

# **Summary of Constitutional Court Ruling No. 16/2550**

**Dated 1<sup>st</sup> October B.E. 2550 (2007)\***

**Re: The Political Party Registrar requested for a Constitutional Tribunal  
Order to dissolve Ruam Palang Thai Party**

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## **1. Summary of background and facts**

The Political Party Registrar submitted an application dated 13<sup>th</sup> November B.E. 2549 (2006) to the Constitutional Tribunal stating as follows. The Political Party Registrar received notice of the establishment of Kasetrakorn Raengan Thai Party on 15<sup>th</sup> March B.E. 2549 (2006). The party subsequently changed its name to Ruam Palang Thai Party on 10<sup>th</sup> October B.E. 2549 (2006). Ruam Palang Thai was required to acquire five thousand or more members, which must at least consist of members residing in each region in the list of regions and provinces prescribed by notification of the Political Party Registrar, and establish at least one political party branch in each region, within 11<sup>th</sup> September B.E. 2549 (2006), which was the expiry date of one hundred and eighty days as from the date of the Political Party Registrar's receipt of notice of the establishment of Ruam Palang Thai Party under section 29 of the Organic Act on Political Parties B.E. 2541 (1998). It appeared that on 4<sup>th</sup> September B.E. 2549 (2006), Ruam Palang Thai Party gave notice of the establishment of four party branches, and the Political Party Registrar certified the establishment of the first, second and third party branches, but did not certify the establishment of the fourth party branch because the Office of the Election Commission's report on the results of a factual inquiry and investigation of the persons elected as party branch executives with respect to the establishment of the fourth party branch revealed that all persons gave consistent statements that they were neither members of Ruam Palang Thai Party nor attended the meeting to establish the Ruam Palang Thai Party branch at the date, time and venue specified in the minutes of the meeting and the signatures on the meeting minutes were not their signatures. The Election Commission therefore passed a resolution directing the Political Party Registrar to submit an application to the Constitutional Tribunal to dissolve Ruam Palang Thai Party pursuant to section 29 and section 65 paragraph two of the Organic Act on Political Parties B.E. 2541 (1998), in conjunction with section 35 of the Constitution of the Kingdom of Thailand (Interim) B.E. 2549 (2006). The Political Party Registrar accordingly submitted an application to the Constitutional Tribunal for an order to dissolve Ruam Palang Thai Party.

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\* Published in the Government Gazette Vol. 125, Part 35a, 19<sup>th</sup> February B.E. 2551 (2008).

The Constitutional Tribunal ordered the admittance of the application for trial and adjudication under clause 18 of the Rules of the Constitutional Tribunal on Adjudicative Quorum, Procedures and Rulings B.E. 2549 (2006). Ruam Palang Thai Party was given an opportunity to submit a statement in reply to the allegations. Ruam Palang Thai Party, by Mr. Worapong Klansupa, the party leader, submitted a statement in reply to the allegations, dated 6<sup>th</sup> December B.E. 2549 (2006), to the Constitutional Tribunal stating in summary that the respondent did not in any way attend the meeting to establish the fourth party branch and requested for a Constitutional Tribunal ruling to dissolve Ruam Palang Thai Party.

## **2. Preliminary issue**

The case was pending proceedings in the Constitutional Tribunal when the Constitution of the Kingdom of Thailand B.E. 2550 (2007) was promulgated on 24<sup>th</sup> August B.E. 2550 (2007) to replace the Constitution of the Kingdom of Thailand (Interim) B.E. 2549 (2006). A preliminary issue which had to be considered was therefore whether or not the Constitutional Court had the power to continue with the trial and adjudication of this case.

After consideration, the Constitutional Court held as follows. Section 300 paragraph one, paragraph three and paragraph four of the Constitution of the Kingdom of Thailand B.E. 2550 (2007) provided for the Constitutional Tribunal under the Constitution of the Kingdom of Thailand (Interim) B.E. 2549 (2006) to become the Constitutional Court and that the provisions of section 35 paragraph two, paragraph three and paragraph four of the Constitution of the Kingdom of Thailand (Interim) B.E. 2549 (2006) would continue to be in force until the enactment of the Organic Act on Procedures of the Constitutional Court. All cases or matters pending proceedings in the Constitutional Tribunal would be continued by the Constitutional Court. Thus, the Constitutional Court had the power to try and adjudicate this application.

Whilst the Organic Act on Political Parties and Organic Act on Election Commission under the Constitution of the Kingdom of Thailand B.E. 2550 (2007) had not yet been enacted, section 295 paragraph three of the Constitution of the Kingdom of Thailand B.E. 2550 (2007) provided for the Organic Act on Political Parties B.E. 2541 (1998) and the Organic Act on Election Commission B.E. 2541 (1998) to remain in force until the enactment and coming into force of such Organic Acts.

## **3. Issue considered by the Constitutional Court**

The issue considered by the Constitutional was whether or not there was a cause for dissolution of Ruam Palang Thai Party under section 65 paragraph one subparagraph (5) of the Organic Act on Political Parties B.E. 2541 (1998) due to a failure to comply with section 29.

