(23)
Constitutional Court Ruling

In the Name of the King
Constitutional Court

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

Dated 7th August B.E. 2567 (2024)

Between	The Election Commission	Applicant
	Move Forward Party	Respondent

Re: The Election Commission Requested for a Constitutional Court Ruling on the Dissolution of the Move Forward Party.

The Election Commission (applicant) submitted an application for the Constitutional Court's order to dissolve the Move Forward Party (respondent) under section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017), to revoke the right to stand for election of the members of the respondent Party's executive committees under section 92 paragraph two, and to prohibit those who held the position of the members of the respondent Party's executive committees who had their right to stand for election revoked from registering a new political party, or being a member of executive committee of a political party, or participating in the formation of a new political party within ten years as from the date the Constitutional Court ordered the dissolution of the respondent Party under section 94 paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017).

The facts of the application, additional application, and documents accompanying the applications could be summarised as follows. The respondent Party was a political party under the Notification of the Political Party Registrar, dated 1st May B.E. 2557 (2014), previously named "Ruam Pattana Chart Thai Party", later renamed "Phungluang Party", and was currently the "Move Forward Party" under the Notification of the Political Party Registrar, dated 2nd March B.E. 2563 (2020). On 31st January B.E. 2567 (2024), the Constitutional Court rendered Ruling No. 3/2567, which could be summarised as follows. On 25th March B.E. 2564 (2021), Mr. Pita Limjaroenrat, the leader of the respondent Party at the time, and 44 Members of the House of Representatives from the respondent Party proposed the Bill Amending the Penal Code (No. ..), B.E. .... (Amendment in Relation to Defamatory Offences), to the Speaker of the House of Representatives. During the campaign for the general election of B.E. 2566 (2023), the leader of the respondent Party brought forward the proposal to amend section 112 of the Penal Code as a policy of the respondent Party and had been doing so continually. In addition to this, the members of the executive committees of the respondent Party, the Members of the House of Representatives from the respondent Party, and the members of the respondent Party also habitually campaigned for the revocation or amendment of the provision thus far, by joining assemblies and conducting activities relating to the revocation or amendment of section 112 of the Penal Code, by becoming the accused or bailors for the accused in criminal cases in relation to the offence under section 112 of the Penal Code, and by having voiced their opinions to support both the revocation and amendment of that provision oftentimes through the holding of political activities and online social media. The actions of the respondent 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 Court ordered that the respondent Party refrain from expressing any opinion, speaking, writing, publishing, advertising, or communicating in any other means in favour of the revocation of section 112 of the Penal Code, as well as prohibited further amendment of section 112 of the Penal Code through a process outside of the legitimate legislative procedures in the future by virtue of section 49 paragraph two of the Constitution and section 74 of the Organic Act on Procedures of the Constitutional Court, B.E. 2561 (2018). Afterwards, Mr. Ruangkrai Leekitwattana and Mr. Teerayut Suwankesorn submitted a petition to the applicant, asking the applicant to submit an application to the Constitutional Court for the Court's order to dissolve the respondent Party under section 92 of the Organic Act on Political Parties, B.E. 2560 (2017). The applicant was of the opinion that there was reliable evidence to believe that the respondent Party had acted to overthrow the democratic regime of government with the King as Head of State and those actions fell within the acts that might be hostile to the democratic regime of government with the King as Head of State, which constituted a ground for the respondent Party's dissolution under section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017). A resolution was passed during meeting no. 10/2567 on 12th March B.E. 2567 (2024) to submit an application to the Constitutional Court for the Court's order to dissolve the respondent Party under section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017), and for the Court to consider and render the following rulings:

(1) To order the dissolution of the respondent Party;

(2) To order the revocation of the right to stand for election of those who were the members of the respondent Party's executive committees; namely, Mr. Pita Limjaroenrat, Mr. Chaithawat Tulathon, Miss Nateepat Kulsetthasith, Mr. Nakornpong Supanimittrakul, Mr. Padipat Suntiphada, Mr. Somchai Fangchonlajit, Mrs. Amarat Chokepamitkul, Mr. Apichat Sirisoontron, Miss Bencha Saengchantra, Mr. Suthep U-on, and Mr. Apisit Promrit;

(3) To order the prohibition of those who held the position of members of the respondent Party's executive committees and had their right to stand for election revoked from registering a new political party, or being a member of executive committee of a political party, or participating in the formation of a new political party within ten years as from the date the Constitutional Court ordered the dissolution of the respondent Party.

