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***Translated Judgment***

# The Constitutional Court Ruling No. 20/2567 re: Dissolution of the Move Forward Party Based on Actions Concerning the Amendment or Repeal of the Criminal Code Section 112

*Chalermrat Chandranee*[*]

(Unofficial Translation)
(23)
Constitutional Court Ruling

(State Emblem)
**In the Name of the King**
**Constitutional Court**

Ruling No. 20/2567 Case No. 10/2567

Date 7 Month August B.E. 2567 (2024)

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| **Between** | Election Commission | Applicant |
| | Move Forward Party | Respondent |

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Re: The Election Commission requests that the Constitutional Court consider ordering the dissolution of the Move Forward Party

The Election Commission (the Applicant) filed an application requesting the Constitutional Court to order the dissolution of the Move Forward Party (the Respondent) under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (1) and (2), to revoke the right to stand for election of the persons holding position as an executive committee member of the Respondent's party under Section 92 Paragraph Two, and to prohibit the persons who had been holding position as an executive committee member of the Respondent's party and whose right to stand for election has been revoked from registering a new political party, being an executive committee member of a political party, or having participation in the establishment of a new political party within the period of ten years as from the date the Constitutional Court orders the dissolution the Respondent's party under the Organic Act on Political Parties B.E. 2560 (2017), Section 94 Paragraph Two.

The facts from the application, the additional application, and the documents supporting the application are summarized as follows. The Respondent is a political party under the announcement of the Political Party Registrar dated 1 May 2557 (2014) with the former name being "Ruam Pattana Chart Thai Party," which was later changed to "Phung Luang Party," and currently, "Move Forward Party" under the announcement of the Political Party Registrar dated 2 March 2563 (2020). On 31 January 2567 (2024), the Constitutional Court rendered Ruling No. 3/2567, which is summarized as follows. On 25 March 2564 (2021), Pita Limjaroenrat, the leader of the Respondent's party at that time, and the Members of the House of Representatives in the Respondent's party, 44 persons in total, introduced the Bill Amending the Criminal Code (No. . . .) B.E. . . . (amendment regarding offenses of defamation) to the President of the House of Representatives during the campaign for the general election of the Members of the House of Representatives B.E. 2566 (2023). The leader of the Respondent's party used the Respondent's party's policy, which proposed amendment of Section 112 of the Criminal Code, and continuously carried it out. In addition, the executive committee of the Respondent's party, the Members of the House of Representatives in the Respondent's party, and the members of the Respondent's party had been consistently campaigning for the amendment or repeal of the said law by attending assemblies for activities concerning the repeal of the Criminal Code Section 112, being an alleged offender or acting as a bailsman for the alleged offender for offenses under Section 112 of the Criminal Code, and having expressed opinions regarding the amendment or repeal of the said law through organizing political activities and social media many times. The acts of the Respondent's party were the exercise of the rights or liberties to overthrow the democratic regime of government with the King as Head of State under Section 49 Paragraph One of the Constitution. The Constitutional Court ordered the Respondent's party to cease expressing opinions, making speeches, writing, printing, publicizing, and expressing by other means to cause the repeal of Section 112 of the Criminal Code and prohibited the amendment of

Section 112 of the Criminal Code by any means other than a legitimate legislative process which might occur in the future under Section 49 Paragraph Two of the Constitution in conjunction with the Organic Act on Procedures of the Constitutional Court B.E. 2561 (2018), Section 74. Later, Ruangkrai Leekitwattana and Teerayut Suwankesorn filed a motion with the Applicant, requesting the Applicant to file an application with the Constitutional Court to order the dissolution of the Respondent's party under the Organic Act on Political Parties B.E. 2560 (2017), Section 92. The Applicant is of the view that there is reasonable evidence that the Respondent's party has committed the overthrow of the democratic regime of government with the King as Head of State and is deemed to have committed an act which might be adverse to the democratic regime of government with the King as Head of State, which is a ground for the dissolution of the Respondent's party under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (1) and (2). The Applicant passed a resolution in Meeting No. 10/2567 on 12 March 2567 (2024) to file an application with the Constitutional Court to order the dissolution of the Respondent's party under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (1) and (2). The Applicant hereby requests the Constitutional Court to consider and adjudicate as follows.

(1) To order the dissolution of the Respondent's party.

(2) To order the revocation of the right to stand for election of the persons holding position as an executive committee member of the Respondent's party, namely Pita Limjaroenrat, Chaithawat Tulathon, Nateepat Kulsetthasith, Nakornpong Supanimittrakul, Padipat Santipada, Somchai Fangchalachit, Amarat Chokepamitkul, Apichart Sirisunthon, Bencha Saengchantra, Suthep U-on, and Abhisit Promrit.

(3) To prohibit the persons who had been holding position as an executive committee member of the Respondent's party, whose right to stand for election has been revoked, from registering a new political party, being an executive committee member of a political party, or having participation in the establishment of a new political party within the period of ten years as from the date the Constitutional Court orders the dissolution of the Respondent's party.

The question that the Constitutional Court must preliminarily consider is whether or not the Constitutional Court has the power to accept the application for consideration and adjudication under Section 92 Paragraph One of the Organic Act on Political Parties B.E. 2560 (2017). It is found that the facts from the application, the additional application, and the documents supporting the application constitute a case where the Applicant requests the Constitutional Court to consider and adjudicate to order the dissolution of the Respondent's party under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One. As the Applicant had reasonable evidence that the Respondent's party had committed an act which constituted a ground for the Constitutional Court to dissolve the Respondent's party under Section 92 Paragraph One (1) and (2), and the Applicant filed an application with the Constitutional Court to order the dissolution of the Respondent's party, the Constitutional Court accepted the application for consideration and adjudication

under the Organic Act on Procedures of the Constitutional Court B.E. 2561 (2018), Section 7 (13), in conjunction with the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One, and allowed the Respondent to submit a statement of reply.

The Respondent submitted a statement of reply, supporting documents, and documentary evidence to the Constitutional Court, which are summarized as follows.

1. The Constitutional Court does not have the power to consider and adjudicate the application as Section 210 of the Constitution prescribes that the Constitutional Court shall have duties and powers as follows: (1) to consider and adjudicate on the constitutionality of a law or bill; (2) to consider and adjudicate on a question regarding duties and powers of the House of Representatives, the Senate, the National Assembly, the Council of Ministers, or Independent Organs; and (3) other duties and powers prescribed in the Constitution. In addition, the Constitutional Court has the power to consider and adjudicate as prescribed in many provisions, such as Section 178, Section 213, etc. This demonstrates that the Constitutional Court has the power to consider and adjudicate cases only as prescribed by the Constitution. The Applicant filed an application under Section 92 Paragraph One (1) and (2) of the Organic Act on Political Parties B.E. 2560 (2017), requesting the Constitutional Court to order the dissolution of a political party that committed the overthrow of the democratic regime of government with the King as Head of State, to obtain the power to govern the country by any means that are not in accordance with the ways prescribed in the Constitution, or to perform any action that may be adverse to the democratic regime of government with the King as Head of State. However, Section 49 of the Constitution of the Kingdom of Thailand B.E 2560 (2017) does not empower the Constitutional Court to dissolve political parties, as Section 68 Paragraph Two and Paragraph Three of the Constitution of the Kingdom of Thailand B.E. 2550 (2007) does. Section 92 Paragraph One (1) and (2) of the Organic Act on Political Parties B.E. 2560 (2017) are contrary to or inconsistent with Section 210 Paragraph One (3) of the Constitution, and thus unenforceable under Section 5. The Constitutional Court has no power to consider and adjudicate the application.

2. The Applicant filed the application unlawfully, as filing an application requesting the dissolution of a political party with the Constitutional Court under the Organic Act on Political Parties B.E. 2560 (2017), Section 92, requires the Applicant to comply with the procedures or process under Section 93 Paragraph One, which prescribes that "the Registrar, upon discovering that any political party performed any action under Section 92, shall collect facts and evidence and present his or her opinion to the Commission to consider, which shall be under the rules and methods specified by the Commission." According to the Regulation of the Election Commission on the Collection of Facts and Evidence of the Political Party Registrar B.E. 2566 (2023), Article 7, when the Political Party Registrar accepts a case for proceeding, the Fact-checking Committee appointed by the Political Party Registrar shall collect facts and evidence and present his or her opinion for the Political Party Registrar's consideration within 30 days as from the date the case is accepted for proceeding. The

Fact-checking Committee is obligated to charge the political party as a respondent to provide it with an opportunity to acknowledge facts sufficient to allow the respondent to rebut and present its evidence before presenting the report regarding the collection of facts to the Political Party Registrar. In filing the application in this case, the Applicant did not follow the said steps, thereby preventing the Respondent from acknowledging the charges and having the opportunity to rebut and present its evidence to the Fact-checking Committee. Therefore, the procedure presenting the application to the Constitutional Court to dissolve the Respondent's party is not compliant with the Organic Act on Political Parties B.E. 2560 (2017), Section 93 Paragraph One, in conjunction with the Regulation of the Election Commission on the Collection of Facts and Evidence of the Political Party Registrar B.E. 2566 (2023), Article 7. The presentation of the Applicant's application is unlawful.

