

The Constitutional Court The Kingdom of Thailand

Constitutional Court Ruling

No. 14/2562 (2019)

Dated 20th November B.E. 2562 (2019)

Re: The Election Commission requested for a Constitutional Court ruling under section 82 of the Constitution on whether or not the House of Representatives membership of Mr. Thanathorn Juangroongruangkit terminated under section 101(6) in conjunction with section 98(3) of the Constitution.

The Election Commission, applicant, submitted an application to the Constitutional Court requesting for a ruling under section 82 of the Constitution. The facts could be summarised as follows. A general election of Members of the House of Representatives was set for 24th March B.E. 2562 (2019) and it was stipulated that a political party wishing to field candidates for party-list Members of the House of Representatives had to submit a list between Monday, 4th February B.E. 2562 (2019) and Friday, 8th February B.E. 2562 (2019). Future Forward Party submitted a list of candidates, listing the respondent in order number 1, on 6th February B.E. 2562 (2019). On 8th May B.E. 2562 (2019), election results were announced, whereby the respondent was elected as a party-list Member of the House of Representatives. Thereafter, the applicant found evidence that the respondent held shares in Solid Media (Thailand) Company Limited, subsequently renamed to V-Luck Media Company Limited. The memorandum of association of said company stated the objects of newspaper business operations and according to the financial statements filed with the Department of Business Development, it was specified that the company earned revenues from sales of magazines and advertising services/other incomes. This business was deemed as a newspaper business or any other mass media business. Pursuant to the copy of shareholders' list filed with the Department of Business Development, from B.E. 2551 (2008) to B.E. 2562 (2019), the respondent's name appeared a shareholder in the amount of 675,000 shares, from 12th January B.E. 2558 (2015) until 21st March B.E. 2562 (2019), when the shares were transferred to Mrs. Somporn Juangroongruangkit. The applicant found that the respondent remained as a shareholder of V-Luck Media Company Limited, which operated a newspaper or any other mass media business on the day of application for House of Representatives election candidacy. Thus, the applicant adopted a resolution and

decided that the respondent was a person disqualified from applying for candidacy in the election of Members of the House of Representatives, and consequently the respondent's membership of the House of Representatives terminated under section 101(6) in conjunction with section 98(3) of the Constitution. The matter was referred to the Constitutional Court for a ruling under section 82 of the Constitution. It was submitted further that the respondent should cease to perform duties as a Member of the House of Representatives under a ruling of the Constitutional Court.

A preliminary finding of facts revealed the following. On 23rd January B.E. 2562 (2019), the Royal Decree Calling a General Election of Members of the House of Representatives B.E. 2562 (2019) was promulgated, and on 24th January B.E. 2562 (2019), there was a Notification of the Election Commission on Determination of Day for Election of Members of the House of Representatives, Day for Applications of Candidacy in the Constituency Election of Members of the House of Representatives and Place for Submission of Party-list Candidates for Election of Party-list Members of the House of Representatives by Political Parties. The day for general election of Members of the House of Representatives was set on Sunday 24th March B.E. 2562 (2019). The days for submission of list of candidates by a political party wishing to field candidates for party-list Members of the House of Representatives were 4th February B.E. 2562 (2019) until 8th February B.E. 2562 (2019). Future Forward Party submitted a list of candidates for election of party-list Members of the House of Representatives on 6th February B.E. 2562 (2019), stating the respondent in order number 1. On 8th May B.E. 2562 (2019), the applicant issued Notification of the Election Commission Re: Results of Election of Party-list Members of the House of Representatives. It was stated therein that the respondent was a Party-list Member of the House of Representatives, Future Forward Party. The respondent, however, was a shareholder of V-Luck Media Company Limited, previously named Solid Media (Thailand) Company Limited, in the amount of 675,000 shares, share registration numbers from 1350001 to 2025000, from 12th January B.E. 2558 (2015), by receipt of transfer from Mrs. Somporn Juangroongruangkit. On 21st March B.E. 2562 (2019), V-Luck Media Company Limited filed a copy of shareholders' list with the Department of Business Development, wherein the name of Mrs. Somporn Juangroongruangkit was stated as the shareholder for such share registration numbers. Under section 101(6) of the Constitution, membership of the House of Representatives terminated upon a disqualification under section 98. Section 98(3) provided that a person who was an owner or shareholder of a newspaper or any mass media business was prohibited from applying for candidacy in an election of Members of the House of Representatives. Hence, there was reason for the Constitution to apply the disqualification of House of Representatives election candidacy as a cause for

termination of membership of the House of Representatives pursuant to section 101(6) in conjunction with section 98(3). The prohibition served to prevent an owner or shareholder of a newspaper or any mass media business to exploit the advantage of ownership of a newspaper or mass media to disseminate information to the benefit or detriment of any person for political gains, and to prevent exercise of influence over the media which would hinder the impartiality of the media.