The preliminary issue which the Constitutional Court must consider was whether the Constitutional Court had the power to admit the application for a ruling under section 92 paragraph one of the Organic Act on Political Parties, B.E. 2560 (2017). The Court was of the opinion that, based on the facts of the application, additional application and documents accompanying the applications, this application was a case where the applicant applied for the Constitutional Court's order to dissolve the respondent Party under section 92 paragraph one of the Organic Act on Political Parties, B.E. 2560 (2017). Since the applicant had reliable evidence to believe that the respondent had acted in the way that constituted a ground for the Constitutional Court to dissolve the respondent Party under section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017), and the applicant submitted the application to the Constitutional Court to order the dissolution of the respondent Party, the Constitutional Court therefore issued an order to admit the application for the Court's consideration and adjudication in accordance with section 7 (13) of the Organic Act on Procedures of the Constitutional Court, B.E. 2561 (2018) in conjunction with section 92 paragraph one of the Organic Act on Political Parties, B.E. 2560 (2017), and instructed the respondent to submit a statement of reply.

The respondent then submitted the statement of reply, accompanying documents and documentary evidence to the Constitutional Court, which could be summarised as follows.

1. The Constitutional Court did not have the power to consider and adjudicate on the application because section 210 of the Constitution prescribed that the Court had the following duties and powers: (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) others duties and powers prescribed in the Constitution. Additionally, the Constitutional Court had the powers to consider and adjudicate as prescribed in other constitutional provisions, such as section 178 and section 213. This suggested that the Constitutional Court only had the power to consider and adjudicate on the matters prescribed by the Constitution. As a matter of fact, the applicant submitted an application under section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017) for the Constitutional Court's order to dissolve a political party that had acted to overthrow the democratic regime of government with the King as Head of State, or to acquire the sovereign power through the means inconsistent with those prescribed by the

Constitution, or had acted in the way that might be hostile to the democratic regime of government with the King as Head of State, but section 49 of the Constitution of the Kingdom of Thailand, B.E. 2560 (2017) did not provide the Constitutional Court with the power to dissolve a political party as provided in section 68 paragraph two and paragraph three of the Constitution of the Kingdom of Thailand, B.E. 2550 (2007). Consequently, section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017) was contrary to or inconsistent with section 210 paragraph one (3) of the Constitution and was therefore unenforceable under section 5 of the Constitution. The Constitutional Court did not have the power to consider and adjudicate on the application.

2. The applicant had unlawfully submitted the application. In submitting an application for the Constitutional Court's order to dissolve a political party under section 92 of the Organic Act on Political Parties, B.E. 2560 (2017), the applicant must proceed according to the procedures laid down under section 93 paragraph one, which provided that "[w]here it appears to the Political Party Registrar that political party committed any act under section 92, the Registrar shall gather facts and evidence and present opinion to the Commission for consideration in accordance with the rules and procedures specified by the Commission". In addition, clause 7 of the Regulation of the Election Commission Re: Gathering of Facts and Evidence of the Political Party Registrar, B.E. 2566 (2023) provided that once the Registrar had admitted the case for action, the Factual Verification Committee appointed by the Registrar shall gather facts and evidence and present its opinion to the Political Party Registrar within 30 days as from the date the case was admitted for action. The Factual Verification Committee had the duty to notify the political party of the allegations as the respondent to allow the respondent the opportunity to be sufficiently informed of the facts so that the respondent had the opportunity to respond and to present evidence before the Factual Verification Committee submitted the fact-gathering report to the Political Party Registrar. In submitting the application in this case, the applicant failed to comply with that procedure, rendering the respondent unaware of the allegations and denying the respondent the opportunity to respond and to present its evidence to the Factual Verification Committee. Therefore, the submission process of the application for the Constitutional Court's ruling to dissolve the respondent Party was inconsistent with section 93 paragraph one of the Organic Act on Political Parties, B.E. 2560 (2017), in conjunction with clause 7 of the Regulation of the Election Commission Re: Gathering of Facts and Evidence of the Political Party Registrar, B.E. 2566 (2023). The applicant's submission of the application was unlawful.