3. Constitutional Court Ruling No. 3/2567 is not binding on the Constitutional Court in considering and adjudicating this case. This is because the Respondent is of the view that the Constitutional Court adjudicated that "If the Respondent is allowed to continue its actions, it would not be inconceivable that it will lead to the overthrow of the government . . . and order to cease the actions . . . ," but the actions of the Respondent under the Constitutional Court Ruling No. 3/2567 did not constitute the exercise of the rights or liberties to overthrow the democratic regime of government with the King as Head of State. The Applicant's claims that the Respondent committed the overthrow of the democratic regime of government with the King as Head of State and performed any action that may be adverse to the democratic regime of government with the King as Head of State under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (1) and (2), is a new allegation, which the Constitutional Court has not yet adjudicated on the relevant facts. Moreover, the standard for the proof of guilt under the Constitutional Court Ruling No. 3/2567 is "the standard that must be clear and trustworthy," while the standard for the proof of guilt in this case is "the standard that must be proved of the guilt beyond a reasonable doubt." The Constitutional Court may not bring the results of the Constitutional Court Ruling No. 3/2567 to bind its consideration and adjudication of this case and must reconsider the facts of this case in its entirety.

4. The actions under the application were not the Respondent's actions, as the Respondent is a political party under the Organic Act on Political Parties B.E. 2560 (2017), Section 20, which prescribes that a political party is a juristic person. The Respondent could not perform any action by itself but must carry out the activities of a political party through the executive committee of the Respondent's party, which must also be compliant with the Constitution, laws, policies, and articles of the political party, and resolutions of the general meeting of the political party under Section 21. The petition to introduce the Bill Amending the Criminal Code (No. . . . .) B.E. . . . (amendment regarding offenses of defamation) was the will of, and the performance of duties as, Members of the House of Representatives, which were not under the mandate of the Respondent under Section 114 of the Constitution. Expressing opinions to repeal or amend Section 112 of the Criminal Code, affixing stickers in the box for

repealing Section 112 of the Criminal Code at Laemchabang City Municipality's public park, Si Racha District, Chonburi Province, being present at locations where political gatherings concerning the amendment of Section 112 of the Criminal Code were taking place, and being a bailsman for alleged offenders or defendants in criminal cases for offenses under Section 112 of the Criminal Code are all personal actions of the party members. The Respondent's party did not pass a resolution for the party members to perform the said actions. Therefore, expanding the scope of the persons authorized to act on behalf of the Respondent to include the actions of the party members and considering such actions as the Respondent's actions are contrary to or inconsistent with the Organic Act on Political Parties B.E. 2560 (2017), Section 21.

5. The actions of the Respondent were not the overthrow of the democratic regime of government with the King as Head of State, as the petition to introduce the Bill Amending Section 112 of the Criminal Code of the Members of the House of Representatives in the Respondent's party did not diminish the protection of the institution of kingship by concealment through the Bill or by relying on the legislative process, but was a petition to introduce the Bill using a constitutional, parliamentary process. The Respondent's intention was to preserve the dignity of the King in a position of revered worship as the Head of State, to maintain the equilibrium between the protection of the King's dignity and the protection of the liberty to express opinions of the people in the democratic regime, and to ensure that Section 112 of the Criminal Code would not become a political tool. By removing the offense under Section 112 of the Criminal Code from Title I: Offenses Relating to the Security of the Kingdom, the Respondent did not intend to separate the institution of kingship from the Thai nationhood, thus not affecting the status of the institution of kingship, which is the center of the nation's spirit. As for the introduction of justifications and excuses, it was an amendment to comply with democratic doctrine, which protects the liberty to express opinions in compliance with the general principles of law and universal principles. In addition, proposing that the offense under Section 112 of the Criminal Code should be a compoundable offense, with the King as the injured person, would be inappropriate if the King's power to prosecute a case were delegated directly to the state. Designating the Royal Office as the agency authorized to prosecute a case for the institution of kingship was to prevent the institution of kingship from being degraded into directly being an opposing party. Moreover, the proposed reduction of the penalty was to be in line with the laws of some countries. The Applicant never ordered the Respondent to amend the policy regarding the proposed amendment of Section 112 of the Criminal Code or forbade the presentation of the said policy. The Respondent believed in good faith that the policy was lawful, so it could be campaigned upon and published on the website of the Respondent's party. Specifically on 14 May 2566 (2023), the Applicant and the Political Party Registrar dismissed an application in which the Respondent was subject to a complaint for using the said policy for election campaigning and provided the reason that the Respondent had not committed an action under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (2). The Respondent never referred to the institution of kingship in

support of political popularity or for election campaigning. Expressing opinions through campaigning or being present at locations where political gatherings were taking place concerning the amendment or repeal of Section 112 of the Criminal Code by the party members was a personal action only to observe or to listen to opinions or demands of the people at the gatherings. Affixing stickers for repealing Section 112 of the Criminal Code and the speech at Chonburi Province of Pita Limjaroenrat while in the position of the leader of the party were to manage the situation to prevent conflicts among the people. Also, introducing the repeal of Section 112 of the Criminal Code into the House of Representatives to find solutions did not imply the desire to repeal Section 112 of the Criminal Code. The Respondent is not, and has never been, an offender or joint offender, an instigator or supporter, or otherwise an accomplice under Section 112 of the Criminal Code. The fact that some party members are or were alleged offenders or defendants for the said offense were actions taken before such persons became members of the Respondent's party. Moreover, bailing an alleged offender or defendant in a case under Section 112 the Criminal Code does not imply that the Respondent or the Members of the House of Representatives in the Respondent's party agree with or support such actions. As for the Applicant's claim that the Respondent performed actions that may be adverse to the democratic regime of government with the King as Head of State under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (2), the Constitutional Court in Ruling No. 3/2562 held that an action that is adverse to the democratic regime of government with the King as Head of State does not need to be an intentional act, but merely an act that "a reasonable person must be able to expect that such action may be adverse to the democratic regime of government with the King as Head of State." For the facts in this case, neither the Respondent nor a reasonable person can expect that the actions under the Constitutional Court Ruling No. 3/2567 were the actions that may be adverse to the democratic regime of government with the King as Head of State under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (2).

6. The Constitutional Court should not dissolve the Respondent's party, as political parties are political institutions of the people, which are crucial in the democratic regime. The dissolution of a political party is possible to be done, but it must be done in order to preserve the fundamental principles and values of the democratic regime according to the concept of defensive democracy. The dissolution of a political party must be stringent, cautious, proportionate to the severity of the political party's circumstances, and a last resort. The actions of the Respondent under the Constitutional Court Ruling No. 3/2567 were not objectively severe enough to be grounds for the dissolution of a political party. There is no sufficient, concrete evidence to prove that those actions were likely to succeed and so close to the result that it is necessary to dissolve the political party. Also, after the Constitutional Court rendered the Ruling No. 3/2567, ordering the Respondent to cease such actions, the Respondent immediately removed the content about the policy regarding the amendment of Section 112 of the Criminal Code from the party's website.

7. The Constitutional Court does not have the power to determine the duration for revocation of the right to stand for election of the executive committee of the Respondent's party, as Section 92 Paragraph Two of the Organic Act on Political Parties B.E. 2560 (2017) does not explicitly contain a provision prescribing the duration for revocation of the right to stand for election of the executive committee of a political party. Thus, the Constitutional Court, which is not a legislative organ empowered to enact laws, does not have the power to determine the duration for revocation of the right to stand for election of the executive committee of the Respondent's party, which would result in the restriction of rights or liberties of a person.

8. The revocation of the right to stand for election of the executive committee of the Respondent's party must be compliant with the principle of proportionality, as the Respondent believed in good faith that the Respondent was not committing any offense or illegal action. In addition, the Applicant and the Political Party Registrar decided to dismiss an application where there was a complaint about the actions of the Respondent and the members of the Respondent's party, which may be adverse to the democratic regime of government with the King as Head of State. Considering the principle of proportionality when using discretion to determine the legal liability of the executive committee of the Respondent's party, the Constitutional Court should determine the duration for revocation of the right to stand for election for a period of no longer than 5 years as from the date the Constitutional Court renders the ruling.

9. The Constitutional Court has the power to revoke the right to stand for election only for members of the executive committee of the Respondent's party who were involved with the actions. This is because the act of overthrowing the democratic regime of government with the King as Head of State under Section 49 of the Constitution occurred during the tenure of the first and second sets of the party's executive committee, not during the tenure of the third set of the party's executive committee. Only individuals who held positions in the first set of the executive committee of the Respondent's party from 25 March 2564 (2021) to 14 September 2566 (2023) and the second set of the executive committee of the Respondent's party from 15 September 2566 (2023) to 22 September 2566 (2023) should have their right to stand for election revoked.

