

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Civil Jurisdiction)

Constitutional Case No.10 of 2011

BETWEEN: HON. MAXIME CARLOT KORMAN,
Applicant

AND: THE PARLIAMENT OF THE
REPUBLIC OF VANUATU
First Respondent

AND: THE REPUBLIC OF VANUATU
Second Respondent

Coram: V. Lunabek CJ

Counsel: Mr Edward Nalyal for the Applicant
Mr Frederick Gilu for the First and Second Respondents

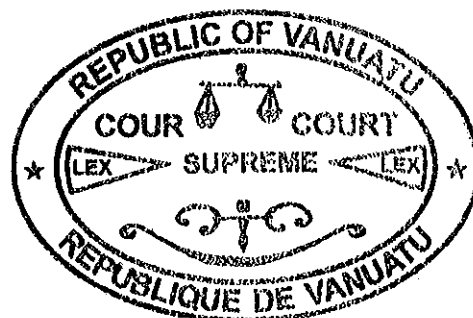
**REASONS FOR ORDER 8 OF
JUDGMENTS DATED 23 - 25 NOVEMBER 2011**

On 23 November 2011, the Supreme Court issued the reasons of its judgment in the Constitutional Case No.10 of 2011 and issued the Declarations and Orders sought by the Applicant against the First and Second Respondents, save Order 8 of the said Judgment of 23 November 2011.

At Point 8 of the Declarations and Orders, the Applicant sought the following order:

"8. An order that Parliament and the Republic of Vanuatu forthwith reinstate all monetary entitlements of Maxime Carlot Korman including, but not limited, to salary, allowances, gratuities, and MP allocations and pay immediately any accrued since the 9th September 2011 to the Applicant."

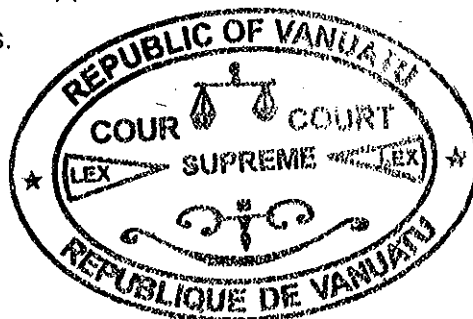
On 23 November 2011, the Supreme Court **reserved** any Declaration or Order sought by the Applicant in Point 8 as referred to above **pending** further submissions by both counsel as to the consequences of the suspension of the Applicant by Parliament on 9 September 2011 in light of the Declarations 6 and 7 of the Declarations and Orders of the Supreme Court made on 23 November 2011. Further submissions were required and provided by both counsel on 25 November 2011.



On 25 November 2011, Counsel for the First and Second Respondents concedes and accepts the submissions of the Applicant in relation to Point 8 of the Declarations and Orders sought by the Applicant which are accepted also by the Court as follows:

1. The election of Maxime Carlot Korman as a Member of Parliament (MP) has not been cancelled or annulled.
2. The Applicant has only been suspended from attending Parliament – He may be deprived of sitting allowances but he cannot be deprived of his entitlements as an elected Member of Parliament. Save for his sitting allowances, all entitlements of the Applicant as an elected Member of Parliament (MP) must be reinstated or continued to be paid to him.
3. Parliament Resolution 2 of 9 September 2011 suspending the Applicant did not provide that the Applicant would not receive his entitlements as an elected MP.
4. Parliament and the Republic of Vanuatu (First and Second Respondents) have accepted that the Applicant is entitled to his salary, MP allocation and other entitlements and are continuing to pay him the same (see sworn statement of Tony Amos Sewen, Acting Director of Department of Finance in support).
5. Declaration 6 of the Court's judgment dated 23 November 2011, makes it unconstitutional for Parliament to order the Applicant to pay legal costs on matters adjudicated by the Courts against the Applicant.
6. Declaration 7 of the Court's judgment dated 23 November 2011, makes it unconstitutional for Parliament to attempt to deduct the Applicant's entitlements.
7. There is a serious argument that to remove the Applicant's entitlements as an MP would effectively nullify his election as an MP and the constitutionality of such a removal of the entitlements of an MP and in this case the Applicant is questionable.

On the basis of the above, both counsel agree for the Court to issue an order by consent that save for the sitting allowances, the Applicant is entitled to his salaries, gratuities, touring allowance and MP allocations.



The Court, therefore, issues the following Order by Consent which is ORDER 8 of the Declarations and Orders made by the Supreme Court on 23 November 2011:

ORDER BY CONSENT

IT IS ORDERED BY CONSENT THAT, save for sitting allowances, the Parliament and the Republic of Vanuatu forthwith reinstate all monetary entitlements of Maxime Carlot Korman including his salaries, gratuities, MP Touring allowances and MP allocations and pay immediately any accrued since the 9th September 2011 to the Applicant.

DATED at Port-Vila this 25th day of November 2011

BY THE COURT



Vincent LUNABEK
Chief Justice

