



Office of the Constitutional Court

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Facebook : www.facebook.com/constitutionalcourt.thai
E-mail : pr_constitutionalcourt@gmail.com



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Following are interesting cases held by the Constitutional Court:

The Election Commission requested for a Constitutional Court ruling on the dissolution of the Move Forward Party (Case No. 10/2567).

The Election Commission (applicant), as the Registrar of the Political Parties, filed an application that there were reliable evidences that the Move Forward Party (respondent) had attempted to subvert the democratic regime of government with the King as Head of State and behaved in manner of hostility to the democratic regime of government with the King as Head of State. This was a cause for the dissolution of the respondent political party under section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017), of which facts were stated in Constitutional Court Ruling No. 3/2567 (2024). The Constitutional Court was, therefore, requested to render orders to dissolve the respondent political party; revoke the right to candidacy of the respondent political party's executive committee members; and prohibit those who held office of the political party respondent's executive committee members whose right to candidacy was revoked from re-registering any political parties, serving on a new political party's executive committee, or participating in establishment of any political parties within ten years as from the date of the Constitutional Court's order to dissolve the respondent political party pursuant to section 92 paragraph two and section 94 paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017).

Ruling of the Constitutional Court

After the Constitutional Court's consultative meeting, it was ruled that section 210 of the Constitution provides that the Constitutional Court has duties and powers on constitutional review of law and bill; adjudication on a question regarding duties and powers of constitutional organs; and other duties and powers prescribed in the Constitution. In order to implement section 210 paragraph three, the provision of section 188 paragraph one,

stipulating that the trial and adjudication of cases are the powers of the Courts which must be carried out in accordance with the laws and in the name of the King, shall apply to the Constitutional Court *mutatis mutandis*. Moreover, section 7 (13) of the Organic Act on Procedures of the Constitutional Court, B.E. 2561 (2018), states that the Constitutional Court shall have duties and powers to adjudicate any other cases stipulated by the Constitution, organic laws or other laws to be within the jurisdiction of the Constitutional Court. Section 92 paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017), authorises the Constitutional Court to consider and adjudicate on dissolution of political parties. It, thus, had powers to admit such application for further proceedings and render an order to dissolve any political parties.

Filing an application to the Constitutional Court concerning dissolution of a political party can refer to two cases: first, the Election Commission has “reliable evidence” that a political party has committed acts in manner under section 92 paragraph one (1) – (4); and second, “when it becomes apparent” to the Political Party Registrar that a political party has committed acts in manner under section 92, the Registrar shall gather facts and evidence to present to the Election Commission in accordance with its Regulation on the Political Party Registrar’s Collection of Facts and Evidence, B.E. 2566 (2023). This is a case where the law sets different criteria for an initiator under the procedure and matter of facts. Thereby, should the Election Commission possess any reliable evidence in which a political party has committed acts under the matters prescribed by the law, it shall have power to file an application to the Constitutional Court.

Given that such case and Constitutional Court Ruling No. 3/2567 (2024) were both constitutional cases on the same ground of action, the Constitutional Court shall conduct her hearing upon the same standards. Since the Constitutional Court concluded her Ruling No. 3/2567 (2024) that the respondent’s acts had constituted an exercise of the rights and liberties to subvert the democratic regime of government with the King as Head of State pursuant to section 49, together with section 211 paragraph four of the Constitution, which reads that “the ruling of the Constitutional Court shall be final and binding on the National Assembly, the Council of Ministers, Courts, Independent Organs, and State agencies,” the Constitutional Court shall commit herself to such matter of facts in adjudication of this case. Upon Constitutional Court Ruling No. 3/2567 (2024), the respondent’s attempts to amend section 112 of the Penal Code that would lead to degrade the status of the Institution of the

Monarchy, and its campaign as the political party's policy to boost and win election votes would exploit the Institution of the Monarchy, causing such Institution to be a party of dispute against the people. The respondent, hence, intended to subvert and undermine the Institution of the Monarchy, leading to an overthrow of the democratic regime of government with the King as Head of State. As a consequence, such acts would be also hostile to the democratic regime of government with the King as Head of State.