On the respondent's first objection that the applicant's processes of inquiry and submission of application to the Constitutional Court was unconstitutional and unlawful, the Constitutional Court found as follows. Section 82 paragraph four provided that the Election Commission had the duties and powers to submit an application to the Constitutional Court in the event of finding a cause for termination of membership of a Member of the House of Representatives under section 82 paragraph one. The Election Commission adopted a resolution in meeting number 63/2562, dated 14th May B.E. 2562 (2019), and decided that the respondent's membership of the House of Representatives terminated under section 101(6) in conjunction with section 98(3) of the Constitution. An application was submitted to the Constitutional Court in accordance with the rules and procedures provided by the Constitution. Hence, the applicant's submission was consistent with the Constitution.

On the respondent's second objection that V-Luck Media Company Limited did not operate a newspaper or mass media business, the Constitutional Court found as follows. The Publishing Registration Act B.E. 2550 (2007) was intended to lay down rules for registration of publishing as evidence of declaration of the publisher, advertiser, editor or owner of a newspaper business for the benefit of inspection by a member of public suffering a loss in order to bring a claim against such person for a violation of law consequential to such person being a publisher, advertiser, editor or owner of a newspaper. Section 4 provided a definition of the term "newspaper" as meaning a publication stating as such on the front page and published or intended for publication in subsequent order regardless of whether or not there was a time limit, and whether or not the contents were continuous. The definition included magazines, journals, and other similar publications with different names. Section 11 paragraph one provided that "newspaper publication in the Kingdom must be a registered publication pursuant to the provisions of this Act." Section 18 provided that "a publisher, advertiser, editor or owner of a newspaper business who ceases to be a publisher, advertiser, editor or owner of a newspaper business must notify a competent official in order to cancel or amend the registered entry within thirty days of cessation of being a publisher, advertiser, editor or owner of newspaper business." The facts as evident the record documents stated that V-Luck Media Company

Limited, previously called Solid Media (Thailand) Company Limited was registered as a juristic person on 10th January B.E. 2551 (2008). Article 23 of the objects of said company stipulated the business of issuing newspapers, publishing, book publishing, and publishing for distribution. Article 25 stipulated the business of advertising by means of all advertising media, such as advertising in newspapers, advertising billboards, publications, leaflet, and broadcast on radio, television, telegraph, cable television, facsimile, satellite communications and any other media. Furthermore, the business description form for partnerships and company specified the business of issuing newspapers, publishing, book publishing, publishing for distribution, and Solid Media (Thailand) Company Limited filed a publishing notice under section 11 of the Publishing Registration Act B.E. 2550 (2007) pursuant to certificate of notice registration number Sor Sor Chor 3/2551, dated 12th May B.E. 2551 (2008), and registration number Sor Sor Chor 228/2553, dated 17th November B.E. 2553 (2010), as evidenced by copy of National Library Office Letter No. Wor Thor 0425/2064, dated 15th October B.E. 2562 (2019). Moreover, the financial statements filed by V-Luck Media Company Limited with the Department of Business Development, Ministry of Commerce, for the financial years ending 31st December B.E. 2559 (2016), 31st December B.E. 2560 (2017) and 31st December B.E. 2561 (2018), stated that the company received revenues from advertising services. There was no evidence to indicate that V-Luck Media Company Limited filed notice to cease being a publisher, advertiser, editor or owner of business pursuant to section 18 of the Publication Registration Act B.E. 2550 (2007) prior to 6th February B.E. 2562 (2019), being the day when Future Forward Party submitted a list of candidates for election of party-list Members of the House of Representatives to the applicant, wherein the respondent name was listed in order number 1. Even though the respondent argued that V-Luck Media Company Limited ceased to operate business by ceasing production of magazines and terminated employment of V-Luck Media Company Limited employees as of 26th November B.E. 2561 (2018), as well as filed notice of factual changes pertaining to the employer with the Office of Social Security, concerning the temporary suspension of business on 31st January B.E. 2562 (2019), V-Luck Media Company Limited remained in a position to resume business at any point of time so long as there was no registration of company dissolution and notification of cessation as a publisher, advertiser, editor or owner of business. Therefore, V-Luck Media Company Limited remained a company which operated a mass media business on the day which Future Forward Party submitted a list of candidates for election of party-list Members of the House of Representatives to the applicant, in which the respondent was listed in order number 1.

