

# Summary of the Constitutional Court Ruling No. 10/2543

Dated 9<sup>th</sup> March B.E. 2543 (2000)\*

**Re: The National Counter Corruption Commission requests for a Constitutional Court ruling under section 295 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) in the case where Mr. Anun Sawattananon intentionally failed to submit his account showing assets and liabilities and supporting documents.**

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## 1. Background and summarized facts

Mr. Anun Sawattananon (the respondent) was appointed to hold the position in the Secretariat of the Prime Minister from 1<sup>st</sup> January B.E. 2540 (1997) under the Order of Office of the Prime Minister No. 52/2540 dated 4<sup>th</sup> February B.E. 2540 (1997). The respondent vacated his office on 7<sup>th</sup> November B.E. 2540 (1997) as well as General Chavalit Yongjaiyut, the Prime Minister who, by such the Order, appointed him to that position. Upon the vacation of office, the respondent had to submit an account showing particulars of assets and liabilities of himself, his spouse and children who had not yet become *sui juris* to the National Counter Corruption Commission (NCCC), the applicant, under section 291 and section 292 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

It appeared that the respondent had absolutely failed to submit an account showing particulars of assets and liabilities to the applicant, although the latter had informed him to do so and required him to make a statement of fact for four times, on 22<sup>nd</sup> April B.E. 2541 (1998) as the first, on 26<sup>th</sup> October B.E. 2541 (1998) as the second, on 2<sup>nd</sup> June B.E. 2542 (1999) as the third, and on 12<sup>th</sup> November B.E. 2542 (1999) as the fourth. Accordingly, the applicant in its meeting No. 47/2542 on 9<sup>th</sup> December B.E. 2542 (1999) reached the unanimous resolution that the respondent intentionally failed to submit the account showing particulars of assets and liabilities.

## 2. Preliminary issue

The NCCC had unanimously resolved that the respondent intentionally failed to submit an account showing particulars of assets and liabilities and supporting documents and requested for a Constitutional Court ruling under section 295 of the Constitution of the

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\* Published in the Government Gazette, Vol. 117, Part 74a, dated 2<sup>nd</sup> August B.E. 2543 (2000).

Kingdom of Thailand, B.E. 2540 (1997). The Constitutional Court therefore accepted this application for consideration.

### **3. The issues considered by the Constitutional Court**

The NCCC submitted an application to the Constitutional Court for a ruling that Mr. Anun Sawattananon intentionally failed to submit an account showing particulars of assets and liabilities and supporting documents under section 295 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

The Constitutional Court held the following opinion:

Section 291 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) was the provision empowering the NCCC to inspect assets and liabilities of persons holding political positions. Section 292 paragraph one of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) provided that “The account showing particulars of assets and liabilities under section 291 shall disclose the particulars of assets and liabilities actually existing as of the date of the submission thereof and shall be submitted within such time as follows: (1) in the case of the taking of office, within thirty days as from the date of taking office; (2) in the case of the vacation of office, within thirty days as from the date of the vacation;... ;” while section 292 paragraph two of the same provided that “In addition to the submission of the account under (2), ...or the person holding a political position but having vacated office shall also re-submit an account showing particulars of assets and liabilities within thirty days as from the date of the expiration of one year after the vacation of office.” Under those provisions, since the respondent held the political position, he had a duty to submit the account showing particulars of assets and liabilities.

The applicant followed the procedures in order that the intention of the respondent was proved. To achieve that, the applicant delivered four letters informing the matter and providing him with opportunities to make the statement of facts. However, the respondent had failed to carry on whatever procedures, even though he was already informed through those letters that if he failed to submit the account showing particulars of assets and liabilities, he was prohibited from holding any political position for a period of five years. The respondent stated in response to the allegation that he believed in good faith that he was not required to submit such account due to taking office at the time of the application of the previous Constitution, namely the Constitution of the Kingdom of Thailand, B.E. 2534 (1991). In addition, he had been in a foreign country in the period of time limit for submission of the account. The Constitutional Court was of the opinion that the facts stated by the respondent were insufficient to infer that he unintentionally failed to submit the account showing particulars of assets and liabilities and supporting documents to the applicant.

#### **4. Ruling of the Constitutional Court**

The Constitutional Court held that Mr. Anun Sawattananon had a duty to submit an account showing particulars of assets and liabilities and supporting documents under section 291 and section 292 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997), and he intentionally failed to submit such the account and supporting documents under section 295 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

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