For the benefit of the consideration, by virtue of the Organic Act on Procedures of the Constitutional Court B.E. 2561 (2018), Section 27 Paragraph Three, Section 64, and Section 65, the Constitutional Court directed the Applicant to submit a list of evidence and the Parties to submit an affidavit to affirm facts or opinions in writing according to the issues determined by the Constitutional Court, ordered the inclusion of the documentary evidence derived from the inquiry in the case of the Constitutional Court Ruling No. 3/2567 in this case's file, let the Parties examine all evidence on 9 July 2567 (2024), let the Parties submit a written objection to the evidence and a closing statement, and ordered the acceptance of the list of evidence as follows.

1. The Applicant submitted a list of evidence which is summarized as follows. Pacharanont Kanachotepokin complained with the Applicant that the Respondent's

party used its policy on amending Section 112 of the Criminal Code for election campaigning, which was contrary to or inconsistent with the Constitution and violated Section 92 Paragraph One (2) of the Organic Act on Political Parties B.E. 2560 (2017). The Applicant forwarded the matter to the Political Party Affairs Bureau. The Political Party Affairs Bureau assigned the Fact-checking Committee No. 2 to proceed with the review, the finding of facts, and the collection of evidence. There was no evidence that the Respondent acted in a manner contrary to or inconsistent with the Constitution and violated the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (2). The Political Party Affairs Bureau was of the view that, at that time, the Constitutional Court had accepted the application of Teerayut Suwankesorn for consideration, so it should wait for the results of the Constitutional Court's ruling first and present the results of the fact-checking to the Political Party Registrar thereafter. Later, the Constitutional Court rendered Ruling No. 3/2567, concluding that the actions of the Respondent's party constituted an exercise of rights or liberties to overthrow the democratic regime of government with the King as Head of State under Section 49 of the Constitution. Ruangkrai Leekitwattana and Teerayut Suwankesorn submitted a written notice to the Applicant requesting the Applicant to file an application with the Constitutional Court to consider ordering the dissolution of the Respondent's party. The Political Party Registrar assigned the Collection of Facts and Evidence Committee of the Political Party Registrar No. 6 to consider the motions of Pacharanont Kanachotepokin, Ruangkrai Leekitwattana, and Teerayut Suwankesorn simultaneously and report to the Applicant under the Regulation of the Election Commission on the Collection of Facts and Evidence of the Political Party Registrar B.E. 2566 (2023), Article 6. The Applicant resolved in the meeting No. 10/2567 on 12 March 2567 (2024) to file an application with the Constitutional Court to consider ordering the dissolution of the Move Forward Party. The Collection of Facts and Evidence Committee of the Political Party Registrar No. 6 were not required to collect facts and evidence to present to the Political Party Registrar, and there was no reason for the Political Party Registrar to submit them for further consideration by the Applicant. Therefore, the Political Party Registrar ceased the collection of evidence under the Organic Act on Political Parties B.E. 2560 (2017), Section 93, as there was already a filing with the Constitutional Court under Section 92.

2. The Applicant made an affidavit to affirm facts or opinions, summarized as follows. The actions of the Respondent under the Constitutional Court Ruling No. 3/2567 constituted both an action overthrowing the democratic regime of government with the King as Head of State and an action which may be adverse to the democratic regime of government with the King as Head of State under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (1) and (2). This is because the Constitutional Court adjudicated that "The fact that the Respondent used the policy regarding the amendment of Section 112 of the Criminal Code, which is the degradation of the institution of kingship, to campaign for the general election of the Members of the House of Representatives B.E. 2566 (2023) and played a role in political movements in line with the movements of various political groups by

campaigning, stimulating, or inciting in order to start a social trend to support the repeal or amendment of Section 112 of the Criminal Code demonstrates that the Respondent's party is a political group with an ulterior motive to change, amend, or repeal a provision of law which protects the institution of kingship, which is erosion or undermining, leading to deterioration, decline, or weakening, and thus the overthrow of the democratic regime of government with the King as Head of State. The actions of the Respondent were the exercise of the rights or liberties to overthrow the democratic regime of government with the King as Head of State under Section 49 Paragraph One of the Constitution." The term "overthrow" means an act with the intent to destroy or obliterate completely, so that it no longer exists or continues to exist. For the term "adverse," it does not need to be as extreme as having the intent to overthrow or destroy completely. An act which merely causes erosion or undermining, leading to deterioration, decline, or weakening, can already be considered as being adverse. As Section 92 Paragraph One (2) of the Organic Act on Political Parties B.E. 2560 (2017) uses the term "may be adverse," there does not need to be direct intent, and there is no need to wait for the damage to actually occur. The actions of the Respondent under the Constitutional Court Ruling No. 3/2567 were the actions that may be adverse to the democratic regime of government with the King as Head of State under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (2). Therefore, the Applicant had believable evidence that there was an action that constituted a ground for the dissolution of the Respondent's party under the Constitutional Court Ruling No. 3/2567, being evidence that establishes facts which cannot be interpreted otherwise. Thus, the Applicant filed the application with the Constitutional Court under Section 92 Paragraph One of the Organic Act on Political Parties B.E. 2560 (2017). As for the actions under Section 93, they were not the actions of the Applicant, but those of the Political Party Registrar to collect facts and evidence by virtue of Section 93 and the Regulation of the Election Commission on the Collection of Facts and Evidence of the Political Party Registrar B.E. 2566 (2023). The facts in this case and those under the Constitutional Court Ruling No. 3/2567 are the same and binding on the National Assembly, the Council of Ministers, Courts, Independent Organs, and State Agencies under Section 211 Paragraph Four of the Constitution. Moreover, the Applicant filed an application of the same nature when filing an application with the Constitutional Court requesting the Constitutional Court to render a ruling to dissolve the Thai Raksa Chart Party under the Constitutional Court Ruling No. 3/2562, and the Constitutional Court accepted such application for consideration and adjudication. Nonetheless, for the inquiry of other cases, the Applicant relied on the powers under the Constitution, the law on the election commission, the law on the acquisition of senators, the law on the election of Members of the House of Representatives, the law on the election of members of local assemblies or local administrators, and the law on referendum, in conjunction with the Regulation of the Election Commission on Inspection, Inquiry, and Decision B.E. 2561 (2018).

The Respondent submitted a written objection, summarized as follows. In Constitutional Court Ruling No. 3/2567, the Constitutional Court did not adjudicate

that the Respondent had committed an action which may be adverse to the democratic regime of government with the King as Head of State. Moreover, in the consideration stage of the Applicant before filing the application with the Constitutional Court, the Applicant did not inform the Respondent of the charge that the Respondent had committed an action which may be adverse to the democratic regime of government with the King as Head of State, so the Respondent did not have an opportunity to explain or provide reasons. As for the introduction of the application to dissolve the Respondent's party, the Political Party Registrar and the Applicant must act jointly, and the procedure for application introduction must have believable evidence that the Respondent committed an offense under the Organic Act on Political Parties B.E. 2560 (2017), Section 92, not separated or isolated from the procedure for finding evidence or facts before filing the application with the Constitutional Court under Section 93. In addition, Constitutional Court Ruling No. 3/2567 was not a basis for the Applicant to file an application with the Constitutional Court to dissolve the Respondent's party.

3. The Respondent made an affidavit to affirm facts or opinions, which is similar to the statement of reply, with an additional opinion that the Constitutional Court rendered the Ruling No. 15/2553 dismissing the application of the Political Party Registrar which requested the Constitutional Court to order the dissolution of the Democrat Party because the application of the Applicant was unlawful. The Democrat Party did not object to or provide evidence that the Applicant had not complied with the law. Even though the Constitutional Court must listen to all parties when considering and adjudicating a case, this does not exempt the Applicant from complying with Section 93 of the Organic Act on Political Parties B.E. 2560 (2017) in conjunction with the Regulation of the Election Commission on the Collection of Facts and Evidence of the Political Party Registrar B.E. 2566 (2023), Article 7 Paragraph Two, before filing the application.

4. The Respondent submitted a list of documentary evidence, which is a scholarly opinion of Professor Surapon Nitikraipot, the content of which is similar to the statement of reply, the affidavit to affirm facts or opinions, the list of documentary evidence, the written objection to the evidence, and the supporting documents of the Respondent.

5. The Applicant filed a motion to object to the evidence, summarized as follows. For the documentary evidence No. Thor 1–Thor 10, and Thor 47, where the Respondent claimed that the Constitutional Court does not have the power to consider and adjudicate this application, the Applicant is of the view that the Constitutional Court has the duty and power to consider and adjudicate on the dissolution of the Respondent's party. This is because the Constitutional Court rendered the Ruling No. 3/2562 concluding that once the Applicant had believable evidence that the Thai Raksa Chart Party committed an action which was a ground under Section 92 Paragraph One (2) of the Organic Act on Political Parties B.E. 2560 (2017), the Applicant could file an application with the Constitutional Court to consider ordering the dissolution of the Thai Raksa Chart Party. Moreover, the Constitutional Court Ruling No. 5/2563 adjudicated that the Constitutional Court had the duty and power

to consider and adjudicate on the dissolution of the Future Forward Party under Section 210 Paragraph Two of the Constitution and Section 7(13) of the Organic Act on Procedures of the Constitutional Court B.E. 2561 (2018).

