

**Constitutional Court Ruling No. 6/2564 (2021)**

President of the	Applicant
House of Representatives	
Captain Thamanat Prompow,	Respondent
Member of the House of Representatives and	
Deputy Minister of Agriculture and Cooperatives	

Constitution, section 3 paragraph one and paragraph two, section 98(10), section 101(6), section 160(6) and section 170 paragraph one (4).

On the question of whether or not the terms “having been convicted by a final judgment” under section 98(10) of the Constitution, being a prohibition from exercising the right to apply for candidacy in an election of Members of the House of Representatives, meant only a judgment of a Thai court, it was held as follows. Section 3 paragraph one and paragraph two of the Constitution provided for sovereign powers as the supreme power to govern the country. An essential characteristic of sovereign power is absoluteness, not being under the mandate or control of any other state. The trial and adjudication of cases was an exercise of judicial power, being part of the sovereign power, which was not under other states’ mandate or judicial power. The principles and practices of the state relating to the exercise of judicial powers would be provided in the constitution of each country to affirm the principle of judicial independence and sacredness of a judgment. When a provision of the Constitution referred to a judgment, it had to mean a judgment of a court of that state or country only, and should not include the judgment of a foreign court. Furthermore, the enactment of criminal laws in each country provided different acts constituting offences, elements of offences, grounds of offences and conditions for punishment. If section 98(10) of the Constitution was interpreted so that “having been convicted by a final judgment” included the judgment of a foreign court, it would extend to a final judgment for an offence under other laws and result in the extended recognition of a foreign court’s jurisdiction. There would be an inability to screen or review proceedings in the foreign court in accordance with the rule of law, contrary to the principle of reciprocity, thus significantly prejudicing the sovereignty of Thai courts.

Even though it was found on the facts in this case that the respondent was convicted by the New South Wales District Court, Commonwealth of Australia for an offence under the law on narcotic drugs prior to applying for candidacy in the election of Members of the House of Representatives, the conviction was not rendered by judgment of a Thai court. Therefore, the respondent was not prohibited under section 98(10) of the Constitution. The respondent’s membership of the House of

Representatives did not terminated under section 101(6) in conjunction with section 98(10) of the Constitution, and the respondent's individual ministerial office did not terminate under section 170 paragraph one (4) in conjunction with section 160(6) and section 98(10) of the Constitution.