3. Constitutional Court Ruling No. 3/2567 did not bind the Constitutional Court in the consideration and the adjudication of this case. The respondent was of the opinion that the Constitutional Court's Ruling which stated that "if the respondents were allowed to continue their actions, it would not be beyond the cause of overthrowing the democratic regime of government ... and ordered the respondents to cease their actions ..." The actions of the

respondents in Constitutional Court Ruling No. 3/2567 had not yet resulted in an exercise of the rights or liberties to overthrow the democratic regime of government with the King as Head of State. The allegations of the applicant that the respondent had acted to overthrow the democratic regime of government with the King as Head of State and in a way that might be hostile to the democratic regime of government with the King as Head of State under section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017) were new allegations. The factual issues had never been considered and adjudicated by the Constitutional Court. Moreover, the standard of proof of Constitutional Court Ruling No. 3/2567 was a "clear and convincing" one, while the standard of proof in this case was a "beyond a reasonable doubt" one. The Constitutional Court could not use the outcome of Constitutional Court Ruling No. 3/2567 to bind its consideration and adjudication of this case and must consider and adjudicate based on the facts of this case anew.

4. The actions stated in the application were not deemed as the respondent's, since the respondent was a political party under section 20 of the Organic Act on Political Parties, B.E. 2560 (2017), which provided that a political party shall be a juristic person. The respondent could not act by itself but must carry out its political activities through the responsibilities of the members of its executive committees and must comply with the Constitution, laws, policies, rules of political parties, and resolutions of political parties' general meetings under section 21. As the signing of petition for the proposal of the Bill Amending the Penal Code (No. ..), B.E. .... (Amendment in Relation to Defamatory Offences) was the will of and the performance of duty as Members of the House of Representatives, that was not under the mandate of the respondent in accordance with section 114 of the Constitution, the following actions altogether—the expression of opinions for the revocation or amendment of section 112 of the Penal Code; the sticking of a sticker on the revocation of section 112 of the Penal Code poll at the Laem Chabang Municipality Public Park, Si Racha District, Chonburi Province; the appearances made at the places where political assemblies in relation to the amendment of section 112 of the Penal Code took place; and being the bailors, the accused or the defendants in criminal cases in relation to the offence under section 112 of the Penal Code—were all personal actions of the Party's members. The respondent did not pass a resolution for the Party's members to do so. Hence, the expansion of the scope of persons with the authority to act on behalf of the respondent to include the actions of the Party's members, which would be deemed to be the respondent's actions itself accordingly, was contrary to or inconsistent with section 21 of the Organic Act on Political Parties, B.E. 2560 (2017).

5. The actions of the respondent did not constitute an act to overthrow the democratic regime of government with the King as Head of State because the signing of petition for the proposal of a bill amending section 112 of the Penal Code of the Members of the House of Representatives from the respondent Party did not undermine the protection afforded to