As for the documentary evidence No. Thor 11–Thor 40, and Thor 48, the Respondent claimed that the Applicant was not obligated by Constitutional Court Ruling No. 3/2567 to file an application requesting the Constitutional Court to dissolve the Respondent's party, since the actions which are grounds under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (1) and (2), were not committed by the Respondent's party. Nonetheless, the facts derived from Constitutional Court Ruling No. 3/2567 are admissible beyond doubt, having no grounds to be heard otherwise, and are binding on the National Assembly, the Council of Ministers, Courts, Independent Organs, and State Agencies under Section 211 Paragraph Four of the Constitution. Also, scholarly opinions are merely analysis with suggestions on the enforcement of law, representing an academic perspective without binding effect and not aligning with the facts and legal issues in this case. Furthermore, foreign news documents or laws are enacted based on the ways of life, culture, and traditions of the people in those societies, which differ from the context of Thai society. The documentary evidence No. Thor 11, Thor 12, Thor 15–Thor 19, Thor 22, Thor 23, Thor 27–Thor 30, Sor 1 (Sor 18, Sor 40–Sor 47), and the physical evidence No. WorThor 1 duplicate the document No. Sor 1, which was already adjudicated and resolved by the Constitutional Court under Ruling No. 3/2567.

As for the documentary evidence No. Thor 41–Thor 46, the Respondent expressed the views that the Respondent's party should not be dissolved, and if the Respondent's party is to be dissolved, the Constitutional Court does not have the power to determine the duration for revocation of the right to stand for election of the executive committee of the Respondent's party. The Constitutional Court rendered Ruling No. 5/2563 deciding that, since the Constitutional Court had ordered the dissolution of the Future Forward Party, it was empowered to order the revocation of the right to stand for election of the executive committee. As for the duration for revocation of the right to stand for election, the Constitutional Court decided according to the principle of proportionality, appropriate to the circumstances and the severity of the actions, compared to the penalty to be enforced, which is a restriction on the person's rights, and established a precedent in the Constitutional Court Ruling No. 3/2562 ordering the revocation of the right to stand for election of the executive committee of the Thai Raksa Chart Party for the period of ten years as from the date the Constitutional Court ordered the dissolution of the Thai Raksa Chart Party.

6. The Respondent submitted a written objection to the evidence, summarized as follows. Documentary evidence Nos. Ror 20, Ror 22, and Ror 23 demonstrate that the actions of the Respondent were not actions which may be adverse to the democratic regime of government with the King as Head of State under the Organic Act on Political Parties B.E. 2560 (2017) Section 92 Paragraph One (2). As for documentary evidence Nos. Ror 21–Ror 39, they demonstrate that after the Political Party Registrar considered the application and found believable evidence that the

Respondent's party violated Section 92 Paragraph One (1) of the Organic Act on Political Parties B.E. 2560 (2017), it arranged the collection of facts and evidence under Section 93 and the Regulation of the Election Commission on the Collection of Facts and Evidence of the Political Party Registrar B.E. 2566 (2023). However, for the procedure before introducing the application to the Constitutional Court, where there was believable evidence that the Respondent's party violated the Organic Act on Political Parties B.E. 2560 (2017) Section 92 Paragraph One (2), the Political Party Registrar never notified this charge. Documentary evidence No. Ror 17/2 demonstrates that in the meeting of the Applicant No. 9/2567 on 5 March 2567 (2024), the Applicant abused their authority, disregarded the procedural steps prescribed by law, and ordered the Office of the Election Commission to revise the draft application requesting the Constitutional Court to consider and adjudicate to order the dissolution of the Respondent's party without considering the report of the Applicant's Committee on the Study and Analysis of the Constitutional Court Ruling. Additionally, before the Political Party Registrar rendered an order under Article 9 of the Regulation of the Election Commission on the Collection of Facts and Evidence of the Political Party Registrar B.E. 2566 (2023) and in meeting No. 10/2567 on 12 March 2567 (2024), according to documentary evidence No. Ror 17, the Applicant resolved to file the application requesting the Constitutional Court to consider and adjudicate to order the dissolution of the Respondent's party. On the same day, the Political Party Registrar rendered an order to cease the collection of evidence under the Organic Act on Political Parties B.E. 2560 (2017) Section 93 according to documentary evidence No. Ror 33 - Ror 39, which was an unlawful order due to the lack of the law authorizing it to do so. It is appropriate for the Constitutional Court to render a ruling dismissing the application and disposing of the case.

As for documentary evidence No. Sor 1 (Sor 21–Sor 37), the Respondent objected that neither does such documentary evidence show the signage or logo of the Respondent's party nor does it show that Palang Nuleua, Ranyakorn Borna, and Jedsada Khorprasert held positions in the Respondent's party and acted on behalf of the Respondent's party. The actions of Pannawat Nakmool, Umakorn Seethong, Krithiran Lerduritpakdee, Thisana Choonhawan, Sahasawat Koomkong, and Tawiwong Totawiwong, who were present in the area of the assembly were personal actions. The acceptance of a letter from the group of people gathering for political movement by the Committee on Law, Justice, and Human Rights Affairs by Rangsiman Rome was according to the duty and power of the Committee, not personal or on behalf of the Respondent's party, and the participation in a discussion at the Faculty of Political Sciences, Chulalongkorn University of Rangsiman Rome was a personal action. The speech delivered by Thisana Choonhawan was a personal action and was neither done as a member of the Respondent's party nor assigned or instructed by the executive committee of the Respondent's party. The assembly for the "Stand, Stop, Imprison" activity of Sakol Suntornwanichkij, a member of the Respondent's party, and Chetawan Tueaprakone, as well as the activity involving the display of signs encouraging the public to express their opinion on whether they

"support or agree with the repeal of the Criminal Code Section 112" of Wisarut Somngam were done personally and not involved with the Respondent's party. The campaign for the repeal of the Criminal Code Section 112 and the expressions of opinions on social media of Rangsiman Rome and Amarat Chokepamitkul were personal actions, not involved with the Respondent's party and not committed under a resolution or order of the executive committee of the Respondent's party. Such expressions of opinion did not contain any content regarding the repeal of the Criminal Code Section 112. Bencha Saengchantra's engagement in listening to the issues at the protest site regarding the people's demands was a field visit to hear the concerns of those involved in political movements, without any use of violence. In addition, the campaign for the repeal of the Criminal Code Section 112 of the Progressive Movement by Piyabutr Saengkanokkul and Pannika Wanich, who were not members of the Respondent's party, was not involved with the Respondent's party.

7. The Applicant submitted a closing statement. The content of which is similar to the application, the additional application, the list of documentary evidence, the affidavit to affirm facts or opinions, the written objection to the evidence, and the supporting documents.

8. The Respondent submitted a closing statement. The content of which is similar to the statement of reply, the affidavit to affirm facts or opinions, the list of documentary evidence, the written objection to the evidence, and the supporting documents.

The Constitutional Court has considered the application, the additional application, the statement of reply, the list of evidence of the Applicant, the affidavits to affirm facts or opinions of the Parties, the documentary evidence derived from the inquiry in the case under the Constitutional Court No. 3/2567, the written objection to the evidence of the Parties, the closing statements of the Parties, and the supporting documents. It is found that the case concerns questions of law and has sufficient evidence to consider and adjudicate, so the Court ceased the inquiry under the Organic Act on Procedures of the Constitutional Court B.E. 2561 (2018), Section 58 Paragraph One, and determined the 3 issues for consideration and adjudication as follows.

The first issue: Are there grounds for the dissolution of the Respondent's party under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (1) and (2)?

It is considered and found that Section 45 Paragraph One of the Constitution, which prescribes that "a person shall enjoy the liberty to unite and form a political party according to the ways of the democratic regime of government with the King as Head of State, as provided by law," aims to guarantee the liberty to form a political party for the people. Political parties are political institutions designed to integrate the thoughts, ideologies, will, and demands of the people in political, economic, and social aspects altogether and establish them as the party's policies to express the political will of the people through their representatives. Thus, political parties play a crucial role in a democratic regime. Nonetheless, while individuals have the liberty to form a political party as guaranteed under Section 45 of the Constitution, such a liberty is not

unlimited or without boundaries. The liberty to form a political party is always subject to the Constitution and the ways of a democratic regime of government with the King as Head of State, as provided by law.

