

# Summary of the Constitutional Court Ruling No. 32/2543

Dated 7<sup>th</sup> September B.E. 2543 (2000)\*

**Re : The President of the National Assembly requested for a Constitutional Court ruling under section 266 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) on whether or not the Extraordinary Committee for Consideration of the Annual Appropriations Bill, B.E. ...., appointed by the House of Representatives and the members of such committee had the power to add items or amounts to the items in the Annual Appropriation Bill, B.E. ....**

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## 1. Background and summarized facts

The President of the National Assembly submitted an application, dated 22<sup>nd</sup> December B.E. 2542 (1999), to the Constitutional Court which referred the opinion of Mr. Adisorn Peangkes and members of the House of Representatives forming a total of 42 persons. Briefly stated, certain members of the House of Representatives were involved in a dispute on the powers and duties of an extraordinary committee in relation to its consideration of the Annual Appropriation Bill, B.E. .... . The issue in question was whether or not, at the legislative stage of the extraordinary committee, the extraordinary committee or members of such a committee who were members of the House of Representatives could submit a motion to add items or amounts in the items in the Annual Appropriation Bill, B.E. .... . In this regard, the House of Representatives had already passed a resolution to accept the principles of the Annual Appropriation Bill, B.E. .... and thereafter the extraordinary committee adjusted the appropriation figures for the Government agencies, State agencies and State enterprises to amounts which were lower than the pre-determined budget. In the consequence, this was usually followed by requests from the Government agencies, State agencies and State enterprises for an increase in their budget at the stage of the extraordinary committee's consideration. On such an issue, two divergent conflicting opinions were formulated on the powers and duties of the extraordinary committee for consideration of the Annual Appropriation Bill, B.E. .... .

Under the first opinion, it was considered that the extraordinary committee and members of the extraordinary committee did not have the power to consider the requests for additional budgetary appropriations made by the Government agencies, State agencies and State enterprises because such acts were contrary to or inconsistent with section 180

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paragraph five and section 180 paragraph six of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997). Therefore, the requests for additional items or amounts in the items of the Annual Appropriation Bill, B.E. .... could not be considered by the extraordinary committee.

As for the second opinion, it was considered that the extraordinary committee and members of the extraordinary committee had the power to consider the requests for additional budgetary appropriations for the Government agencies, State agencies and State enterprises because section 180 paragraph five of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) prohibited only members of the House of Representatives from submitting a motion to add items or amounts in the items. No such prohibitions were imposed on the extraordinary committee or members of the extraordinary committee. Therefore, if the proposal or submission of a motion to add items or amounts in the items did not result in a member of the House of Representatives or a senator or a committee having an interest in the use of the appropriation under section 180 paragraph six of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997), such a proposal or motion should be allowed.

## **2. Preliminary issue**

The Extraordinary Committee for consideration of the Annual Appropriation Bill, B.E. ...., appointed by the House of Representatives, made additions to the items or amounts in the items of the Annual Appropriation Bill, B.E. .... which differed from the particulars approved by the Council of Ministers. Such a dispute was therefore a problem on the powers and duties of the House of Representatives, which was an organ under the Constitution of the Kingdom of Thailand, B.E. 2540 (1997). As the application on the matter was submitted by the President of the National Assembly to the Constitutional Court for a ruling under section 266 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) and the problem was one which had already arisen, the Constitutional Court had the power to consider the matter.

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

The issue considered was whether or not the Extraordinary Committee for consideration of the Annual Appropriation Bill, B.E. ... and members of the extraordinary committee had the power to request or make additions to the items or amounts in the items in the Annual Appropriation Bill, B.E. ....

The Constitutional Court held the following opinion:

(1) Section 180 paragraph five and section 180 paragraph six of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) contained provisions which prohibited a member of the House of Representatives from submitting a motion to add items or amounts

in the items of an Annual Appropriation Bill. A motion could only be submitted in a manner which would reduce or abridge expenditures which were not expenditures under obligations, such as money payment of the principal of a loan, interest on a loan and money payable in accordance with the law. Moreover, in the consideration of the Bill, a prohibition had been imposed on members of the House of Representatives, senators and the extraordinary committee from submitting a proposal or motion or from committing any act which would result in a direct or indirect involvement in the use of the appropriations. Such prohibitions had been prescribed in order to prevent a member of the House of Representatives from employing such means as a device for driving through a motion on the annual appropriation which would result in the participation of a member of the House of Representatives, senator or member of the extraordinary committee in the use of the appropriations.

(2) The principles on the preparation and approval of the budget embedded in the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) and laws on budgetary procedure stated that the Executive (Council of Ministers) possessed the power to prepare the appropriations as a correlation of its functions of the collection of taxes and other revenues necessary for the administration of the State. The Legislature (the National Assembly), on the other hand, was entrusted with the powers to approve of the appropriations proposed by the Council of Ministers. The National Assembly did not have the power to add items or amounts to items in the Annual Appropriation Bill, B.E. .... . A deduction could therefore be made from the above principles that the Government agencies, State agencies and State enterprises were not entitled to submit a direct proposal for an increase in an appropriation to the extraordinary committee. Such a request should be submitted to the Council of Ministers for approval before it could be referred to the extraordinary committee for consideration. As members of the House of Representatives, being the empowered persons to consider the Annual Appropriation Bill, did not have the power to add items or amounts to items in the Annual Appropriation Bill in their sole capacity, it followed that the extraordinary committee, being appointed by the members of the House of Representatives to consider the Annual Appropriation Bill before submission to the House of Representatives for consideration, did not have the power to request or make additions to items or amounts in the items of the Annual Appropriation Bill. Therefore, the extraordinary committee and members of the extraordinary committee, regardless of whether they were or were not members of the House of Representatives, could not propose or consider an application for an increase in the appropriations to the Government agencies, State agencies and State enterprises which the Council of Minister had not yet given its approval.

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

The extraordinary committee of the House of Representatives for the consideration of the Annual Appropriation Bill, B.E. .... and members of such extraordinary committee did not have the power to propose or make additions to the items or amounts in the items of the Annual Appropriation Bill, B.E. ....

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