

## Constitutional Court Ruling No. 1/2564 (2021)

Election Commission	Applicant
Mr. Theptai Senpong,	Respondent
Member of the House of Representatives	

Constitution, section 82 paragraph two, section 96(2), section 98(4), section 101(6), section 102 and section 105 paragraph one (1).

Section 101(6) of the Constitution provided that membership of the House of Representatives terminated upon having a prohibition under section 98. Section 98(4) in conjunction with section 96(2) provided that a person prohibited from exercising the right to vote, being a person whose right to vote has been revoked, regardless of whether or not the case concerned was final on the election day, was a person prohibited from applying for candidacy in the election of Members of the House of Representatives. The respondent was a constituency Member of the House of Representatives for Nakhon Si Thammarat Province, Constituency 3. He was found guilty by a judgment of the Nakhon Si Thammarat Provincial Court on 28<sup>th</sup> August B.E. 2563 (2020) for offences under section 57 paragraph one (4) and section 118 of the Election of Members of the Local Assembly or Local Administrators Act, B.E. 2545 (2002) in conjunction with section 83 of the Penal Code, and sentenced to 3 years' imprisonment. There were mitigating circumstances reducing the sentence by one-third, thus he was sentenced to 2 years' imprisonment. His actions hindered the conduct of fair and honest elections. Therefore, the sentence was not suspended and the respondent's right to vote was revoked for a period of ten years as from the date of judgment. As section 96(2) did not use the term "final judgment", the respondent's membership of the House of Representatives therefore terminated under section 101(6) in conjunction with section 98(4) and section 96(2) of the Constitution as from the date of Constitutional Court order to restrain the respondent from performing duties pursuant to section 82 paragraph two of the Constitution, namely 16<sup>th</sup> September B.E. 2563 (2020), without having to wait for a final judgment. Furthermore, the date of Constitutional Court reading of the ruling to the parties, namely 27<sup>th</sup> January B.E. 2564 (2021), was the date of vacancy of the office of constituency Member of the House of Representatives pursuant to section 105 paragraph one (1) in conjunction with section 102 of the Constitution.

**Note :**

This Constitutional Court ruling is consistent with Constitutional Court Ruling No. 12/2562 (2019), which held that the respondent's membership of the House of Representatives terminated under section 101(6) in conjunction with section 98(4) and section 96(2) of the Constitution as from the date of Constitutional Court order to restrain the respondent from performing duties pursuant to section 82 paragraph two of the Constitution, without having to wait for a final judgment.