On the respondent's third objection that on the day of Future Forward Party's application for candidacy in the election of party-list Members of the House of Representatives on 6th February B.E. 2562 (2019), the respondent was not a shareholder of V-Luck Media Company Limited because the shares were transferred to Mrs. Somporn Juangroongruangkit, the respondent's mother, as of 8th January B.E. 2562 (2019), the Constitutional Court found as follows. Evidence collected from the inquiry, namely a copy of the shareholders list of V-Luck Media Company Limited submitted to the Partnerships and Companies Registrar of Bangkok, Department of Business Development, Ministry of Commerce, on 12th January B.E. 2558 (2015), and on 21st March B.E. 2562 (2019), showed that the respondent held shares in such company, share numbers 1350001 thru 2025000, a total of 675,000 shares from 12th January B.E. 2558 (2015) until 21st March B.E. 2562 (2019), when a copy of shareholders list specified that such share numbers belonged to Mrs. Somporn Juangroongruangkit as shareholder. The respondent argued that the shares in such company were transferred to Mrs. Somporn Juangroongruangkit on 8th January B.E. 2562 (2019), as evidenced by a transfer instrument signed by Miss Lawan Jankasem and Miss Kantita Uamngamkam as witnesses, pursuant to section 1129 of the Civil and Commercial Code, and there was payment in consideration of the transfer of such shares in the amount of 6,750,000 baht, as evidenced by a copy of Bank of Ayudhya Public Company Limited cheque number H11309959, dated 8th January B.E. 2562 (2019), payable to the respondent. Thereafter, such shares were transferred to Mr. Tawee Jarungsatitpong on 14th January B.E. 2562 (2019), and Mr. Tawee Jarungsatitpong transferred the shares back to Mrs. Somporn Juangroongruangkit on 21st March B.E. 2562 (2019) without consideration for transfer.

The facts revealed by the aforementioned evidence caused doubts as to whether or not the respondent transferred such shares to Mrs. Somporn Juangroongruangkit on 8th January B.E. 2562 (2019). In other words, on every occasion of change in shareholder of V-Luck Media Company Limited, a letter submitting copy of shareholders list was normally sent promptly to the Partnerships and Companies Registrar of Bangkok, Department of Business Development, Ministry of Commerce, as shown by letter of V-Luck Media Company Limited dated 18th February B.E. 2552 (2009) submitting a copy of shareholders list as of the day of extraordinary meeting number 1/2552 on 16th February B.E. 2552 (2009), letter of V-Luck Media Company Limited dated 12th January B.E. 2558 (2015) submitting a copy of shareholders list as of the day of extraordinary meeting number 1/2558 on 12th January B.E. 2558 (2015), when there was a transfer of shares from Mrs. Somporn Juangroongruangkit to the respondent, and letter of V-Luck Media Company Limited dated 21st March B.E. 2562 (2019), which submitted shareholders list as retrieved

from the shareholders' register on 21st March B.E. 2562 (2019). However, the transfer of the respondent's shares to Mrs. Somporn Juangroongruangkit on 8th January B.E. 2562 (2019) was not evidenced by any change in shareholders list despite the fact that a submission of such shareholders list would constitute a key piece of evidence in the event that the respondent wished to participate in politics. The non-submission of shareholders list to the Partnerships and Companies Registrar of Bangkok was therefore inconsistent with prior practice despite the great significance of share transfer on this occasion with regard to the respondent's taking of political office. If the transfer was not complete before the respondent's candidacy application date, the respondent would be disqualified under section 98(3) of the Constitution. Even though the respondent stated in reply and testified before the court on the reason for not submitting a copy of shareholders list to the Partnerships and Companies Registrar of Bangkok immediately after the transfer of such shares, stating that V-Luck Media Company Limited had terminated employment of all company employees as of 26th November B.E. 2561 (2018) and therefore there was no accounting staff to process the registration documents as was the case for the previous 10 years, and that the share transfer on 8th January B.E. 2562 (2019) was a transfer of shares within the Juangroongruangkit family, such testimony conflicted with the testimony of Miss Lawan Jankasem, a witness, who stated that she was able to perform such task if so ordered. Miss Lawan Jankasem was the staff member who was responsible for submission shareholders list copy and also the processing of shareholders list on 21st March B.E. 2562 (2019). Furthermore, in practice, the submission of copy of shareholders list could be undertaken by a proxy, and the submission of such document could be done without complication since V-Luck Media Company Limited had submitted shareholders list copies with financial statements to the Partnerships and Companies Registrar of Bangkok electronically from B.E. 2559 (2016) thru B.E. 2561 (2018).