Section 49 Paragraph One of the Constitution prescribes that "No person shall exercise the rights or liberties to overthrow the democratic regime of government with the King as Head of State," and the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One, prescribes that "The Commission, when having believable evidence that any political party performed any of the following actions, shall file an application with the Constitutional Court to dissolve such political party: (1) to commit an overthrow of the democratic regime of government with the King as Head of State or in order to acquire the power to govern the country by any means that are not in accordance with the ways prescribed in the Constitution; (2) to perform any action that may be adverse to the democratic regime of government with the King as Head of State. . . ." Paragraph Two prescribes that "The Constitutional Court, after the inquiry 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. . . ." Section 49 of the Constitution grants individuals the right to peacefully oppose any action taken by persons or political parties who invoke the exercise of rights or liberties to overthrow the democratic regime of government with the King as Head of State to enable a review and order to cease actions that would be detrimental to the government regime as a preventive measure. The Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (1) and (2), are rules consistent with Section 49 of the Constitution and related to the principle of defensive democracy, as they provide for the dissolution of political parties, which is a defense mechanism to protect against threats to the government or from political parties that are adverse to the Constitution or the democratic regime of government. The dissolution of a political party is therefore a countermeasure to prevent any further attempts to undermine the fundamental principles of the democratic regime with the King as Head of State in the future.

The Constitutional Court rendered Ruling No. 3/2567 on 31 January 2567 (2024), adjudicating that 44 members of the House of Representatives, affiliated solely with the Respondent's party, introduced to the President of the House of Representatives the Bill Amending the Criminal Code (No. . . .) B.E. . . . (amendment regarding offenses of defamation) with regard to the amendment of the Criminal Code Section 112, transferring it from Title I, Chapter 1 (Offenses Relating to the Security of the Kingdom) to Chapter 1/2 (Offenses Against the Honor of the King, Queen, Heir Apparent, and Regent). They also proposed provisions allowing offenders to invoke justifications and excuses and classifying the offense under Section 112 of the Criminal Code as a compoundable offense, with the Bureau of the Royal Household designated as the sole complainant and injured party. The Respondent's party adopted a policy aligned with the contents of the proposed bill during the campaign for the general election of the Members of the House of Representatives B.E 2566 (2023) and continued to pursue this agenda. Additionally, the Respondent's party engaged in political campaigning by participating in activities involved with the proposal for the

repeal or amendment of Section 112 of the Criminal Code. Executive committee members, Members of the House of Representatives, and members of the Respondent's party also acted as bailsmen for the alleged offenders or defendants for the offense under Section 112 of the Criminal Code or were themselves deemed alleged offenders or defendants of such offenses. They also repeatedly expressed opinions in favor of amending or repealing Section 112 of the Criminal Code by arranging political activities and via social media. This indicates the intent to exercise rights or liberties to overthrow the democratic regime of government with the King as Head of State under Section 49 Paragraph One of the Constitution. The Constitutional Court ordered the Respondent to cease expressing opinions, making speeches, writing, printing, publicizing, and expressing by other means to cause the repeal of Section 112 of the Criminal Code, and prohibited the Respondent from amending Section 112 of the Criminal Code by any means other than the legitimate legislative procedure in the future under Section 49 Paragraph Two of the Constitution. After considering Constitutional Court Ruling No. 3/2567, the Applicant, in its meeting No. 10/2567 held on 12 March 2567 (2024), resolved to file an application with the Constitutional Court in view of the believable evidence that the Respondent had committed the actions under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (1) and (2), requesting the Constitutional Court to consider and adjudicate to dissolve the Respondent's party.

There is an issue to preliminarily consider, which is whether the Constitutional Court has the power to receive the Applicant's application for consideration and adjudication.

On this issue, the Respondent submitted an objection arguing that the Constitutional Court has jurisdiction to consider and adjudicate cases only as prescribed by the Constitution. The Applicant filed an application requesting the Constitutional Court to dissolve the Respondent's party as there was believable evidence regarding the existence of the Respondent's actions under Constitutional Court Ruling No. 3/2567, which were deemed by the Constitutional Court the exercise of rights or liberties to overthrow the democratic regime of government with the King as Head of State under Section 49 of the Constitution. Such provision only empowers the Constitutional Court to order the cessation of actions, but does not empower the Constitutional Court to order the dissolution of a political party. Section 92 Paragraph One (1) and (2) of the Organic Act on Political Parties B.E. 2560 (2017), which empower the Constitutional Court to dissolve a political party, are contrary to or inconsistent with Section 49 of the Constitution and thus unenforceable. The Constitutional Court does not have the power to consider and adjudicate this case.

It is found that the Constitution is the supreme law governing the country, serving as the rule for organizing the state's supreme authority. It sets boundaries for the duties, powers, and roles of various organs and defines the relationship between the governing authorities and the people. It may exist in the form of written or unwritten laws. Organic laws, on the other hand, are enacted to provide details and specific guidelines on various matters within the scope authorized and prescribed by

the Constitution, with subject matters directly related to those prescribed in the Constitution. Their functions are to elaborate and clarify the provisions of the Constitution to ensure that those provisions are complete and enforceable, enhancing its effective implementation. Moreover, this allows the Constitution, as the supreme law, to prescribe only concise, fundamental principles. Therefore, organic laws are closely interconnected with the Constitution.

Section 49 of the Constitution is a provision aimed at serving as a measure to protect the country's government regime by guaranteeing the "right to protect the Constitution," allowing citizens to safeguard the democratic regime of government with the King as Head of State. This type of provision first appeared in the Constitution of the Kingdom of Thailand B.E. 2540 (1997), Section 63 Paragraph One, prescribing that "A person shall not exercise their rights and liberties under the Constitution to overthrow the democratic regime of government with the King as Head of State under this Constitution." Paragraph Two prescribed that "In the event that a person or a political party acts as stated in Paragraph One, any individual who becomes aware of such actions shall have the right to submit the matter to the Attorney General to investigate the facts and file an application requesting the Constitutional Court to order the cessation of such actions." Paragraph Three prescribed that "In the event that the Constitutional Court orders any political party to cease actions as stated in Paragraph Two, the Constitutional Court may order the dissolution of that political party." The Constitution of the Kingdom of Thailand B.E. 2550 (2007), Section 68, and the current Constitution have retained the same principle. Section 49 Paragraph One prescribes that "No person shall exercise the rights or liberties to overthrow the democratic regime of government with the King as Head of State." Paragraph Two prescribes that "Any person who becomes aware of an act under Paragraph One shall have the right to petition to the Attorney General to request the Constitutional Court to consider ordering the cessation of such act."

For the Organic Act on Political Parties B.E. 2560 (2017), its enactment was based on the Constitution prescribing that a person shall enjoy the liberty to unite and form a political party according to the ways of the democratic regime of government with the King as Head of State, as provided by law. Additionally, measures must be in place to oversee and prevent members of political parties from engaging in actions that violate or are not compliant with laws related to elections. Therefore, it is appropriate to set out methods for establishing political parties and conducting their activities in alignment with the Constitution. Section 92 prescribes the duties and powers of the Election Commission to supervise and investigate political parties engaged in actions that could result in their dissolution by the Constitutional Court. These include (1) to commit an overthrow of the democratic regime of government with the King as Head of State or in order to acquire the power to govern the country by any means that are not in accordance with the ways prescribed in the Constitution; and (2) to perform any action that may be adverse to the democratic regime of government with the King as Head of State.

Section 210 Paragraph One of the Constitution prescribes that the Constitutional Court has the duties and powers to consider and adjudicate on the constitutionality of a law or bill, to consider and adjudicate on a question regarding duties and powers of the House of Representatives, the Senate, the National Assembly, the Council of Ministers, or Independent Organs, and other duties and powers prescribed in the Constitution. Section 210 Paragraph Three prescribes that the provision of Section 188 Paragraph One, prescribing that the consideration and decision of cases is a power of the courts, which must be conducted in accordance with the law and in the name of the King, shall apply to the Constitutional Court *mutatis mutandis*. Section 49 empowers the Constitutional Court to consider and order individuals to cease exercising their rights or liberties to overthrow the democratic regime of government with the King as Head of State. However, it does not directly grant the Constitutional Court the power to dissolve political parties committing the overthrow of the democratic regime of government with the King as Head of State, unlike the Constitution of the Kingdom of Thailand B.E. 2540 (1997), Section 63 Paragraph Three, or the Constitution of the Kingdom of Thailand B.E. 2550 (2007), Section 68 Paragraph Three. The intent to protect and safeguard the democratic regime with the King as Head of State is consistently expressed in all versions of the Constitution by recognizing the right to protect the Constitution of the people and granting the Constitutional Court the power to dissolve political parties if there is a fact showing that individuals or political parties use their rights or liberties to overthrow the democratic regime of government with the King as Head of State. Although Section 49 of the Constitution does not state that, if the Constitutional Court orders any political party to cease actions, the Constitutional Court shall dissolve such political party, such provision of the Constitution demonstrates that the Constitutional Court has such duties and powers under both the Constitution and the laws, particularly the Organic Act on Procedures of the Constitutional Court B.E. 2561 (2018), Section 7, which prescribes that the Constitutional Court has the duty and power to consider and adjudicate cases, including (13) other cases that fall under the jurisdiction of the Court under the Constitution, organic laws, or other laws; and the Organic Act on Political Parties B.E. 2560 (2017), Section 92, which prescribes that the Constitutional Court has the power to accept applications for consideration and adjudication of cases, and order the dissolution of political parties. The Respondent's objections hold no merit.