the Institution of the Monarchy under the disguise of a legislative bill or through the legislative procedures, but was a constitutionally legitimate way of proposing a legislative bill through the National Assembly procedures by signing petition. The respondent did so with the intention to preserve the honour of the King, who was to be reverentially worshiped as the Head of State, to create a balance between the protection of the King's honour and the protection of the freedom of expression of the people under democratic regime, and to prevent section 112 of the Penal Code from being used as a political tool. By removing the offence under section 112 of the Penal Code from Title I Offences Relating to the Security of the Kingdom, the respondent did not intend to separate the Institution of the Monarchy from Thailand's national identity, and this did not affect the status of the Institution of the Monarchy as the spiritual unification of the people of the nation. As for the proposal for legislative provisions on exemption from offence and punishment, these were merely amendments to ensure compliance with the democratic principle of freedom of expression protection as well as the general and universal principles of law. Moreover, despite the proposals that the offence under section 112 of the Penal Code should be a compoundable offence under which the King was the litigating party as it was inappropriate for the King to vest his power in the State to take legal action on his behalf, that the Royal Office should be the institution with the power to take legal action on behalf of the Institution of the Monarchy to prevent the Institution of the Monarchy from being demoted to the litigating party directly, and that punishment should be lessened in compliance with the laws of certain countries, the applicant had neither ordered the respondent to alter its policies regarding the proposals to amend section 112 of the Penal Code nor prohibited the respondent from presenting such policies. The respondent honestly believed that these policies were legal, and thus campaigned and posted these policies on the respondent Party's website, especially on 14th May B.E. 2566 (2023). The applicant and the Political Party Registrar had previously rejected a petition under which the petitioner petitioned against the respondent for using these policies for its election campaign based on the reason that the respondent failed to comply with section 92 paragraph one (2) of the Organic Act on Political Parties, B.E. 2560 (2017). The respondent had never used the Institution of the Monarchy to boost its political support or in a political campaign. Expression of opinions by the Party's members that were expressed through campaigns or appearances made at political assemblies relating to the amendment or revocation of section 112 of the Penal Code were personal actions and merely for the benefits of observing or listening to opinions and demands of the people who attended the assemblies. The sticking of a sticker on the revocation of section 112 of the Penal Code poll and Mr. Pita Limjaroenrat's speech during his service as the leader of the Party in Chonburi Province were the acts of political climate management to prevent friction among the people, and the proposal for the revocation of section 112 of the Penal Code to the House of Representatives for its consideration and resolution did not equate to a wish to revoke section 112 of the Penal Code. The respondent was not and had never been an offender, an accomplice, an instigator, or a supporter, or had helped an offender under section 112 of the Penal Code in any way. The fact that some members of the Party were or had been the accused or the defendants of such offence was the result of their actions prior to them joining the respondent Party, and the bailing out of the accused or the defendants in the criminal cases concerning section 112 of the Penal Code did not mean that the respondent or the Members of the House of Representatives from the respondent Party condoned or supported those actions. As for the applicant's allegation that the respondent had acted in a way that might be hostile to the democratic regime of government with the King as Head of State under section 92 paragraph one (2) of the Organic Act on Political Parties, B.E. 2560 (2017), the Constitutional Court had once ruled in her Ruling No. 3/2562 that, for an action to be hostile to the democratic regime of government with the King as Head of State, such action needed not be intentional but needed only to be an action which "a reasonable person would expect that such action might be hostile to the democratic regime of government with the King as Head of State." As for the facts of this case, the respondent or a reasonable person could not expect that the actions under Constitutional Court Ruling No. 3/2567 constituted actions that might be hostile to the democratic regime of government with the King as Head of State under section 92 paragraph one (2) of the Organic Act on Political Parties, B.E. 2560 (2017).

6. The Constitutional Court should not dissolve the respondent Party. Because political parties constituted important political institutions of the people under democratic regime, a political party's dissolution should be possible only for the preservation of the fundamental principles and the value of democracy in accordance with the concept of militant democracy. A dissolution of political party must be done strictly, carefully, and proportionately to the severity of its political behaviours and must be a last resort. The actions of the respondent under Constitutional Court Ruling No. 3/2567 were not objectively severe enough to constitute a reasonable ground for its dissolution and lacked sufficient, concrete and solid evidence to prove that these actions had a likely chance of success in achieving its outcome to the point of necessity for the Party's dissolution. Besides, once the Constitutional Court issued Ruling No. 3/2567, ordering the respondent to cease its actions, the respondent promptly removed its policy regarding the amendment of section 112 of the Penal Code from the Party's website.

