

● Exercising rights in the Constitutional Court

The Constitution of the Kingdom of Thailand B.E. 2550 (2007) provides that the Courts of Justice, Administrative Courts, Military Court, constitutional organs, holder of certain important political positions, members of the House of Representatives, senators, Attorney-General and persons whose rights and liberties have been infringed have the right to file an application with the Constitutional Court for a ruling or order in accordance with one of the procedures and conditions stated in the following table:

Issues	Eligible Applicant(s)	Procedures and Conditions
<p>1. Constitutional review of provisions of law and rules of procedure of the legislature prior to promulgation:</p> <p>(1) constitutional review of an organic bill (section 141);</p>	<p>President of the National Assembly</p>	<ul style="list-style-type: none"> - All organic bills approved by the National Assembly, prior to presentation to the King for royal assent, shall be sent to the Constitutional Court for constitutional review. - The Constitutional Court shall complete its consideration within thirty days as from the receipt date of the matter.
<p>(2) constitutional review of a bill of law (section 154);</p>	<ul style="list-style-type: none"> - President of the House of Representatives; - President of the Senate; - President of the National Assembly; - Prime Minister. 	<ul style="list-style-type: none"> - Bill approved by the National Assembly but prior to the Prime Minister's presentation to the King for royal assent. - Members of the House of Representatives, senators or members of both Houses constituting no fewer than one-tenth of the existing members of both Houses finding that such a bill contains provisions which are contrary to or inconsistent with the Constitution, or has been enacted inconsistently with the provisions of the Constitution shall submit an opinion to the President of the House of Representatives, President of the Senate or President of the National Assembly, as the case may be, and the President of the House receiving such an opinion shall refer the opinion to the Constitutional Court for ruling as well as notify the Prime Minister without delay.

Issues	Eligible Applicant(s)	Procedures and Conditions
		<ul style="list-style-type: none"> - In the case where the Prime Minister finds that such bill contains provisions which are contrary to or inconsistent with the Constitution, or has been enacted inconsistently with provisions of the Constitution, such opinion shall be sent to the Constitutional Court for ruling and the President of the House of Representatives and President of the Senate shall be notified without delay. While pending review by the Constitutional Court, the Prime Minister shall suspend proceedings to promulgate the bill until the Constitutional Court passes a ruling.
<p>(3) ruling on whether or not the principle of a bill or organic bill is the same as or similar to a bill that must be withheld (section 149 paragraph two and section 140 paragraph two in conjunction with section 149 paragraph two);</p>	<ul style="list-style-type: none"> - President of the House of Representatives. - President of the Senate 	<ul style="list-style-type: none"> - The bill or organic bill is sent to the Constitutional Court for ruling. If the Constitutional Court finds that the principle is the same as or similar to a bill that must be withheld, the bill will lapse.
<p>(4) constitutional review of draft rules of procedure of the legislature (section 155).</p>	<ul style="list-style-type: none"> - President of the House of Representatives. - President of the Senate. - President of the National Assembly 	<ul style="list-style-type: none"> - In the case where members of the House of Representatives, senators or members of both Houses constituting no fewer than one-tenth the total number of existing members finds that the draft meeting rules of the House of Representatives, draft meeting rules of the Senate and draft meeting rules of

Issues	Eligible Applicant(s)	Procedures and Conditions
		<p>the National Assembly approved by the House of Representatives, Senate or National Assembly, as the case may be, prior to publication in the Government Gazette, contains provisions which are contrary to or inconsistent with the Constitution, or has been enacted inconsistently with provisions of the Constitution, an opinion shall be submitted to the President of the House of Representatives, President of the Senate or President of the National Assembly, as the case may be. The President of the House receiving such an opinion shall refer the opinion to the Constitutional Court for ruling.</p>
<p>2. Constitutional review of provisions of promulgated laws: (1) ruling on whether or not a provision of law to be applied in a case is contrary to or inconsistent with the Constitution (section 211);</p>	<ul style="list-style-type: none"> - Courts of Justice. - Administrative Courts. - Military Court. 	<ul style="list-style-type: none"> - The court finds on its own accord or a party objects with reasons that a provision of law to be applied in a case is contrary to or inconsistent with the Constitution. - The case must have already arisen in the court and the court is required to apply the law which is contrary to or inconsistent with the Constitution to the case. - The law has the force of an Act, i.e. includes Emergency Decrees and Organic Acts. - There has not yet been a ruling of the Constitutional Court on such provision. - The party's objection contains