The next issue to consider is whether the Applicant provided the Respondent with adequate opportunity to be informed of the facts and allowed the Respondent to dispute and present evidence to confirm or refuse them.

On this issue, the Respondent submitted an objection arguing that the Applicant filed the application with the Constitutional Court without complying with Section 93 of the Organic Act on Political Parties B.E. 2560 in conjunction with Article 7 of the Regulation of the Election Commission on the Collection of Facts and Evidence of the Political Party Registrar B.E. 2566 (2023). This deprived the Respondent of adequate opportunity to be informed of the facts, to dispute them, and to present

evidence. As such, the filing of the application with the Constitutional Court was unlawful.

It is found that Section 92 Paragraph One of the Organic Act on Political Parties B.E. 2560 (2017) prescribes that "The Commission, when having believable evidence that any political party performed any of the following actions, shall file an application with the Constitutional Court to dissolve such political party. . . ." Meanwhile, Section 93 Paragraph One prescribes that "The Registrar, upon discovering that any political party performed any action under Section 92, shall collect facts and evidence and present his or her opinion to the Commission to consider, which shall be under the rules and methods specified by the Commission." This establishes that filing an application with the Constitutional Court to dissolve a political party can arise under 2 scenarios: first, when the Election Commission has "believable evidence" that any political party performed any actions described under Section 92 Paragraph One (1)–(4); second, "upon discovering" by the Political Party Registrar that any political party performed any actions under Section 92, prompting the Political Party Registrar to collect facts and evidence to present his or her opinions to the Election Commission under the Regulation of the Election Commission on the Collection of Facts and Evidence of the Political Party Registrar B.E. 2566 (2023). It is thus a case where the law establishes distinct criteria for the initiating authorities and the nature of the facts involved. Therefore, if the Election Commission possesses believable evidence indicating that a political party has performed an act as prescribed by law, the Election Commission has the power to file an application with the Constitutional Court. Conversely, if it is merely discovered by the Political Party Registrar, the Political Party Registrar is obligated to collect facts and evidence to support the Election Commission's consideration of whether believable evidence exists before filing an application with the Constitutional Court.

In this case, the Applicant had believable evidence of actions constituting grounds for the dissolution of the Respondent's party, based on facts derived from Constitutional Court Ruling No. 3/2567, which cannot be heard otherwise. Thus, the Applicant, as the Election Commission, filed an application with the Constitutional Court under Section 92 Paragraph One of the Organic Act on Political Parties B.E. 2560 (2017). Additionally, the Applicant asserted through its affidavit to affirm facts or opinions that on 25 May 2566 (2023), Pacharanont Kanachotepokin complained with the Applicant that the Respondent used its policy on amending Section 112 of the Criminal Code for election campaigning at Laemchabang City Municipality's public park, Si Racha District, Chonburi Province. The Applicant accepted the complaint and forwarded it to the Fact-checking Committee No. 2 pursuant to the Political Party Registrar's order No. 1/2566 for investigation, fact finding, and evidence gathering. After that, the Fact-checking Committee No. 2 reviewed the compliant and its supporting documents and concluded not to accept them for further proceedings as the complaint lacked sufficient evidence or information to substantiate the allegation that the Respondent performed an action which may be adverse to the democratic regime of government with the King as Head of State under the Organic Act on Political

Parties B.E. 2560 (2017), Section 92 Paragraph One (2). On 26 September 2566 (2023), the Political Party Affairs Bureau reported to the Political Party Registrar that the Constitutional Court had accepted an application from Teerayut Suwankesorn, requesting the Constitutional Court to adjudicate under Section 49 of the Constitution, involving the same issue as that of Pacharanont Kanachotepokin. It was recommended to hold the procedures regarding this complaint and wait for the Constitutional Court's ruling. After the Constitutional Court rendered Ruling No. 3/2567, on 31 January 2567 (2024), Ruangkrai Leekitwattana and Teerayut Suwankesorn filed a motion with the Applicant requesting it to file a case with the Constitutional Court on the same issue. The Collection of Facts and Evidence Committee of the Political Party Registrar No. 6 opined that since the Applicant had already resolved in its meeting No. 10/2567 on 12 March 2567 (2024) to file an application with the Constitutional Court to request for the order dissolving the Respondent's party under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (1) and (2), there was no reason to collect evidence to present to the Political Party Registrar, and there was no reason for the Political Party Registrar to present it for the Applicant's consideration under the Regulation of the Election Commission on the Collection of Facts and Evidence of the Political Party Registrar B.E. 2566 (2023), Article 7 and Article 9.

The initial proceedings of the Applicant in this case began with the discovery of facts by the Political Party Registrar, which must be compliant with Section 93 of the Organic Act on Political Parties B.E. 2560 (2017) and Article 5 of the Regulation of the Election Commission on the Collection of Facts and Evidence of the Political Party Registrar B.E. 2566 (2023), and the Political Party Registrar acted in accordance with such procedures by appointing Fact-checking Committee No. 2. However, when the Constitutional Court rendered Ruling No. 3/2567, which involved the same set of facts and significant evidence that the Applicant deemed indisputable, it constituted evidence believable enough to conclude that the Respondent had committed actions causing the Constitutional Court to order the dissolution of the Respondent's party. The Applicant had the power to file an application with the Constitutional Court, which was an action pursuant to Section 92. This led the Collection of Facts and Evidence Committee of the Political Party Registrar No. 6 to cease its collection of evidence. The Political Party Registrar's actions under Section 93, therefore, came to a halt. The Applicant was not required to revert the process to allow the Political Party Registrar to collect facts and evidence first. These steps clearly demonstrate that the procedures for presenting the Applicant's application under Section 92 and Section 93 are separate. Even though in this case, the Applicant filed the application with the Constitutional Court without collecting facts and evidence or giving the Respondent adequate opportunity to be informed of the facts or to dispute and present their evidence, as this case and the case under Constitutional Court Ruling No. 3/2567 share the same factual basis and the same Respondent, the Constitutional Court's consideration of the case under Ruling No. 3/2567, which involved witness and evidence hearings in the presence of the Respondent, where the Respondent was informed of the allegations, facts, and had the opportunity to examine and challenge

all evidence as well as present their own evidence fully before the Court, it is deemed a more equitable constitutional inquiry process compared to the inquiry by the Election Commission. Hence, the Respondent's objections hold no merit.

Regarding the Respondent's objection that the Applicant filed the application with the Constitutional Court based on the factual basis of Constitutional Court Ruling No. 3/2567, in which the Constitutional Court ruled that "If the Respondent is allowed to continue its actions, it would not be inconceivable that it will lead to the overthrow of the government," it is argued that the Respondent's actions have yet to result in an exercise of rights or liberties to overthrow the democratic regime of government with the King as Head of State. After the Constitutional Court ordered the Respondent to cease such actions, the Respondent removed the policy proposing to amend Section 112 of the Criminal Code from the Respondent's party's website. Additionally, the standard of proof in the case under Constitutional Court Ruling No. 3/2567 was based on "the standard that must be clear and trustworthy." This case must adhere to the same evidentiary standard as in criminal cases, which require proof beyond a reasonable doubt. As such, the factual basis and outcome of Constitutional Court Ruling No. 3/2567 cannot bind the consideration and adjudication of this case. The Constitutional Court must re-examine all witnesses and evidence in this case.

It is found that Section 49 of the Constitution was enacted to prevent individuals from invoking their rights or liberties to overthrow the democratic regime of government with the King as Head of State, resulting in severe harm that could certainly be foreseen if such actions still continue. It empowers the Constitutional Court to order an immediate cessation of such actions to prevent the occurrence of such harm. Even if the democratic regime of government with the King as Head of State has not yet been abolished or terminated, actions invoking rights or liberties to overthrow such a regime under Section 49 of the Constitution constitute a completed offense as soon as such actions occur, without the need to wait for the consequences to manifest. Once the Constitutional Court, in its Ruling No. 3/2567, adjudicated that the Respondent had participated in various continuous actions in an organized manner, ranging from proposing a bill to amend Section 112 of the Criminal Code, which aimed to diminish the value of the institution of kingship, using it as a policy during election campaigns, organizing rallies, conducting political activities, and campaigning through social media on such matters, it would not be inconceivable that allowing the Respondent's actions to continue would lead to the overthrow of the democratic regime of government with the King as Head of State. The Respondent's actions, therefore, constituted an exercise of rights or liberties to overthrow the democratic regime of government with the King as Head of State, completing the offense under Section 49 of the Constitution, even though the Respondent, after being ordered by the Constitutional Court to cease such actions, removed the policy proposing to amend Section 112 of the Criminal Code from the Respondent's party's website.