7. The Constitutional Court did not have the power to determine the period for which the right to stand for election of the members of the respondent Party's executive committees shall be revoked because section 92 paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017) did not contain a provision which clearly specified the period of revocation of the right to stand for election of a member of a political party's executive committee. Because of not being an organ under the legislative branch with

the power to pass a legislation, the Constitutional Court did not have the power to determine the period of revocation of the right to stand for election of the members of the respondent Party's executive committees, which constitutesd a restriction of rights or liberties of a person.

8. The revocation of the right to stand for election of the members of the respondent Party's executive committees must conform to the proportionality principle, since the respondent Party honestly believed that it had not acted unlawfully and in any way prohibited by law, and the applicant and the Political Party Registrar had previously considered and rejected a petition where the respondent and the members of the respondent Party were alleged to have acted in a way that might be hostile to the democratic regime of government with the King as Head of State. Taking into account the proportionality principle in exercising the discretion to determine the legal liability of the members of the respondent Party's executive committees, the Constitutional Court should determine the period of revocation of the right to stand for election not exceeding 5 years as from the date the Constitutional Court issued the ruling.

9. The Constitutional Court only had the power to revoke the right to stand for election of the members of the respondent Party's executive committees in relation to their actions. Since the acts to overthrow the democratic regime of government with the King as Head of State under section 49 of the Constitution were actions which were carried out during which the Party's 1st and 2nd executive committees were in office, and not the 3rd executive committee, only the right to stand for election of the members of the 1st executive committee, in office between 25th March B.E. 2564 (2021) and 14th September B.E. 2566 (2023), and the members of the 2nd executive committee, in office between 15th September B.E. 2566 (2023) and 22nd September B.E. 2566 (2023), should be revoked.

For the benefit of the consideration, by virtue of section 27 paragraph three, section 64 and section 65 of the Organic Act on Procedures of the Constitutional Court, B.E. 2561 (2018), the Constitutional Court directed the applicant to submit a list of evidence, requested the parties to submit an affidavit affirming facts or opinions to the Court on the issues determined by the Court, ordered that the documentary evidence acquired through the inquiry in the case of Constitutional Court Ruling No. 3/2567 be included in this case's files, as well as ordered that the parties examine all evidence on 9th July B.E. 2567 (2024) and submit an objection to the evidence and a closing statement, and ordered the admission of the comprehensive lists of evidence as follows:

1. The applicant submitted a list of evidence which could be summarised as follows. Mr. Pacharanon Kanachodpokin submitted a petition to the applicant, alleging that the respondent Party brought forward a policy regarding the amendment of section 112 of the Penal Code in its election campaign in contravention of the Constitution and in violation of section 92 paragraph one (2) of the Organic Act on Political Parties, B.E. 2560 (2017). The