Inasmuch as a political party is the people's crucial political institution under the democratic regime, the dissolution of any parties shall be strict, cautious and proportionate to how severe such political parties act and behave. The respondent had committed the serious acts which violated section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017). No matter whether they win an election, such law applies equally to all political parties. If any severe acts occur, it shall be the law to prevent such action from undermining the fundamental principle of the democratic regime of government with the King as Head of State. The Constitutional Court, inevitably, rendered an order to dissolve the respondent political party. Although academics, politicians or foreign diplomats at any level have their own constitution and domestic laws, including their own regulations, which differ according to the context of each country, any expression of opinions must be in accordance with international diplomatic and foreign affairs etiquette that should be observed towards each other.

As a result of the Constitutional Court's order for the dissolution of the respondent political party pursuant to section 92 paragraph one (1) - (2) and paragraph two, it was legitimate for the Constitutional Court to render an order to revoke the right to candidacy of the respondent political party's executive committee members, who held office during the time of their acts as a reasonable ground for such respondent party dissolution; that is, between 25th March 2021 and 31st January 2024. This revocation was imposed for ten years as from the date of the order by the Constitutional Court for the said dissolution, which is consistent with section 94 paragraph two of Organic Act on Political Parties, B.E. 2560 (2017).

Given that the Constitutional Court rendered her orders to dissolve the respondent political party and revoke the right to candidacy of the respondent political party's executive committee members, another order was, hence, necessary to be issued to prohibit those who held the position from 25th March 2021 to 31st January 2024 from re-registering any

political parties, serving on a new political party's executive committee, or participating in establishment of any political parties within ten years as from the date of the Constitutional Court's order to dissolve the respondent political party in accordance with section 94 paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017).

Determinative results are as follows.

Issue I. Was there a reasonable ground to dissolve the respondent political party pursuant to section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017)?

The Constitutional Court unanimously rendered its ruling to dissolve the respondent political party pursuant to section 92 paragraph one (1) and paragraph two.

Upon a majority determination (8 : 1), a ruling was made to dissolve the respondent political party pursuant to section 92 paragraph one (2) and paragraph two (dissenting justice: Mr. Bunjongsak Wongprachaya).

Issue II. Shall the right to candidacy of the respondent political party's executive committee members be revoked pursuant to section 92 paragraph two, and to what extent?

The Constitutional Court unanimously rendered its ruling to revoke the right to candidacy of the respondent political party's executive committee members, who held office between 25th March 2021 and 31st January 2024 as a period of their acts as a reasonable ground for such respondent party dissolution pursuant to section 92 paragraph two. Such revocation was imposed for ten years as from the date when the Constitutional Court rendered the order to dissolve the respondent political party.

Issue III. Were the members of the dissolved respondent political party's executive committee, whose right to candidacy was revoked, permitted to re-register any political parties, serve on a new political party's executive committee, or participate in establishment of any political parties within ten years as from the date of the dissolution of their party pursuant to with section 94 paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017)?

The Constitutional Court unanimously rendered its ruling to prohibit those who sat on the respondent political party's executive committee from re-registering any political parties, serving on a new political party's executive committee, or participating in establishment of any political parties within ten years as from the date of the Constitutional Court's order for such dissolution pursuant to section 94 paragraph two.

Remarks: Provisions related to the adjudication of Case No. 10/2566 (2023)
Re: The Election Commission requested for a Constitutional Court ruling on the dissolution of the Move Forward Party.

Organic Act on Political Parties, B.E. 2560 (2017)

Section 92. The Commission, when having believable evidence that any political party performed any of the following actions, shall file an application to the Constitutional Court to dissolve such political party.

(1) To overthrow the democratic regime of government with the King as Head of State or to perform any action to obtain the power to govern the country by any means that are not in the due process of law as prescribed in the Constitution;

(2) To perform any action that may be hostile to the democratic regime of government with the King as Head of State;

(3) To perform any action that is a violation of section 20 paragraph two, section 28, section 30, section 36, section 44, section 45, section 46, section 72, or section 74;

(4) There is a ground to dissolve a political party as prescribed by laws.

The Constitutional Court, after the hearing and if there is believable evidence that the political party performed any action under paragraph one, shall give an order to dissolve such political party and revoke the right to candidacy of the executive committee of such political party.

Section 94. After the Constitutional Court has given an order to dissolve any political party, the Registrar shall announce the order to dissolve such political party in the Government Gazette, and no person is permitted to use the name, initials, or logo of political party that is identical or cognate with the name, initials, or logo of political party of such dissolved political party.

No person who had been holding position as an executive committee member of such dissolved political party and had been deprived of the right to candidacy due to those grounds is permitted to register new political party, or to be an executive committee member of new political party or have participation in the foundation of new political party for ten years as from the date such political party is dissolved.