The respondent argued that Mrs. Somporn Juangroongruangkit paid for the share price to the respondent by a cheque of Bank of Ayudhya Public Company Limited, Bangna-Trat (Central City) Branch, crossed "A/C PAYEE ONLY", cheque number H11309959, dated 8th January B.E. 2562 (2019), payable to Mr. Thanathorn Juangroongruangkit in the amount of 6,750,000 baht, which was deposited to an account on 16th May B.E. 2562 (2019), being the same day of the applicant's submission of this case application to the Constitutional Court for ruling, a delay of 128 days after the specified date on the cheque, despite the relevant provision of law in section 990 of the Civil and Commercial Code provided that a cheque holder was under a duty to present the cheque to the issuing bank for payment within one month in the case of a cheque issued in the same city as the drawing bank, or within

3 months in the case of a cheque from a different city, i.e. the cheque was issued in a different city from the drawing bank. In this case, the drawing bank was Bank of Ayudhya Public Company Limited, Bangna-Trat (Central City) Branch, situated in Bangkok, and since the place of issue was not specified, it should be deemed that the cheque was issued at the domicile of the drawer, Mrs. Somporn Juangroongruangkit, who was domiciled in Bangkok. Therefore, the respondent was under a duty to present such cheque for collection within 8th February B.E. 2562 (2019). Although the respondent claimed that such late presentation of cheque for collection was usual, upon examination of details over the previous 3 years, it was found that collection of payment drawn on cheques valued at two million baht or above between the years B.E. 2560 (2017) – 2562 (2019), the period of collection was between 42 to 45 days after the date stated on the cheque. That is, 3 cheques dated 17th February B.E. 2560 (2017), the first in the amount of 3,361,037.50 baht, the second in the amount of 5,246,237.50 baht and the third in the amount of 5,306,237.50 baht, were all presented for collection on 30th March B.E. 2560 (2017). A cheque dated 7th July B.E. 2560 (2017) in the amount of 2,643,750.00 baht was presented for collection on 18th August B.E. 2560 (2017). Hence, all four cheques were presented for collection after a maximum period of 42 days. A cheque dated 17th February B.E. 2560 (2017) in the amount of 3,326,237.50 baht was presented for collection on 30th March B.E. 2560 (2017), a period of 42 days, and a cheque dated 19th February B.E. 2561 (2018) in the amount of 2,336,192.00 baht was presented for collection on 4th April B.E. 2561 (2018), a period of 45 days. However, the collection of payment for cheque dated 8th January B.E. 2562 (2019) was delayed by 128 days, despite collection on a cheque dated 23rd December B.E. 2559 (2016) after a period of 98 days for the amount of only 27,000 baht. This showed that the presentation of cheque for share price, dated 8th January B.E. 2562 (2019) for collection of payment from the bank was unusually delayed in the light of previous practice. Mrs. Rawipan Juangroongruangkit, the respondent's wife, testified that during that period she could not conveniently present the cheque for collection of payment due to her having to look after their child who was still an infant, and the cheque was issued by a reliable source. Moreover, in March B.E. 2562 (2019), where there was news of allegations against the respondent that there was no real sale of shares, their attorney compiled evidence, which included the cheque, in order to give a statement to the applicant in April, and the cheque was only returned to them in May. Nonetheless, such testimony was contradictory to the respondent's letter dated 30th April B.E. 2562 (2019) submitting a statement to the Secretary-General of the Election Commission Re: Statement of Facts and Evidence, wherein only a copy of the cheque was submitted to the applicant. The original cheque was not submitted to the applicant

at any time. Thus, Mrs. Rawipan Juangroongruangkit was able to deposit the cheque from 9th January B.E. 2562 (2019) onwards. The claim that non-presentation of cheque for collection was in accordance with normal practice was therefore not sound as the cheque which specified the respondent as the payee and crossed (A/C PAYEE ONLY) had to be deposited only to the respondent's bank account. The cheque could not be endorsed to another person. Moreover, the presentation of cheque for collection did not have to be done in person. The respondent could have delegated the task to another person to perform on his behalf. The respondent, who was the holder of the cheque in the capacity of payee, could have delegated any person to perform the task on his behalf, not only just Mrs. Rawipan Juangroongruangkit, as Mrs. Rawipan Juangroongruangkit was not the payee on the cheque and also required a proxy from the respondent. Mrs. Rawipan Juangroongruangkit therefore did not have to present the cheque for collection in person and did not have to leave a period of over 4 months.

