

Summary of the Constitutional Court Ruling No. 2/2542

Dated 4th March B.E. 2542 (1999)*

**Re : Political Party Registrar's application for an order to dissolve
Patiroop Party**

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1. Background and summarized facts

The political party registrar submitted an application to the Constitutional Court for an order to dissolve Patirop Party. The facts as stated in the application and supporting documents were in summary that Patirop Party was a political party registered under the Act on Political Parties, B.E. 2524 (1981). Section 92 of the Organic Act on Political Parties, B.E. 2541 (1998) provided that a political party registered under such Act had to be a political party under this Organic Act which had to comply with section 29 of the Organic Act on Political Parties, B.E. 2541 (1998). Under such section 29, Patirop Party had to prepare to have not less than 5,000 members, which had to comprise those from each Region according to the list of Regions and Changwats notified by the political party registrar, and had to have at least one branch in each Region within one hundred and eighty days from the date the Organic Act came into force, and it had to notify the registrar of the establishment of its branch within fifteen days from the date of the establishment thereof pursuant to section 30 of the Organic Act on Political Parties, B.E. 2541 (1998). In addition, section 94 of the Organic Act on Political Parties, B.E. 2541 (1998) provided that in the case where a political party under section 92 failed to comply with section 29, such political party had to be dissolved under section 65 and the political party registrar had to proceed with section 65 paragraph two. It appeared that upon the expiration of the prescribed time limit, Patirop Party had its members in the complete number as prescribed by the law, but none of its branch had been established as prescribed by the law. The political party registrar therefore submitted an application to the Constitutional Court for an order to dissolve Patirop Party.

The Constitutional Court ordered the acceptance of the application for consideration and the delivery of its copy to Patirop Party for acknowledgement and submission of a response statement. Thereafter, Patirop Party through its Leader submitted the letter of statement stating that the Party failed to establish its branch within the prescribed time limit due to plenty of reasons and obstacles. The Party had no intention whatsoever to avoid the compliance with the law or to break such law. Moreover, the Party had no objection to the application by the political party registrar requesting the Constitutional Court to order the dissolution of Patirop Party.

* Published in the Government Gazette, Vol. 116, Part 27a, dated 16th April B.E. 2542 (1999).

2. The issue considered by the Constitutional Court

1. Was section 65 paragraph two of the Organic Act on Political Parties, B.E. 2541 (1998) deemed as extending the power of the Constitutional Court from those provided for in the Constitution, and could the Constitutional Court rule on this matter by ordering the dissolution of a political party?

2. Was there a cause for the dissolution of Patiroop Party pursuant to the application made by the political party registrar?

The Constitutional Court held the following opinion:

On the first issue, the Constitutional Court, in its Ruling No. 6/2541 dated 11th August B.E. 2541 (1998), Re: Political Party Registrar's application for an order to dissolve Mualchon Party, ruled that the law providing the Constitutional Court with the power to order the dissolution of a political party was an Organic law enacted by virtue of section 328 (2) of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997). The said provision stated the matters in relation to the termination and the dissolution of a political party, although it did not precisely specify that the order for the dissolution of a political party was under the power of the Constitutional Court. However, the Constitutional Court already had the power to dissolve a political party under section 63 paragraph three of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997). That the Organic law provided the power to dissolve a political party to the Constitutional Court in other cases was not deemed as providing a power in addition to powers as prescribed by the Constitution. The Constitutional Court therefore had the power to order the dissolution of a political party under section 65 paragraph two of the Organic Act on Political Parties, B.E. 2541 (1998).

On the second issue, the political party registrar submitted the application to the Constitutional Court for an order to dissolve Patiroop Party, because such Party failed to comply with section 29 of the Organic Act on Political Parties, B.E. 2541 (1998) which provided that "Within one hundred and eighty days from the date the registrar has acknowledged the establishment of a political party, such political party shall prepare to have not less than five thousand members, which shall comprise those from each Region according to the list of Regions and Changwats notified by the registrar and shall have at least one branch of the political party in each Region." Section 92 of the Organic Act on Political Parties, B.E. 2541 (1998) provided that "A political party registered under the Act on Political Parties, B.E. 2524 (1981) shall be a political party under this Organic Act. In the case where such political party has not complied with section 29, it shall completely comply with it within one hundred and eighty days from the date this Organic Act comes into force." Section 94 paragraph one provided that "In the case where a political party under section 92 failed to completely comply with section 29, such political party shall be dissolved under section 65 and the Registrar shall comply with section 65 paragraph two." The facts as stated in the application made by the political party registrar and the response statement made by Patiroop Party revealed that a cause under section 65 paragraph one subparagraph

(5) of the Organic Act on Political Parties, B.E. 2541 (1998) occurred to Papiroop Party pursuant to the application of the political party registrar, by which the Constitutional Court could order the dissolution of that Party.

3. Ruling of the Constitutional Court

According to reasons stated above and by virtue of section 65 paragraph two of the Organic Act on Political Parties, B.E. 2541 (1998), the Constitutional Court ordered the dissolution of Papiroop Party.