applicant referred the matter to the Political Party Affairs Bureau, and it then entrusted the 2nd Factual Verification Committee with fact-finding and gathering of evidence. The facts of the case did not appear that the respondent had acted in a way that 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 Political Party Affairs Bureau viewed that at the time the Constitutional Court had already ordered to admit of the application by Mr. Teerayut Suwankesorn for the Court's consideration and adjudication, and so made a suggestion on waiting for the Court's ruling in that case before submitting the factual verification result to the Political Party Registrar. Later, upon Ruling No. 3/2567, the Constitutional Court held that the respondent Party's actions constituted the exercise of the rights or liberties to overthrow the democratic regime of government with the King as Head of State under section 49 of the Constitution. Mr. Ruangkrai Leekitwattana and Mr. Teerayut Suwankesorn then submitted a petition to the applicant, requesting the applicant to submit an application to the Constitution Court for the Court's order to dissolve the respondent Party. The Political Party Registrar entrusted the 6th Committee on the Gathering of Facts and Evidence of the Political Party Registrar with joint consideration of the petitions by Mr. Pacharanon Kanachodpokin, Mr. Ruangkrai Leekitwattana and Mr. Teerayut Suwankesorn all at once and to report the cases to the petitioners in accordance with clause 6 of the Regulation of the Election Commission Re: Gathering of Facts and Evidence of the Political Party Registrar, B.E. 2566 (2023). The applicant passed a resolution at meeting no. 10/2567 on 12th March B.E. 2567 (2024) to submit an application to the Constitutional Court for the Court's order to dissolve the Move Forward Party. The 6th Committee on the Gathering of Facts and Evidence of the Political Party Registrar could not find a ground for further gathering of facts and evidence to be submitted to the Political Party Registrar, and for the Political Party Registrar to submit the matters to the applicant for further consideration. As a result, the Political Party Registrar ceased the gathering of evidence in accordance with section 93 of the Organic Act on Political Parties, B.E. 2560 (2017), because an application had already been submitted to the Constitutional Court under section 92.

2. The applicant prepared an affidavit affirming facts or opinions which could be summarised as follows. The actions of the respondent under Constitutional Court Ruling No. 3/2567 constituted both an act to overthrow the democratic regime of government with the King as Head of State and an act that might be hostile to the democratic regime of government with the King as Head of State under section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017), because the Constitutional Court ruled that "the respondents' use of the policy regarding the amendment of section 112 of the Penal Code in the election campaign for the 2023 general election was a degradation of the Institution of the Monarchy, as well as assuming a role and making political movements in line with various political groups by means of campaigning, encouragement, agitation and

provocation in order to boost social trends to support the revocation or amendment of section 112 of the Penal Code. The respondents' behaviours demonstrated that the respondent Party was a political group with a hidden agenda of altering, amending or revoking legislative provision which provided the Institution of the Monarchy with protection, and thus constituted subversion and undermining which caused degradation or weakening of the Institution. These behaviours, therefore, amounted to an overthrow of the democratic regime of government with the King as Head of State. The respondents' actions 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 word "overthrow" meant an act with the intention to destroy or eradicate completely so that something no longer existed, while the word "hostile" did not need to be as severe as the intention to completely eradicate. Merely an act which eroded something, causing it to be deteriorated, degraded or weakened, could be considered as "hostile." Section 92 paragraph one (2) of the Organic Act on Political Parties, B.E. 2560 (2017) stipulated that the act "might be hostile to [the democratic regime of government with the King as Head of State]", regardless of the direct intention or actual injury. The actions of the respondents under Constitutional Court Ruling No. 3/2567 also constituted an act that might be hostile to the democratic regime of government with the King as Head of State under section 92 paragraph one (2) of the Organic Act on Political Parties, B.E. 2560 (2017). Therefore, the applicant had reliable evidence to believe that there existed actions which provided a ground for the respondent Party's dissolution under Constitutional Court Ruling No. 3/2567. Such evidence could not be perceived otherwise. The applicant thus submitted an application to the Constitutional Court under section 92 paragraph one of the Organic Act on Political Parties, B.E. 2560 (2017). As for the procedure under section 93, it was irrelevant to the applicant but the Political Party Registrar must gather facts and evidence as provided in section 93 together with the Regulation of the Election Commission Re: Gathering of Facts and Evidence of the Political Party Registrar, B.E. 2566 (2023). Besides, the facts of this case were ones and the same facts of the case of Constitutional Court Ruling No. 3/2567, which bound the National Assembly, the Council of Ministers, Courts, Independent Organs, and State agencies according to section 211 paragraph four of the Constitution. Additionally, the applicant had previously submitted an application to the Constitutional Court for the Court's order to dissolve the Thai Save the Nation Party in a similar way under Constitutional Court Ruling No. 3/2562, which the Court admitted for adjudication. Nonetheless, in conducting the inquiries in other cases, the applicant relied on its powers in the Constitution, the law on the Election Commission, the law on installation of Senators, the law on election of Members of the House of Representatives, the law on election of members of local assemblies or local administrators, and the law on referendums, together with the Regulation of the Election Commission Re: Investigation, Inquisition and Adjudication, B.E. 2561 (2018).