Issues	Eligible Applicant(s)	Procedures and Conditions
		substances which merit a ruling. - The opinion shall be sent to the Constitutional Court for ruling. - The court may continue with the proceedings, subject to a temporary stay until the Constitutional Court passes a ruling.
(2) constitutional review of a provision of law submitted by the Ombudsman (section 245(1));	- Ombudsman.	- The matter is submitted together with an opinion that a provision of law raises a question of constitutionality. - Rules and procedures are as provided by the Organic Act on Constitutional Court Procedures (Rules of the Constitutional Court on Procedures and Ruling B.E. 2550 (2007)).
(3) constitutional review of a provision of law submitted by the National Human Rights Commission (section 257 paragraph one subparagraph (2));	- National Human Rights Commission.	- The matter is submitted together with an opinion that a provision of law affects human rights and raises a question of constitutionality. - Rules and procedures are as provided by the Organic Act on Constitutional Court Procedures (Rules of the Constitutional Court on Procedures and Ruling B.E. 2550 (2007)).
(4) ruling on whether or not a provision of law is contrary to or inconsistent with the Constitution pursuant to the application of a person whose rights and liberties has been violated (section 212).	- A person whose rights and liberties recognized by the Constitution has been violated.	- A person whose rights and liberties recognized by the Constitution has been violated may file an application with the Constitutional Court for a ruling that a provision of law is contrary to or inconsistent with the Constitution. - The exercise of rights in this case must be a case where the exercise of rights by other means has been exhausted, pursuant to section 211, section 245(1)

Issues	Eligible Applicant(s)	Procedures and Conditions
		and section 257 paragraph one subparagraph (2) of the Constitution.
<p>3. Constitutional review of the conditions for enacting an Emergency Decree (section 185).</p>	<ul style="list-style-type: none"> - President of the House of Representatives. - President of the Senate. 	<ul style="list-style-type: none"> - Members of the House of Representatives or senators constituting no fewer than one-fifth of the total number of existing members in each House have the right to enter their signatures in an opinion submitted to the President of the House of membership that an Emergency Decree is not consistent with section 184 paragraph one or paragraph two. - The President of such House shall send the opinion to the Constitutional Court for ruling within thirty days as from the receipt date of the opinion. - The President of such House shall suspend the consideration of such Emergency Decree until notice of a ruling of the Constitutional Court.
<p>4. Ruling on constitutionality in the case where a member of the House of Representatives, senator or committee member commits an act in order to obtain a direct or indirect participation in the expenditure of budgetary appropriations (section 168 paragraph seven).</p>	<ul style="list-style-type: none"> - Members of the House of Representatives. - Senators. 	<ul style="list-style-type: none"> - In the case where members of the House of Representatives or senators constituting no fewer than one-tenth of the total number of existing members of the respective House find that an act results in a member of the House of Representatives, senator or committee member having a direct or indirect participation in the expenditure of budgetary appropriations, an opinion shall be submitted to the Constitutional Court for ruling. - The Constitutional Court must complete its ruling within seven days as from the receipt date of the opinion.

Issues	Eligible Applicant(s)	Procedures and Conditions
<p>5. Ruling on a question arising from conflicts between the powers and duties of the National Assembly, Council of Ministers or other constitutional organs (section 214).</p>	<ul style="list-style-type: none"> - President of the National Assembly. - Council of Ministers. - Chairperson of a constitutional organ. 	<ul style="list-style-type: none"> - An organ which is eligible to file an application must be a constitutional organ established by and having powers and duties under the Constitution. - A question concerning a constitutional organ must be a case on a conflict of powers and duties and a question on the powers and duties has already arisen, not being a consultation or advice-seeking nature.
<p>6. Ruling on the protection of democratic principles in the political party and the preservation of the democratic form of government with the King as head of state:</p> <p>(1) ruling on whether or not a resolution or political party rule is inconsistent with the status and performance of functions of a member of the House of Representatives, or contrary to or inconsistent with the fundamental principles of the democratic form of government with the King as head of state (section 65).</p>	<ul style="list-style-type: none"> - Members of the House of Representatives. 	<ul style="list-style-type: none"> - Members of the House of Representatives who are political party members, political party executives or members of a political party in the number prescribed by the Organic Act on Political Parties have the right to file an application with the Constitutional Court for ruling. - This is a case where there is an opinion that a resolution or political party rule on any matter is inconsistent with the status and performance of functions of a member of the House of Representatives, or contrary to or inconsistent with the fundamental principle of the democratic form of government with the King as head of state.

