

Constitutional Court Ruling No. 10-13/2564 (2021)Takua Pa Provincial Court, 1st ApplicantsNakhon Phanom Provincial Court, 2ndChiang Rai Kwaeng Court, 3rdBuriram Provincial Court, 4th

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Respondent

Constitution, section 26, section 34 and section 44;

Public Assembly Act, B.E. 2558 (2015), section 4 definition of “public assembly”, section 10, section 14 and section 28.

Section 4 definition of “public assembly” under the Public Assembly Act, B.E. 2558 (2015) provided the characteristics of a public assembly subject to this law, which was not dependent on the number of persons and did not affect the rights and liberties of a person.

Section 10 paragraph one provided that a person intending to organise an assembly had to give at least a twenty-four-hour advance notice of the assembly. Paragraph two provided that a person intending to hold a public assembly included a person who by any means invited or scheduled other persons to participate in an assembly on a stipulated date, time and place. Finally, paragraph three provided procedures for giving notice of public assembly, which should be in accordance with procedures prescribed by Notification of the Prime Minister. Such procedure had to be convenient for the person giving notice and should also allow notices to be filed via an information technology system. This was a measure which the state prescribed a notification system, not a licensing system. This advance notification system allowed state officials to prepare readiness for providing safeguards on the convenience of the public who could be affected and to effectively oversee the public assembly. The person under paragraph two who was aware of information relating to the public assembly, together with the procedure for notification of public assembly, could satisfy this requirement conveniently. There was no excessive increase of burden or restriction of right or liberty. As for notification procedures, the legislature delegated powers to the executive to issue subordinate legislation to prescribe clear and complete details on procedures for notification of an assembly. There was no increase of burden on the person under a duty to give notice.

Section 14 provided the characteristics of a public assembly that was unlawful to allow a state official to act under the law to effectively oversee convenience and safety of assembly.

Section 28 provided a fine penalty of not more than ten thousand baht. This measure promoted the effectiveness of law enforcement and was a penalty proportionate to the case. Therefore, the definition of “public assembly” under section 4 and the provisions of section 10, section 14 and section 28 of the Public Assembly Act, B.E. 2558 (2015), were neither contrary to nor inconsistent with section 26, section 34 and section 44 of the Constitution.