The respondent submitted an objection which could be summarised as follows. In Constitutional Court Ruling No. 3/2567, the Court did not rule that the respondent acted in a way that might be hostile to the democratic regime of government with the King as Head of State. In addition, during the applicant's process of consideration prior to submitting the application to the Court, the applicant did not inform the respondent of the accusation that the respondent had acted in a way that might be hostile to the democratic regime of government with the King as Head of State in any way, rendering the respondent unable to provide reasons or explanations. As for the submission of application for the respondent Party's dissolution, it must be jointly carried out by the Political Party Registrar and the applicant and the process of application submission must entail reliable evidence to believe that the respondent had committed an offence under section 92 of the Organic Act on Political Parties, B.E. 2560 (2017), which could not be separated and independent from the process of fact and evidence gathering prior to the submission of application to the Constitutional Court under section 93. Constitutional Court Ruling No. 3/2567 also did not provide a ground for the respondent Party's dissolution.

3. The respondent prepared an affidavit affirming facts or opinions similar to the statement of reply which contained additional opinions as follows. The Constitutional Court once ruled in Ruling No. 15/2553, dismissing an application of the Political Party Registrar for the Constitutional Court's order to dissolve the Democrat Party due to its unlawful submission without the Democrat Party having submitted an objection or provided evidence that the applicant did not abide by the laws. Although for the purposes of consideration and adjudication the Constitutional Court must hear the arguments of all sides, this did not exempt the applicant from complying with section 93 of the Organic Act on Political Parties, B.E. 2560 (2017) together with clause 7 paragraph two of the Regulation of the Election Commission Re: Gathering of Facts and Evidence of the Political Party Registrar, B.E. 2566 (2023) before submitting the application.

4. The respondent submitted a list of documentary evidence which was an academic opinion of Professor Surapon Nitikraipot, the contents of which were similar to those of the statement of reply, affidavit affirming facts or opinions, list of evidence, objection to evidence, and accompanying documents of the respondent.

5. The applicant submitted an objection to evidence which could be summarised as follows. For documentary evidence no. R 1 - R 10 and R 47, in which the respondent alleged that the Constitutional Court did not have the power to consider and adjudicate on this application, the applicant viewed that the Constitutional Court had the duty and power to consider and adjudicate on the dissolution of the respondent Party because the Constitutional Court had once ruled in Ruling No. 3/2562 that once the applicant had reliable evidence to believe that the Thai Save the Nation Party had acted in a way that constituted a ground of action under section 92 paragraph one (2) of the Organic Act on Political Parties,

B.E. 2560 (2017), the applicant might submit an application for the Constitutional Court's order to dissolve the Thai Save the Nation Party. Moreover, in Constitutional Court Ruling No. 5/2563, it was also ruled 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 in conjunction with section 7 (13) of the Organic Act on Procedures of the Constitutional Court, B.E. 2561 (2018).

As for documentary evidence no. R 11 - R 40 and R 48, the respondent alleged that Constitutional Court Ruling No. 3/2567 was not binding in the way that allowed the applicant to submit an application for the Constitutional Court's order to dissolve the respondent Party because the actions which constituted a ground of action under section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017) were not carried out by the respondent Party. But the facts of the case under Ruling No. 3/2567 had been proved without doubt and there was no reason to believe otherwise, and thus were binding upon the National Assembly, the Council of Ministers, Courts, Independent Organs, and State agencies according to section 211 paragraph four of the Constitution. In addition, academic opinion was simply an analysis together with some recommendations regarding the implementation of the laws, an academic idea that was neither conclusive nor factually and legally applicable to this case. Additionally, foreign news documents or laws indicated legal enactment based on ways of life, cultures and custom of the people in the societies with different contexts from those of Thailand's society. Documentary evidence no. R 11, R 12, R 15 - R 19, R 22, R 23, R 27 - R 30, C 1 (C 18 and C 40 - C 47) and object evidence no. OB 1 was a reiteration of documentary evidence no. C 1, which the Constitutional Court had already adjudicated in Ruling No. 3/2567.