Issues	Eligible Applicant(s)	Procedures and Conditions
<p>(2) hearing an appeal of a member of the House of Representatives whose membership of the political party has been terminated by resolution of the political party (section 106(7));</p>	<ul style="list-style-type: none"> - Members of the House of Representatives. 	<ul style="list-style-type: none"> - A member of the House of Representatives whose political party membership has been terminated by resolution of the political party may appeal to the Constitutional Court within thirty days as from the date of such political party resolution objecting that such resolution has the characteristics stated under section 65 paragraph three. - If the Constitutional Court finds that such resolution does not have the characteristics under section 65 paragraph three, it shall be deemed that membership terminated as from the date of Constitutional Court ruling. - However, if the Constitutional Court finds that such resolution has the characteristics under section 65 paragraph three, such member of the House of Representatives may become a member of another political party within thirty days as from the date of Constitutional Court ruling.
<p>(3) ruling on the unconstitutional exercise of political rights and liberties by a person or political party (section 68 and section 237);</p>	<ul style="list-style-type: none"> - Attorney-General. - People. 	<ul style="list-style-type: none"> - A person who is aware of such act has the right to submit the matter to the Attorney-General for a factual investigation and filing of an application with the Constitutional Court for an injunctive ruling or dissolution order against such political party. - Upon a dissolution order against such political party, the election rights of the political party leader and executives of the dissolved political party that had committed the wrongful act are revoked

Issues	Eligible Applicant(s)	Procedures and Conditions
		<p>for a period of five years as from the date of Constitutional Court order.</p> <ul style="list-style-type: none"> - The above constitutional proceedings do not prejudice criminal actions against such offenders.
<p>7. Ruling on the membership or qualifications of a member of the National Assembly, Minister and Election Commissioner:</p> <p>(1) ruling on the membership of a member of the House of Representatives or Senate (section 91);</p>	<ul style="list-style-type: none"> - President of the House of Representatives; - President of the Senate. 	<ul style="list-style-type: none"> - Members of the House of Representatives or senators constituting no fewer than one-tenth of the total number of existing members of the respective House have the right to enter their names in a motion to the President of the House of membership that the membership of a member has terminated under section 106 subsections (3), (4), (5), (6), (7), (8), (10) or (11) or section 119 subsections (3), (4), (5), (7) or (8), as the case may be, and the President of the House receiving the motion shall refer the matter to the Constitutional Court for ruling. - In the case where the Election Commission finds that the membership of a member of the House of Representatives or senator has terminated under section 106 subsections (3), (4), (5), (6), (7), (8), (10) or (11) or section 119 subsections (3), (4), (5), (7) or (8), as the case may be, the matter shall be submitted to the President of the House of membership

Issues	Eligible Applicant(s)	Procedures and Conditions
		of such person and such President of the House shall refer the matter to the Constitutional Court for ruling.
(2) ruling on whether or not the office of a Minister has terminated (section 182 in conjunction with section 91 and section 92);	<ul style="list-style-type: none"> - President of the House of Representatives. - President of the Senate. - Election Commission. 	<ul style="list-style-type: none"> - Members of the House of Representatives or senators constituting no fewer than one-tenth of the total number of existing members of each House have the right to enter their names in a motion to the President of the respective House of membership that the office of a Minister has terminated under section 182 subsections (2), (3), (5) or (7). The President of the House receiving the motion shall refer the matter to the Constitutional Court for ruling. - In the case where the Election Commission finds that the office of a Minister has terminated under section 182 subsections (2), (3), (5) or (7), the matter may be referred to the Constitutional Court for ruling.
(3) ruling on whether or not an Election Commissioner lacks a qualification or is under a prohibition (section 233).	<ul style="list-style-type: none"> - President of the National Assembly. 	<ul style="list-style-type: none"> - Members of the House of Representatives or senators or members of both Houses constituting no fewer than one-tenth of the total number of existing members of both Houses have the right to enter their names in a motion to the President of the National Assembly that an Election Commissioner lacks a qualification or is under a prohibition under section 230. - The President of the National Assembly shall refer the application to the Constitutional Court within

