



# Office of the Constitutional Court



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E-mail : [pr\\_constitutionalcourt@gmail.com](mailto:pr_constitutionalcourt@gmail.com)

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The Constitutional Court considered a case whereby the Election Commission submitted a petition to the Constitutional Court for a ruling to dissolve the Future Forward Party.

## Ruling of the Constitutional Court

**The first issue** was whether the petitioner had the power to submit this petition for the Constitutional Court's consideration.

The Constitutional Court held by a majority of 8 votes to 1 vote that upon the commencement of proceedings of the petitioner for the dissolution of a political party under section 92 of the Organic Act on Political Parties B.E. 2560 (2017), it could be inferred that the petitioner had reached a resolution in the meeting on 26<sup>th</sup> November B.E. 2562 (2019) enabling the Political Party Registrar to find facts and gather evidence for the case whether there was a cause to dissolve a political party, pursuant to section 92 of the said Organic Law. The Political Party Registrar thereby issued an order to appoint a fact-finding committee to examine the evidence and submitted the matter to the petitioner for further consideration. The petitioner concluded that there was reasonable evidence to believe that in this case, the respondent committed an act in violation of section 72, which constituted a ground for having this application referred to the Constitutional Court under section 92 paragraph one (3). The resolution had been agreed and was submitted to the Constitutional Court. Unlike the criminal proceedings that were irrelevant to this case, the petition was in compliance with the laws and other related regulations. Thus, the petitioner was able to submit this application to the Constitutional Court.

**The second issue** was whether there was a cause for dissolving the respondent party pursuant to section 72, in conjunction with section 92 of the Organic Act on Political Parties B.E. 2560 (2017).

The Constitutional Court held by a majority of 7 to 2 votes that a political party and a person holding a political position accepting donations, assets or other benefits, where one knew or should have known that they were illegally acquired, or there was a reasonable ground for suspicion that they derived from illegitimate sources, was deemed to have failed to comply with section 72 of the Organic Act on Political Parties B.E. 2560 (2017). The Constitutional Court found that the provision of section 72 prohibiting political parties from being involved in activities relating to money, assets or other benefits that can result in the implications that the political parties committed an offence as a participant, a supporter or an assistant of that illegitimate source. This can have an impact on the confidence of the people towards the political institutions in Thailand. Such a measure was significant in upholding the political institutions as being transparent and reliable to the people.

Political party activities shall rely upon an income of political parties as stated in section 62 of the said Organic Act concerning the sources of incomes. As such, any money spent for operating the political activities, not derived from the sources and means of acquiring it as prescribed by laws shall be conceived as illegal money. Although the Organic Act on Political Parties B.E. 2560 (2017) does not explicitly forbid the political parties from obtaining a loan, it is not acknowledged in the Act that the political parties can do so either. Additionally, a political party is a legal entity under the public law. Even if the loan is not an income, it would be considered to be a revenue and political finance. Therefore, the process pertaining to the political parties in acquiring the money and their expenses shall be conducted within a legal boundary. Considering the intention of the Constitution and other related laws, the political parties' loan, therefore, shall be in compliance with that purpose.

The terms "donations" and "other benefits" under the Organic Act on Political Parties B.E. 2560 (2017) are defined specifically so as to clarify a scope of legal enforcement in this matter to be consistent with the purpose of the Constitution and other related laws. The purpose is to control the sources of money used to support political parties so that those political parties can be free from being under the influence of a person or a group of people.

It was found that the respondent's annual financial statement of the year B.E. 2561 (2018) had a higher expense of merely 1,490,537 baht than its income. The respondent, however, made two loan contracts from Mr. Thanathorn Juangroongruangkit, the respondent's party leader, in an amount of 191,200,000 baht whose interest rates and penalty were not in

compliance with the ordinary course of business. This could be deemed as giving other benefits which could be calculated as money to the respondent's political party. Such loan contracts thus failed to comply with the ordinary course of business and were inconsistent with the normal course of lending practices and loan repayments. Furthermore, since the respondent received other benefits from the said loan contracts including the 8,500,000 baht donation from Mr. Thanathorn Juangroongruangkit, it was obvious that the respondent had committed an act prohibited under section 66 paragraph two of the Organic Act on Political Parties B.E. 2560 (2017) by acquiring donations, assets or other benefits exceeding ten million baht per year.

Facts, circumstances and supporting evidence indicated that the loans incurred by the respondent had been intentionally manipulated to evade the terms "donations, assets or other benefits" prescribed under section 66 of the Organic Act on Political Parties B.E. 2560 (2017). As those aforementioned donations prohibited under section 66 paragraph one, the acceptance of donations, assets or other benefits were known or should have been known as illegal acquisition provided under section 72 of the said Organic Act. There were reasonable grounds to believe that the respondent had committed an act that prohibited by section 72, constituting a cause for the Constitutional Court to rule the dissolution of the respondent party pursuant to section 92 paragraph two in conjunction with section 92 paragraph one (3) of the Organic Act on Political Parties B.E. 2560 (2017).

**The third issue** was whether the executives of the respondent party's election candidacy rights should be revoked under section 92 paragraph two of the Organic Act on Political Parties B.E. 2560 (2017) and if so, how long.

The Constitutional Court ruled by a majority of 7 to 2 votes that the respondent committed an act constituting a cause for dissolution of the respondent party, the Constitutional Court ruled the dissolution of the Future Forward Party, thereby revoking the election candidacy rights of its executives in the office on 2<sup>nd</sup> January B.E. 2562 (2019) or on 11<sup>th</sup> April B.E. 2562 (2019). As for the period of revocation of the election candidacy rights, it shall be in compliance with the principle of proportionality, based on the case as prescribed in Constitutional Court Ruling no. 3/2562 (2019), dated 7<sup>th</sup> March B.E. 2562 (2019). Hence, the election candidacy rights of the respondent party's executives holding the position from the date of committing the act constituting the cause for dissolving the

respondent party were revoked for a period of ten years as of the date the Constitutional Court's ruling to dissolve the respondent party.

**The fourth issue** was whether the person whose election candidacy rights were revoked, could register a new political party, or become an executive of a political party or participate in the establishment of a new political party within a period of ten years from the day the Constitutional Court ruled the dissolution of the respondent party under section 94 paragraph two of the Organic Act on Political Parties B.E. 2560 (2017)

The Constitutional Court rendered its ruling by a majority of 7 to 2 votes that as the Court issued a ruling for dissolving the respondent party and revoking the election candidacy rights of the respondent party's executives, the ban had to be imposed on former executives of the respondent party holding office on 2<sup>nd</sup> January B.E. 2562 (2019) or on 11<sup>th</sup> April B.E. 2562 (2019), from registering of a new political party or becoming the executive of any political party or participating in the establishment of the new political party for the period of ten years from the date of the Constitutional Court's ruling to dissolve the respondent party.

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