveyed to this Office a message from Cambodian parliamentarians containing the elements on which the demand for Mr. Rainsy's expulsion from Parliament was based. The message was undated and did not bear any signatures.

In conformity with the Committee's Procedure of cross-checking all allegations received, the information contained in that document was brought to the attention of the source of communication which submitted the following observations thereon to the Committee:

1. *In response to the argument that the Cambodian electoral system as well as the Cambodian electoral law provide for a loss of parliamentary mandate in the case of a loss of party membership, the source conveyed several statements on this question, in particular a statement by Mr. Reginald Austin, former head of UNTAC's electoral unit responsible for the elaboration of the relevant Cambodian laws. All statements conclude that nothing in Cambodian national law or international law indicates that an MP can be replaced by virtue of the exercise of the will of a third person - the party or anyone else.*

Mr. Chea Sim  
President of the National Assembly of Cambodia  
PHNOM PENH  
Cambodia.

2. *In response to the argument that the case of Mr. Yang Sem was a precedent since he had lost his parliamentary mandate due to his expulsion from his party, the source indicated that FUNCIPPEC had requested UNTAC to remove Mr. Sem from the electoral list shortly before the elections since he himself had resigned from the party. It was only due to UNTAC's failure to make the correction in time that Mr. Sem was declared elected, an error which was remedied immediately after the elections. In this respect, the source also indicates that Mr. Sem never took up his functions as MP, knowing that he had no right to do so.*
3. *In response to the argument that several parliamentarians have already been replaced in conformity with Article 78, para. 2 of the electoral law of 1992, the source points out that the MPs in question had resigned voluntarily and that their cases therefore could not be compared with that of Mr. Rainsy.*
4. *In response to the argument that party members are subordinated to their party, that they consequently have to be loyal, that is to say refrain from criticizing the party leadership and that a failure to respect that rule entails revocation of the parliamentary mandate, the source replies that a candidate once elected becomes a representative of the people. The source points out that Article 77 of the Constitution expressly stipulates that "any imperative mandate is nullified" which means that the Constitution does not admit any subordination of legislators to their constituents or to party programmes and party discipline.*

Furthermore, I wish to inform you that according to the source, Mr. Rainsy's fax and telephone lines were cut recently without any appropriate administrative or judicial decision having been taken.

As I have stressed in my previous letters, the Committee on the Human Rights of Parliamentarians deems it essential to obtain the observations and comments of the authorities on all information received. May I therefore invite you as President of the National Assembly kindly to convey to the Committee your views on the matter. As you are aware, the Committee will examine Mr. Rainsy's case at its forthcoming session to be held from 11 to 14 July at the Union's headquarters in Geneva. I would therefore be most grateful if you could convey your observations as soon as possible so that the Committee may take a decision in full knowledge of the facts.

Looking forward to hearing from you and thanking you in advance for your kind co-operation, I remain,

Yours respectfully,



Pierre Cornillon  
Secretary General