Issues	Eligible Applicant(s)	Procedures and Conditions
		<p>three days as from the receipt date of the application for ruling.</p> <ul style="list-style-type: none"> - Upon a ruling of the Constitutional Court, notice of the ruling shall be sent to the President of the National Assembly and Chairman of the Election Commission.
<p>8. Ruling on whether or not a treaty requires prior approval of the National Assembly (section 190 last paragraph in conjunction with section 154(1)).</p>	<ul style="list-style-type: none"> - President of the House of Representatives. - President of the Senate. - President of the National Assembly. 	<ul style="list-style-type: none"> - Members of the House of Representatives, senators or members of both Houses together constituting no fewer than one-tenth of the total number of existing members of both Houses who find that a treaty requires the approval of the National Assembly before conclusion with other countries or international organization under section 190 paragraph two shall submit an opinion to the President of the House of Representatives, President of the Senate or President of the National Assembly, as the case may be, and the President of the House receiving such opinion shall refer the opinion to the Constitutional Court for a ruling on whether such treaty requires the approval of the National Assembly under section 190 paragraph six of the Constitution of the Kingdom of Thailand B.E. 2550 (2007).
<p>9. Powers and duties under the Organic Act on Political Parties B.E. 2550 (2007): (1) review of a Political Party Registrar's order</p>	<ul style="list-style-type: none"> - Applicant for registration of a political party. 	<ul style="list-style-type: none"> - An applicant for registration of a political party who disagrees with an order of the Registrar rejecting the

Issues	Eligible Applicant(s)	Procedures and Conditions
<p>rejecting the registration of a political party (Organic Act on Political Parties B.E. 2550 (2007), section 13 and section 14);</p>		<p>registration of a political party under section 13 or section 14 has the right to file an application with the Constitutional Court for a review of the order within 30 days as from the receipt date of the letter giving notice of the rejection of political party registration from the Registrar.</p>
<p>(2) review of a Political Party Registrar's order rejecting the registration of changes in a political party's policies, political party rules, changes in the name, occupation, address and signature of a political party executive as registered with the Registrar, or a change in the details stated in the notice of establishment of political party branch (Organic Act on Political Parties B.E. 2550 (2007), section 41 in conjunction with section 13);</p>	<p>- Political party leader.</p>	<p>- A political party leader who disagrees with the rejection of registration of changes in the political party's policies, political party rules, changes in the name, occupation, address and signature of a political party executive as registered with the Registrar, or a change in the details stated in the notice of establishment of a political party branch, may exercise the right to file an application with the Constitutional Court for a review of the order within 30 days as from the receipt date of the notice of order rejecting the registration of such changes from the Registrar.</p>
<p>(3) ruling on whether a resolution or political party rule is inconsistent with the status or performance of functions of a</p>	<p>- Political party members who are members of the House of Representatives constituting no</p>	<p>- The eligible applicants who find that a resolution or rule of their political party of membership would be inconsistent with the status and performance of functions of a member of the House of Representatives under the Constitution,</p>

Issues	Eligible Applicant(s)	Procedures and Conditions
<p>member of the House of Representatives under the Constitution, or contrary to or inconsistent with the fundamental principles of the democratic form of government with the King as head of state (Organic Act on Political Parties B.E. 2550 (2007), section 33 in conjunction with section 10 paragraph two subparagraphs (3), (4) or (5));</p>	<p>fewer than one-fourth of the number of members who are members of the House of Representatives, political party executives constituting no fewer than one-third of the total number of political party executives, or no fewer than one hundred political party members.</p>	<p>or contrary to or inconsistent with the fundamental principles of the democratic form of government with the King as head of state, may file an application with the Constitutional Court for a ruling.</p>
<p>(4) ruling on the membership of a political party member holding the office of a member of the House of Representatives (Organic Act on Political Parties B.E. 2550 (2007), section 20);</p>	<p>- A political party member who is a member of the House of Representatives.</p>	<p>- In the event of a termination of membership under section 20 paragraph one subparagraph (4) of the Organic Act on Political Parties B.E. 2550 (2007), being a case where a political party passes a resolution expelling a member under political party rules as a result of a serious disciplinary or ethical offence, or other serious causes, if such member is also a member of the House of Representatives, the member has the right to appeal to the Constitutional Court within thirty days as from the date of political party resolution objecting that the resolution is inconsistent with the status or performance of functions of a member of the House of Representatives under the Constitution,</p>