When considering the "standard of proof" applied in each case, it refers to the standard or level of probability required to prove a fact as true or not. This depends on the credibility of the evidence presented, which the court evaluates to weigh in its judgment. The standard of proof varies by case type but aligns with the aim of the case and the purpose of its proceedings. Cases of the same type adhere to the same standard of proof. Although this case, in which the Applicant filed an application requesting the Constitutional Court to order the dissolution of the Respondent's party, differs from the case decided in Constitutional Court Ruling No. 3/2567, which involved a consideration for the Constitutional Court to order the cessation of certain actions under Section 49 Paragraph Two of the Constitution, both are constitutional cases based on the same fundamental issue but differ only in the measures to be applied by the Constitutional Court. Consequently, this case and the case under Constitutional Court Ruling No. 3/2567 are both constitutional cases. The Constitutional Court must apply the same standard of proof to evidence in both cases. The Organic Act on Procedures of the Constitutional Court B.E. 2561 (2018), Section 27, prescribes that proceedings of the Constitutional Court shall apply the inquisitorial system, granting the Court authority to seek the truth. In its consideration and adjudication of the case under Constitutional Court Ruling No. 3/2567, the Constitutional Court conducted a thorough factual inquiry following the highest standard of proof. The facts from the proceedings and the conclusions drawn from the case under Constitutional Court Ruling No. 3/2567 are thus admissible in this case without the need to re-examine evidence, adopting a different standard of proof as claimed by the Respondent.

The Respondent's next argument is that the Respondent's party is a juristic person under the Organic Act on Political Parties B.E. 2560 (2017), Section 20 Paragraph One, so any actions must be undertaken by the party's executive committee to be binding and considered as actions of the party. The actions in Constitutional Court Ruling No. 3/2567 were carried out by members of the House of Representatives in the Respondent's party while performing their duties, without being under the party's mandate pursuant to Section 114 of the Constitution. Additionally, expressing opinions, acting as a bailsman, or being an alleged offender or defendant in cases under Section 112 of the Criminal Code by members of the Respondent's party were personal actions. Therefore, the actions referred to in Constitutional Court Ruling No. 3/2567 were not actions of the Respondent.

It is found that the Respondent is a political party under the Organic Act on Political Parties B.E. 2560 (2017), whose primary objective is to conduct political activities in accordance with the principles of the democratic regime of government with the King as Head of State. Since the facts under Constitutional Court Ruling No. 3/2567 were established that the proposal of the Bill Amending the Criminal Code (No. . . .) B.E. . . . (amendment regarding offenses of defamation) on 25 March 2564 (2021), which contained provisions diminishing the value of the institution of kingship, was undertaken solely by members of the House of Representatives in the Respondent's party, and the Respondent testified before the Court, admitting that the Respondent had introduced policies consistent with the aforementioned Bill to the Applicant for

use in campaigning during the general election of Members of the House of Representatives B.E. 2566 (2023), and these policies were still displayed on the Respondent's website, it is deemed that the Respondent cooperated with members of the House of Representatives in the Respondent's party in proposing the said Bill. As for introducing policies to amend Section 112 of the Criminal Code to the Applicant and utilizing them for the Respondent's party's election campaign, campaigning and expressing political opinions on election stages for election campaigning or via social media multiple times, or acting as a bailsman for alleged offenders or defendants in cases under Section 112 of the Criminal Code, or being directly involved as an alleged offender or defendant in such cases, these actions, even though not carried out by the Party's executive committee members or through the party's resolutions, still fall under the responsibility of the Party's executive committee to supervise and ensure that party members do not engage in actions that violate the Constitution or the law. These actions, aimed at pushing forward the Respondent's party's policies to success, constitute indirect violations by the Respondent's party, using members of the House of Representatives or party members of the Respondent's party as representatives or tools in committing violations. Additionally, the Respondent signed a memorandum of understanding for government formation, and the leader of the Respondent's party at the time gave an interview to reporters about the party's policy to amend Section 112 of the Criminal Code. The Respondent's party also engaged in political activities that aligned with movements of several political groups by campaigning, inciting, and instigating with intention to build social trends to support the repeal or amendment of Section 112 of the Criminal Code. Such actions could provoke public resentment and lead to divisions among the people in the country, characterized as inciting hatred, which would result in the principles and constitutional values supporting the existence of the democratic regime with the King as Head of State, as the identity of the State, being abolished and lost. The Respondent cannot deny its responsibility. Hence, the Respondent's objections hold no merit.

The Respondent further argued that its actions, as detailed in Constitutional Court Ruling No. 3/2567, constituted neither the overthrow of the democratic regime of government with the King as Head of State nor an action which may be adverse to the democratic regime of government with the King as Head of State under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph one (1) and (2). Additionally, the facts presented as grounds for the dissolution of a political party were disproportionate and not so necessary that the Respondent's party must be dissolved. The Constitutional Court should, therefore, not dissolve the Respondent's party, based on these arguments.

It is found that the Respondent's party submitted a statement of reply disputing Constitutional Court Ruling No. 3/2567 that the petitioning for proposing the bill amending Section 112 of the Criminal Code by Members of the House of Representatives in the Respondent's party did not diminish the protection of the institution of kingship. The Respondent had no intention to separate the institution of kingship from Thai national identity but to amend the law to align with the general

principles of law and universal principles. The Applicant had never prohibited the Respondent from using the policy of amending Section 112 of the Criminal Code as part of its campaigning, and the Applicant had previously decided not to accept complaints concerning the campaigning with the policy in question. The participation in political campaigning or the expression of opinions on social media by the party members were personal actions and were done only to observe and to listen to demands of the people. Being bailsmen, or being alleged offenders or defendants in cases under Section 112 of the Criminal Code were in accordance with the principle of presumption of innocence. Affixing the stickers in the box for repealing Section 112 of the Criminal Code by Pita Limjaroenrat on the stage for speech at Chonburi Province was only to manage the situation during the speech. The Respondent objected to the evidence No. Sor 1 (Sor 21–Sor 37), used in the consideration of the case under Constitutional Court Ruling No. 3/2567. The facts asserted or objected by the Respondent were all pre-existing facts that had been addressed by the Respondent during the Constitutional Court's proceedings in the case under Constitutional Court Ruling No. 3/2567. Since the Constitutional Court had already concluded that the Respondent's conduct constituted the exercise of rights or liberties aimed at overthrowing the democratic regime of government with the King as Head of State under Section 49 of the Constitution, and Section 211 Paragraph Four of the Constitution prescribes 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 aforementioned facts must also bind the Constitutional Court in considering and adjudicating this case.

As for whether the actions of the Respondent constitute actions that may be adverse to the democratic regime of government with the King as Head of State, it is observed that actions constituting the overthrow of the democratic regime of government with the King as Head of State are more severe than those that may be adverse to the democratic regime of government with the King as Head of State. This is because actions that may be adverse to the government refer to the conduct of acting against, or as an adversary. Therefore, when Constitutional Court Ruling No. 3/2567 established that the Respondent conducted the overthrow of the democratic regime of government with the King as Head of State, such conduct inherently qualifies as actions that may be adverse to the democratic regime of government with the King as Head of State. Additionally, the Constitutional Court previously ruled in Ruling No. 32/2562 that the term "adverse" does not need to be as extreme as having the intent to overthrow or destroy completely or acting as an enemy or adversary. An act which merely obstructs or hinders progress or causes erosion or undermining, or weakening, can already be considered as being adverse. The use of the institution of kingship to gain political advantage or to pursue political objectives is thus deemed an action that may be adverse to the democratic regime of government with the King as Head of State. Therefore, when the Constitutional Court, in Ruling No. 3/2567, found that the Respondent's proposed amendments to Section 112 of the Criminal Code and use of it as a party policy during election campaigns, leveraging the institution of kingship to

gain electoral advantage and win elections, were aimed at positioning the institution of kingship as an adversary to the people, it is observed that the Respondent had an intention to erode, undermine, or weaken the institution of kingship, leading ultimately to the overthrow of the democratic regime of government with the King as Head of State. Thus, the actions of the Respondent also qualify as actions that may be adverse to the democratic regime of government with the King as Head of State.

Since the Constitution of the Kingdom of Siam B.E. 2475 (1932), the governance of Thailand has consistently upheld the aspiration to adhere to the democratic regime with the King as Head of State. This demonstrates recognition and acceptance of the international values of a democratic regime of government. This principle is reflected in the Constitution of the Kingdom of Thailand B.E. 2560 (2017), Section 2, which prescribes that "Thailand adopts a democratic regime of government with the King as Head of State." It also adheres to the universal rule of law as enshrined in Section 3 Paragraph Two, and safeguards human rights under Section 4 of the Constitution, as well as the independence of the judiciary under Section 188 Paragraph Two. Simultaneously, Section 255 of the Constitution prescribes that "An amendment to the Constitution which amounts to changing the democratic regime of government with the King as Head of State or changing the form of the State shall be prohibited."

