



No. 52101/258

PERMANENT MISSION OF THAILAND
GENEVA

2 August B.E. 2567 (2024)

Dear Sir and Madam,

With reference to the joint communication ref. AL THA 5/2024 dated 30 April 2024 concerning the legal petition by Thailand's Election Commission to dissolve the Move Forward Party and our Note Ref. 52101/142 dated 1 May 2024 acknowledging receipt of the said joint communication, I have the honour to transmit herewith the response concerning the aforementioned case compiled by the Ministry of Foreign Affairs. I hope that the response will provide you with more information and clarification concerning the alleged case.

In reassuring you of Thailand's continued commitment to cooperating with all Special Procedures under the Human Rights Council to promote and protect the human rights of all people, I remain,

Yours sincerely,

(Usana Berananda)

Ambassador and Permanent Representative

Ms. Irene Khan,

Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression;

Mr. Clément Nyaletsossi Voule,

Special Rapporteur on the rights to freedom of peaceful assembly and of association,
Office of the United Nations High Commissioner for Human Rights,
GENEVA.

**Thailand's response to joint communication
ref. AL THA 5/2024 dated 30 April 2024**

- 1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.**
- On 31 January 2024, the Thai Constitutional Court unanimously ruled that the actions carried out by Mr. Pita and the Move Forward Party (MFP), including the campaign calling for the amendment of Section 112 of the Criminal Code, were in violation of Section 49 of the Constitution¹ and tantamount to an organized and systematic attempt leading to the overthrow of Thailand's democratic system of governance with the King as Head of State. The Court thus ordered Mr. Pita and the MFP to cease the articulation of views, speech, writing, publishing, advertisement or communication through other ways aimed at abolishing or pursuing amendments to the said law through means other than or inconsistent with the appropriate legislative processes. The Thai Constitutional Court took many months to deliberate the case and sought the views of key academic, legal and human rights experts as well as government agencies with experience with such cases, in addition to the full testimonies of the accused.
 - Based on the Constitutional Court's verdict, on 12 March 2024, the Election Commission of Thailand filed a petition with the Constitutional Court to dissolve the MFP. The petition was filed in accordance with Section 92 (1), Section 92(2) of the Organic Act on Political Parties B.E. 2560 (2017)².
 - On 3 April 2024, the Constitutional Court accepted for hearing, the petition filed by the Election Commission for the dissolution of the MFP. The MFP then filed the statement to defend the case, after 4 rounds of 15-day extension.
 - After rounds of deliberations, the Constitutional Court has now set the date for decision on 7 August 2024.
 - The Thai constitutional Court is independent and represents one of the pillars of democracy founded on checks and balances. The decision will be made in accordance with established law and the Constitution. Pending the decision of the Court, Mr. Pita and members of the MFP are free to continue to perform their regular duties as MPs.

¹ Section 49 of the Constitution provides that "No person shall exercise the rights or liberties to overthrow the democratic regime of the government with the King as Head of State.

² Section 92 of the Organic Act on Political Parties provides that "The Commission, when having believable evidence that any political party performed any of the following actions, shall file a petition to the Constitutional Court to dissolve such political party.

(1) To overthrow the democratic form of government with the King as head of state or to perform any action to get the power to govern the country by any means that are not in the due process of law as prescribed in the Constitution.

(2) To perform any action that may be adverse to the democratic form of government with the King as head of State.

2. Please outline the legal basis explaining how the MFP's pledge to reform the royal defamation law, article 112 (lèse-majesté) of the Criminal Code was unlawful, and explain how this is in line with Thailand's obligations under international human rights law.

- The Constitutional Court ruled that the actions carried out by Mr. Pita and the MFP, including the campaign calling for the amendment of Section 112 of the Criminal Code, were in violation of **Section 49 of the Constitution**, which provides that "No person shall exercise the rights or liberties to overthrow the democratic regime of the government with the King as Head of State."
- As a party to the **International Covenant on Civil and Political Rights (ICCPR)**, Thailand reiterates its commitments under its international obligations to protect human rights and assure its citizens enjoy their rights to freedom of expression and of peaceful assembly. These rights are guaranteed by the Thai Constitution and include participation in public affairs and discussion and debate on various aspects related to the monarchy, so long as the exercise of such rights is within the bounds of the law. It is also important to note that **Article 19(3) of the ICCPR** states that the right to freedom of expression carries with it, duties and responsibilities particularly in relation to the reputation of others and to the protection of public order and national security. In addition, **Article 21** provides for situations where restrictions may be placed on the exercise of the right to peaceful assembly, in particular in relation to national security, public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

3. Please indicate what measures your Excellency's Government has taken in order to bring lèse-majesté legislation into compliance with international human rights law standards, including its obligations as signatory of the ICCPR.

- The purpose of **the lèse-majesté law**, enshrined in Section 112 of the Thai Criminal Code, is not solely to protect the Monarch, Queen or Heir apparent as an individual in the same way defamation law does for all citizens. As Thailand is a constitutional monarchy, the Section also protects the institution of the monarchy as one of the main pillars of the nation for the Thai people. Therefore, the law is also intended to uphold public order and national security, which warrants severe penalties, once thoroughly considered.
- The Thai Government underlines that all legal proceedings carefully follow **stepped procedures**. After law enforcement officials investigate any reported incidents, a specific Committee designated for cases concerning national security considers and determines if the action in question meets the criteria of Section 112. If the Committee decides to pursue the case, the final decision whether or not to submit the case to the court still rests with the Attorney General.

4. In the aftermath of the 2023 general election, when the MFP was blocked from forming a government after emerging as the largest party, please outline how your Excellency's Government will ensure respect for freedom of association and freedom of expression.

- The rights to **freedom of expression, association and peaceful assembly** are **guaranteed by the Constitution** of the Kingdom of Thailand B.E. 2560 (2017), Sections 34, 42 and 44 respectively.³ In addition, **freedom to form a political party** is guaranteed under Section 45 of the Constitution.⁴
- Furthermore, Section 124 also states that “at a sitting of the House of Representatives or the Senate or at a joint sitting of the National Assembly, words expressed in giving statements of fact or opinions or in casting the votes by any member are absolutely privileged. No charge or action in any manner whatsoever shall be brought against such member.”

5. Please outline the steps taken by your Excellency's Government to ensure that the fundamental principles of freedom of opinion and expression, freedom of association are guaranteed to all, including opposition politicians and those who are critical of the monarchy and call for democratic reforms.

- *(Same as the last bullet of the response to No. 2)*
- *(Same as the last bullet of the response to No. 3)*

³ *Section 34* : A person shall enjoy the **liberty to express opinions**, make speeches, write, print, publicise and express by other means. The restriction of such liberty shall not be imposed, except by virtue of the provisions of law specifically enacted for the purpose of maintaining the security of State, protecting the rights or liberties of other persons, maintaining public order or good morals, or protecting the health of the people.

Section 42 : A person shall enjoy the **liberty to united and form an association**, co-operative, union, organisation, community, or any other group.

The restriction of such liberty under paragraph one shall not be imposed except by virtue of a provision of law enacted for the purpose of protecting public interest, for maintaining public order or good morals, or for preventing or eliminating barriers or monopoly.

Section 44 : A person shall enjoy the **liberty to assemble peacefully and without arms**.

The restriction of such liberty under paragraph one shall not be imposed except by virtue of a provision of law enacted for the purpose of maintaining security of the State, public safety, public order or good morals, or for protecting the rights or liberties of other persons.

⁴ *Section 45* : states that “A person shall enjoy the liberty to unite and form a political party under the democratic regime of government with the King as Head of State, as provided by law.”