Issues	Eligible Applicant(s)	Procedures and Conditions
		<p>or contrary to or inconsistent with the fundamental principles of the democratic form of government with the King as head of state. Such appeal shall be in accordance with the Organic Act on Constitutional Court Procedures.</p>
<p>(5) ruling that a political party leader, political party executive committee or political party executive should suspend or remedy an act which violates political party policies or political party rules, or that a political party leader or all or some political party executives retire from office (Organic Act on Political Parties B.E. 2550 (2007), section 31);</p>	<p>- Political Party Registrar with the approval of the Election Commission.</p>	<p>- When it appears that a political party leader, political party executive committee or political party executive has arranged for a political party to commit an act in violation of a political party policy or rule, the Registrar has the power to issue a written warning to the political party leader, political party executive committee or political party executive to suspend or remedy the act within the period prescribed by the Registrar. In the case where the Registrar's written warning is issued to a person other than the political party leader, a copy of the written warning must forthwith be sent to the political party leader for acknowledgement.</p> <p>- If the political party leader, political party executive committee or political party executive does not comply with the Registrar's warning under paragraph one, the Registrar, with the approval of the Election Commission, has the power to file an application with the Constitutional Court for an injunctive order to suspend or remedy such act, or for the political party leader or some or all of the political party executives to retire from office.</p>

Issues	Eligible Applicant(s)	Procedures and Conditions
<p>(6) ruling on the termination of political party status (Organic Act on Political Parties B.E. 2550 (2007), section 91 in conjunction with section 26);</p>	<p>- Political party leader or political party executive.</p>	<p>- In the case where the leader of a political party which has been declared as terminated under paragraph two finds that the Registrar’s declaration was not made in accordance with this Organic Act, the political party leader or political party executive may file an application with the Constitutional Court for an annulment of the declaration in accordance with the rules and procedures prescribed in the Organic Act on Constitutional Court Procedures.</p> <p>- The provisions of this section shall not apply to a political party whose members are also members of the House of Representatives.</p>
<p>(7) dissolution of a political party (Organic Act on Political Parties B.E. 2550 (2007), section 93 in conjunction with section 42 paragraph two or section 82);</p>	<p>- Political Party Registrar with the approval of the Election Commission.</p>	<p>- <u>There are 3 cases under section 93 where an application may be filed with the Constitutional Court for a dissolution order against a political party.</u> The first case is where there is a cause for termination of a political party under the political party rules but such political party’s membership still has members of the House of Representatives. The second case is where a political party fails to file a report of political party activities for the preceding calendar year with the Political Party Registrar under section 42 paragraph two. The third case is where a political party fails to file an accurate and truthful report of expenditures from political party contributions with the Election Commission under section 82.</p>

Issues	Eligible Applicant(s)	Procedures and Conditions
<p>(8) dissolution of a political party (Organic Act on Political Parties B.E. 2550 (2007), section 94 in conjunction with section 21 paragraph one, section 43, section 65, section 66, section 69 or section 104).</p>	<p>- Attorney-General.</p>	<p>- When a political party commits one of the following acts, the Constitutional Court may order the dissolution of that political party:</p> <ul style="list-style-type: none"> (1) an act to overthrow the democratic form of government with the King as head of state under the Constitution, or an act to acquire national governing powers by means that are not provided by the Constitution, or an act deemed by the Constitution as an act to acquire powers by such means; (2) an act in violation of the Organic Act on Election of Members of the House of Representatives and Obtaining Senators or rules or notices of the Election Commission which results in a dishonest and unfair election; (3) an act which could be detrimental to the democratic form of government with the King as head of state; (4) an act which could pose a threat to state security, domestically and overseas, or in contravention of the law or public order or good morals of the people; or (5) an act in violation of section 21 paragraph one, section 43, section 65, section 66, section 69 or section 104.