Therefore, once the facts are established that the Respondent and its members of the House of Representatives jointly introduced a bill amending Section 112 of the Criminal Code with provisions diminishing the value of the institution of kingship and used it as a party policy, the Respondent engaged in political campaigns advocating for the repeal or amendment of Section 112 of the Criminal Code, and the party's executive committee members, members of the House of Representatives, and members of the Respondent's party acted as bailsmen for alleged offenders or defendants in offenses under Section 112 of the Criminal Code, or themselves became alleged offenders or defendants in such offenses, and expressed opinions advocating for the amendment or repeal of Section 112 of the Criminal Code through political activities and social media multiple times, with the intent to separate the institution of kingship from Thai national identity, which was significantly detrimental to national security, diminished the protected status of the institution of kingship, and exploited it for electoral advantage and to win elections, it is found that these actions were aimed to position the institution of kingship as an adversary to the people, subjecting it to attacks and criticism, thereby deeply hurting Thai people who revere the institution as the Head of State and the symbol of national unity. This would lead to the overthrow of the democratic regime with the King as Head of State, consistent with Constitutional Court Ruling No. 3/2567. It is thus final and binding under Section 211 Paragraph Four of the Constitution. Given that political parties are political institutions of the people, which are crucial in the democratic regime, dissolution of a political party must be stringent, cautious, and proportionate to the severity of the political party's circumstances. The dissolution of a political party must adhere to the Constitution and the law, depending on the actions of the respective political party. The Respondent violated the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph

One (1) and (2). Such law must be applied to all political parties, regardless of their electoral success. All political parties must be subject to the same laws on an equal basis, which are proportionate circumstances and laws necessary to be complied with in order to inhibit the destruction of the fundamental principles of the democratic regime of government with the King as Head of State. Thus, the Constitutional Court must inevitably order the dissolution of the Respondent's party as mandated by law. Academics in various fields, politicians, or foreign diplomats are under their own Constitution and domestic laws, including requirements which differ depending on the contexts of each country. Any expression of opinions should adhere to proper diplomatic and international etiquette. In this case, there is believable evidence indicating that the Respondent acted in violation of the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (1) and (2), constituting grounds for the dissolution of the Respondent's party under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph Two.

The second issue: Will the right to stand for election of the executive committee of the Respondent's party be revoked under Section 92 Paragraph Two of the Organic Act on Political Parties B.E. 2560 (2017)? And how?

The Respondent argued that Section 92 Paragraph Two of the Organic Act on Political Parties B.E. 2560 (2017) does not explicitly prescribe the duration for revocation of the right of the party's executive committee to stand for election. It must be considered to be aligned with the principle of proportionality by determining the duration for revocation of the right to stand for election for 5 years from the date the Constitutional Court orders the dissolution of the Respondent's party and revoking the right to stand for election only of the first and second sets of the Respondent's party's executive committee.

It is found that Section 92 Paragraph Two of the Organic Act on Political Parties B.E. 2560 (2017) prescribes in a mandatory manner that "The Constitutional Court, after the inquiry 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 stand for election of the executive committee of such political party." Once the Respondent performed actions constituting grounds for the dissolution of the Respondent's party, the Constitutional Court is required to order the dissolution of the Respondent's party under Section 92 Paragraph One (1) and (2) and Paragraph Two of the Organic Act on Political Parties B.E. 2560 (2017). Once the Constitutional Court orders the dissolution of the Respondent's party, the Constitutional Court is authorized to order the revocation of the right to stand for election of the executive committee members of the Respondent's party, who held their positions from 25 March 2564 (2021) to 31 January 2567 (2024), which was the period of time when the actions constituting grounds for the dissolution of the Respondent's party were taking place, under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph Two.

The next issue to consider is that, once it is decided that the right of the executive committee of the Respondent's party to stand for election shall be revoked,

for how long must such right to stand for election be revoked? It is found that the determination of the duration for revocation of the right to stand for election, which is a significant political right for individuals volunteering to contribute to the nation as candidates for Members of the House of Representatives, must adhere to the principle of proportionality, appropriate to the circumstances and the severity of the actions, compared to the penalty to be enforced, which is a restriction on the person's rights. Although the actions of the Respondent, as identified in Constitutional Court Ruling No. 3/2567, involved actions against the nation's principal institution, which built and restored the Thai nation and serves as the center of the Thai people's spirit, the introduction of the Bill Amending the Criminal Code (No. . . .) B.E. . . . (amendment regarding offenses of defamation) on 25 March 2564 (2021) by Members of the House of Representatives in the Respondent's party to the President of the House of Representatives was not included in the agenda, and the use of this as the Respondent's party's policy or the relevant campaigns still required legislative and parliamentary processes. Those actions did not cause severe harm to the governance of the nation. Additionally, after the Constitutional Court rendered Ruling No. 3/2567 on 31 January 2567 (2024), ordering the Respondent to cease such actions, the Respondent removed the policy to amend Section 112 of the Criminal Code from its website on the same day, and there has been no evidence of further violations of the Constitutional Court's orders. Therefore, the revocation of the right to stand for election of the executive committee members of the Respondent's party, who held positions during the period from 25 March 2564 (2021) to 31 January 2567 (2024), which was the period of time when the actions constituting grounds for the dissolution of the Respondent's party were taking place, shall be set for a period of ten years from the date the Constitutional Court orders the dissolution of the Respondent's party, consistent with the duration under Section 94 Paragraph Two of the Organic Act on Political Parties B.E. 2560 (2017).

The third issue: Will the persons who held position as an executive committee member of the Respondent's party, which has been dissolved, whose right to stand for election has been revoked, be prohibited from registering a new political party, being an executive committee member of a political party, or having participation in the establishment of a new political party within the period of ten years as from the date the Respondent's party is dissolved under Section 94 Paragraph Two of the Organic Act on Political Parties B.E. 2560 (2017)?

It is found that Section 94 Paragraph Two of the Organic Act on Political Parties B.E. 2560 (2017) prescribes that "No person who previously held position as an executive committee member of the dissolved political party and whose right to stand for election has been revoked due to such dissolution is permitted to register a new political party, be an executive committee member of a political party, or have participation in the establishment of a new political party within the period of ten years as from the date such political party is dissolved." This legal provision pertains to the consequences of violating the law and does not grant the Constitutional Court the power to issue any alternative order. Once the Constitutional Court has ordered the

dissolution of the Respondent's party and revoked the right to stand for election of its executive committee members, those who held positions as executive committee members of the Respondent's party during the period from 25 March 2564 (2021) to 31 January 2567 (2024), which was the period of time when the actions constituting grounds for the dissolution of the Respondent's party were taking place, and whose right to stand for election has been revoked, shall be prohibited from registering a new political party, being an executive committee member of a political party, or having participation in the establishment of a new political party within ten years from the date the Constitutional Court orders the dissolution of the Respondent's party, in accordance with the Organic Act on Political Parties B.E. 2560 (2017), Section 94 Paragraph Two.

In view of the above reasons, the Constitutional Court unanimously resolves to order the dissolution of the Move Forward Party (the Respondent) under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (1) and Paragraph Two, and by a majority vote of 8 to 1, orders the dissolution of the Move Forward Party (the Respondent) under the Organic Act on Political Parties B.E. 2560 (2017), Section 92 Paragraph One (2) and Paragraph Two. Additionally, the Court unanimously resolves to order the revocation of the right to stand for election of the executive committee members of the Respondent's party, who held position from 25 March 2564 (2021) to 31 January 2567 (2024), which was the period of time when the actions constituting grounds for the dissolution of the Respondent's party were taking place under Section 92 Paragraph Two, for a period of ten years from the date the Constitutional Court orders the dissolution of the Respondent's party, and unanimously resolves to prohibit the persons who held position as an executive committee member of the Respondent's party in such period of time from registering a new political party, being an executive committee member of a political party, or having participation in the establishment of a new political party within the period of ten years as from the date the Constitutional Court orders the dissolution of the Respondent's party under Section 94 Paragraph Two.

(signature)
**(Nakharin Mektrairat)**
**President of the Constitutional Court**

(signature)
(Punya Udchachon)
Judge of the Constitutional Court

(signature)
(Udom Sittiwirattham)
Judge of the Constitutional Court

(signature)
(Wiroon Sangtian)
Judge of the Constitutional Court

(signature)
(Chiranit Havanond)
Judge of the Constitutional Court

(signature)
(Noppadon Theppitak)
Judge of the Constitutional Court

(signature)
(Bunjongsak Wongprachaya)
Judge of the Constitutional Court

(signature)
(Udom Rathamarit)
Judge of the Constitutional Court

(signature)
(Sumath Roygulchareon)
Judge of the Constitutional Court

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[*] **Indexing Thai names.** "Although family names are used in Thailand, Thai people are normally known by their given names, which come first, as in English names. The name is often alphabetized under the first name, but practice varies." The Chicago Manual of Style (18th edn, University of Chicago Press 2024) §15.93.