As for the transfer of shares in V-Luck Media Company Limited by Mrs. Somporn Juangroongruangkit on 14th January B.E. 2562 (2019), share numbers 1350001 thru 2025000, a total of 675,000 shares, which originally belonged to the respondent, to Mr. Tawee Jarungsatitpong, Mrs. Somporn Juangroongruangkit's nephew, and subsequently on 21st March B.E. 2562 (2019), Mr. Tawee Jarungsatitpong transferred such shares back to Mrs. Somporn Juangroongruangkit, the Constitutional Court found as follows. The facts found on inquiry showed that the transfer of shares and return transfer without consideration based on claim of relations was contradictory and different from the transfer of shares between Mrs. Somporn Juangroongruangkit and the respondent, who were mother and son, but undertaken with consideration. Even though Mrs. Somporn Juangroongruangkit testified that it was her desire to let Mr. Tawee Jarungsatitpong to resolve problems or reorganise V-Luck Media Company Limited, such transfer without consideration made it impossible to examine whether or not there was an actual transfer of shares. The only documentary evidence adduced was a share certificate, which could have been subsequently produced by V-Luck Media Company Limited. Moreover, Mr. Tawee Jarungsatitpong transferred a return of the shares to Mrs. Somporn Juangroongruangkit on 21st March B.E. 2562 (2019) was a period of only slightly over two months after the receipt of shares. Mrs. Somporn Juangroongruangkit testified that Mr. Tawee Jarungsatitpong had conducted an assessment and found that additional investments of several million baht was required. As a consequence, she intended to dissolve the company and asked for a return of shares by Mr. Tawee Jarungsatitpong. These facts were contradictory to the behaviour of general investors intending to revive a company's business, where a significant amount of

time was required for an assessment and a business plan drawn up from the assessment had to be implemented first. Furthermore, the high value transfer of shares to Mr. Tawee Jarungsatitpong, a nephew of Mrs. Somporn Juangroongruangkit, which was claimed by Mrs. Somporn Juangroongruangkit as a grant for care of her nephew was contradictory to the fact that her nephew returned the shares to her within slightly over two months without any value as consideration. Also, the amount of investment required in the light of Mrs. Somporn Juangroongruangkit's financial standing was an insignificant amount, which was contradictory to the respondent's claim that the company had net debtors and receivables in the amount of 11 million baht. On the contrary, according to the financial statements for the financial year ending on 31st December B.E. 2561 (2018) filed with the Partnerships and Companies Registrar of Bangkok, the value of trading debtors and other debtors was only 2,875,818.34 baht. Such amounts were inconsistent and the amount of debts was not significant. The demand for repayment of debts or analysis of feasibility of the company could be carried out by an attorney or business expert. The administration of family business could be undertaken by any person without the need to transfer shares. Furthermore, by merely being a shareholder did not grant management powers in a company, neither did it grant the power to follow up on debts nor the power to administer cash flow. The respondent claimed that shares were transferred on 8th January B.E. 2562 (2019), adducing a witnesses related to the share transfer instrument, being persons having close connection to the respondent, along with share transfer documents of V-Luck Company Limited, namely a copy of affidavit of the attorney transacting the transfer, share transfer instrument, cheque payment for share price, shareholders list of the company, cheque stub and share certificate stub were all documents prepared and kept by V-Luck Company Limited. Such evidence were therefore produced only to support the evidence shown by the shareholders list filed by V-Luck Media Company Limited with the Partnerships and Companies Registrar of Bangkok on 21st March B.E. 2562 (2019), in which Mrs. Somporn Juangroongruangkit received a transfer of share numbers 1350001 thru 2025000, in the amount of 675,000 shares back from Mr. Tawee Jarungsatitpong.