After consideration, the Constitutional Court held as follows. Kasetrakorn Raengan Thai Party, subsequently renamed to Ruam Palang Thai Party, gave notice of political party establishment on 15<sup>th</sup> March B.E. 2549 (2006). The expiration of one hundred and eighty days as from the establishment date of such party was due on 11<sup>th</sup> September B.E. 2549 (2006). It appeared that Ruam Palang Thai Party gave notice of the establishment of four party branches on 4<sup>th</sup> September B.E. 2549 (2006) and the Political Party Registrar certified the establishment of the first, second and third party branches but did not certify the establishment of the fourth party branch due to a report of the Office of the Election Commission on factual inquiries and investigations on persons elected as party executives with respect to the establishment of the fourth party branch, which stated that all persons had given consistent statements that they were not members of Ruam Palang Thai Party, did not attend the meeting to establish the Ruam Palang Thai Party branch according to the date, time and venue specified in the meeting minutes, and the signatures on the meeting minutes were not their signatures. In this connection, Ruam Palang Thai Party, by Mr. Worapong Klansupa, the party leader, submitted a statement in reply to the allegations, dated 6<sup>th</sup> December B.E. 2549 (2006), to the Constitutional Tribunal stating in summary that the respondent did not in any way attend the meeting to establish the fourth party branch and requested that the Constitutional Tribunal give a ruling to dissolve Ruam Palang Thai Party. It was therefore found on the facts that Ruam Palang Thai Party did not proceed to comply with section 29 of the Organic Act on Political Parties B.E. 2541 (1998) due to its failure to establish at least one political party branch in each region within one hundred and eighty days as from the Political Party Registrar's receipt of notice of political party establishment. The case contained a cause for the Constitutional Court to order the dissolution of Ruam Palang Thai Party under section 65 paragraph one subparagraph (5) of the Organic Act on Political Parties B.E. 2541 (1998).

The following question which had to be considered was whether or not clause 3 of the Announcement of the Council for Democratic Reform No. 27, dated 30<sup>th</sup> September B.E. 2549 (2006), which provided that in the case where the Constitutional Court or other organs exercising the functions of the Constitutional Court ordered the dissolution of a political party due to a violation of a prohibition under the Organic Act on Political Parties B.E. 2541 (1998), the election rights of such political party executives should be revoked for a period of five years as from the date of political party dissolution order, was still in force, and whether or not it was applicable to the dissolution of a political party under section 65 paragraph one subparagraph (5) due to a failure to comply with section 29 of the Organic Act on Political Parties B.E. 2541 (1998).

The Constitutional Court held as follows. Section 309 of the Constitution of the Kingdom of Thailand B.E. 2550 (2007) provided that all matters recognized by the Constitution of the Kingdom of Thailand (Interim) B.E. 2549 (2006) as lawful and constitutional, including acts related to such cases, whether committed prior to or subsequent to the promulgation of this Constitution, would be deemed as matters or acts which were consistent under this Constitution. In addition, section 36 of the Constitution of

the Kingdom of Thailand (Interim) B.E. 2549 (2006) provided that all announcements and orders of the Council for Democratic Reform with the King as Head of State, or orders of the Head of the Council for Democratic Reform with the King as Head of State, announced or issued between 19<sup>th</sup> September B.E. 2549 (2006) and the promulgation date of this Constitution, would continue to be in force and deemed as lawful and constitutional. As a result thereof, the Announcement of the Council for Democratic Reform No. 27, dated 30<sup>th</sup> September B.E. 2549 (2006) continued to be in force.

The Constitutional Court then had to consider the question of whether or not clause 3 of the Announcement of the Council for Democratic Reform No. 27, dated 30<sup>th</sup> September B.E. 2549 (2006), was applicable to the dissolution of a political party under section 65 paragraph one subparagraph (5) of the Organic Act on Political Parties B.E. 2541 (1998) due to a failure to comply with section 29 of the Organic Act on Political Parties B.E. 2541 (1998).

The Constitutional Court held as follows. Section 65 and section 66 of the Organic Act on Political Parties B.E. 2541 (1998) provided causes for the dissolution of a political party but the texts of such sections contained differences. In other words, in the case of section 65 paragraph two, the Constitutional Court would order the dissolution of a political party upon finding one of the following causes, (1) cause for dissolution under the party rules, (2) having fewer than fifteen members, (3) merger with another political party, and (5) failing to comply with provisions of law, such as failing to comply with section 29 in acquiring membership and establishing party branches within one hundred and eighty days as from the establishment of the political party. This failure to comply with section 29 was not a serious act or a threat to the democratic form of government with the King as Head of State. Therefore, failure to comply with section 29 was not an act of such severity as to call for an order to revoke the election rights of the party executives. This was different from the causes for a Constitutional Court order to dissolve a political party under section 66, which provided that if a political party committed an act to overthrow the democratic form of government with the King as Head of State, or to acquire national governing powers by means which were not provided in the Constitution, or an act which could be detrimental to the democratic form of government with the King as Head of State under the Constitution, or an act which could be a threat to State security or inconsistent with laws or public order or good morals of the people or a violation of a prohibition under section 23 paragraph one, section 52 or section 53. It was apparent that the causes under section 66 were serious acts or threats to the democratic form of government with the King as Head of State similar to the provisions of section 63 of the Constitution of the Kingdom of Thailand B.E. 2540 (1997), which provided that a person could not exercise rights and liberties under the Constitution to overthrow the democratic form of government with the King as head of State, or to acquire national governing powers by means which were not provided in the Constitution. As this case involved a request for Constitutional Court order to dissolve Ruam Palang Thai Party under section 65 paragraph one subparagraph (5) of the Organic Act on Political Parties B.E. 2541 (1998) due to a failure to comply with section 29, clause 3 of the Announcement of

the Council for Democratic Reform No. 27, dated 30<sup>th</sup> September B.E. 2549 (2006), was therefore not applicable to the present case. The consideration of whether or not there was a request for an order to revoke the election rights of Ruam Palang Thai Party executives was irrelevant.

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

By virtue of the reasons stated above, the Constitutional Court issued an order under section 65 paragraph two of the Organic Act on Political Parties B.E. 2541 (1998) to dissolve Ruam Palang Thai Party.

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