As for the respondent's reply that he travelled back from a rally in Satuek District, Buriram Province, on 8th January B.E. 2562 (2019), to his residence at house number 157, Lakeside Villa 2 Village, Dok Mai Subdistrict, Praves District, Bangkok, being the respondent's residence in order to transfer shares in V-Luck Media Company Limited to Mrs. Somporn Juangroongruangkit, the Constitutional Court found as follows. Although it could be found on the facts that the respondent returned from Buriram Province to his residence in Bangkok on such day, those facts

only indicated that the respondent was in Bangkok on 8th January B.E. 2562 (2019). This did not mean that there was an actual transfer of shares in V-Luck Media Company Limited on such date. In order to determine whether or not there was a transfer of shares on 8th January B.E. 2562 (2019), other evidence along with the circumstances of the case had to be taken into account.

In this case, even though the respondent had evidence to show that the respondent transferred shares to Mrs. Somporn Juangroongruangkit on 8th January B.E. 2562 (2019), and even though the respondent enjoyed the legal presumption under section 1129 paragraph three of the Civil and Commercial Code, which provided that “such a transfer does not apply to the company or third party until registration of the transfer including the name and office of the transferee in the shareholders register,” and section 1141, which provided that “the shareholders register shall be presumed as true evidence as regards all entries required by law or authorised by law for inclusion in the registry,” upon consideration of the numerous inconsistencies along with mutually supportive circumstantial evidence, there was more evidentiary weight than the respondent’s evidence. Hence, the facts from numerous inconsistencies in the circumstances, when taken as a whole, carried sufficient weight to rebut the legal presumption and the respondent’s evidence.

Therefore, based on the numerous inconsistencies together with all the circumstances of the case, it was found that the respondent remained as a shareholder of V-Luck Media Company Limited, which operated a mass media business on 6th February B.E. 2562 (2019), being the day when Future Forward Party submitted a list of candidates for the election of party-list Members of the House of Representatives to the applicant. This constituted a disqualification of the respondent from candidacy in the election of Members of the House of Representatives under section 98(3) of the Constitution causing the respondent’s membership of the House of Representatives to terminate pursuant to section 101(6) in conjunction with section 98(3) of the Constitution.

The next issue considered was when a ruling was made that the respondent’s membership of the House of Representatives terminated under section 101(6) in conjunction with section 98(3) of the Constitution, what was the starting date for termination of membership of the House of Representatives.

After deliberations, the Constitutional Court found as follows. Section 82 paragraph two of the Constitution provided that “upon receiving a matter for consideration, if it appears that there are reasonable grounds to suspect that a case of the member against whom the complaint is lodged is founded, the Constitutional Court shall order the cessation of performance of duties by such respondent member until a ruling of the Constitutional Court... In the case where the

Constitutional Court rules that the membership of a respondent member terminates, such person shall vacate office as from the date of cessation of performance of duties, but without prejudice to the acts done by such person prior to vacating office.” Such constitutional provision was a provision on the vacation of office of a Member of the House of Representatives ordered by the Constitutional Court to cease performance of duties. The Constitutional Court could not order otherwise. Upon a finding of facts that on 23rd May B.E. 2562 (2019), the Constitutional Court ordered the respondent to cease performance of duties until a ruling of the Constitutional Court, the Constitutional Court therefore had to order the respondent to vacate office as from such date of cessation of performance of duties. Hence, the respondent’s membership of the House of Representatives terminated under section 82 paragraph two of the Constitution as of 23rd May B.E. 2562 (2019).

Upon the termination of the respondent’s membership of the House of Representatives, the office of a party-list Member of the House of Representatives became vacant. The President of the House of Representatives had to declare the person listed in the next order of such political party’s list to fill the vacant office of Member of the House of Representatives. Such a declaration had to be published in the Government Gazette within seven days of the office becoming vacant pursuant to section 105 paragraph one (2) of the Constitution. It could therefore be deemed that the office of Member of the House of Representatives became vacant on the day of reading of ruling by the Constitutional Court to the parties in accordance with section 76 paragraph one of the Organic Act on Constitutional Court Procedures B.E. 2561 (2018), which provided that a ruling of the court took effect on the reading date, i.e. 20th November B.E. 2562 (2019).

By virtue of the aforesaid reasons, it was held that the respondent’s membership of the House of Representatives terminated under section 101(6) in conjunction with section 98(3) of the Constitution as of the day the Constitutional Court ordered the respondent to cease performing duties under section 82 paragraph two of the Constitution, i.e. 23rd May B.E. 2562 (2019). The day of reading of Constitutional Court reading to the parties was deemed as the day of vacation of office of Member of the House of Representatives under section 105 paragraph one (2) of the Constitution in conjunction with section 76 paragraph one of the Organic Act on Constitutional Court Procedures B.E. 2561 (2018), i.e. 20th November B.E. 2562 (2019).