As for documentary evidence no. R 41 - R 46, in which the respondent viewed that the respondent Party should not be dissolved, and even if it was to be dissolved, the Court still did not have the power to determine the period for which the right to stand for election of the members of the respondent Party's executive committees was to be revoked. As the Constitutional Court had ruled in Ruling No. 5/2563 that once the Court ordered the dissolution of the Future Forward Party, the Court had the legitimacy to order the revocation of the right to stand for election of the members of the Party's executive committees. As for the period of revocation, the Court determined by taking into account the proportionality principle between the behaviours, severity of actions and sanctions to be imposed, which constituted the restriction of right of a person, and set a precedent in Ruling No. 3/2562 by ordering the revocation of the right to stand for election of the members of the Thai Save the Nation Party's executive committees for the period of ten years as from the date the Constitutional Court ordered the dissolution of the Thai Save the Nation Party.

6. The respondent submitted an objection to evidence which could be summarised as follows. Documentary evidence no. A 20, A 22 and A 23 demonstrated that the

respondent's actions did not constitute an act that might be hostile to the democratic regime of government with the King as Head of State under section 92 paragraph one (2) of the Organic Act on Political Parties, B.E. 2560 (2017), and documentary evidence no. A 21 - A 39 demonstrated that once the Political Party Registrar considered the petition and found reliable evidence to believe that the respondent Party had acted in violation of section 92 paragraph one (1) of the Organic Act on Political Parties, B.E. 2560 (2017), the task of fact and evidence gathering was assigned in accordance with section 93 and the Regulation of the Election Commission Re: Gathering of Facts and Evidence of the Political Party Registrar, B.E. 2566 (2023). But during the process prior to the submission of application to the Constitutional Court in the case where there was reliable evidence to believe that the respondent Party had acted in violation of section 92 paragraph one (2) of the Organic Act on Political Parties, B.E. 2560 (2017), the Political Party Registrar had never informed the respondent Party of such allegation. Documentary evidence no. A 17/2 showed that at the applicant's meeting no. 9/2567 on 5th March B.E. 2567 (2024), the applicant abused its powers, ignored the procedures stipulated by law, and ordered the Office of the Election Commission to edit the draft of the application for the Constitutional Court's order to dissolve the respondent Party without taking into account the report of the applicant's Committee on Studies and Analyses of Constitutional Court Rulings Additionally, before the Political Party Registrar issued the order under clause 9 the Regulation of the Election Commission Re: Gathering of Facts and Evidence of the Political Party Registrar, B.E. 2566 (2023), and at meeting no. 10/2567 on 12th March B.E. 2567 (2024), according to documentary evidence no. A 17, the applicant passed a resolution to submit an application for the Constitutional Court's order to dissolve the respondent Party. On the same day, the Political Party Registrar ordered that the gathering of evidence under section 93 of the Organic Act on Political Parties, B.E. 2560 (2017) be terminated, according to documentary evidence no. A 33 - A 39. The order was issued unlawfully since no law could be applied to provide the power to do so. Thus, the Constitutional Court should dismiss and dispose of the case.

As for documentary evidence no. C 1 (C 21 - C 37), the respondent argued that the documentary evidence did not display any sign or logo of the respondent Party, and that Mr. Palang Noolear, Mr. Ranyakorn Borna, and Mr. Jedsada Khorprasert were persons holding positions within the respondent Party and had acted on behalf of the respondent Party. As for the actions of Mr. Pannawat Narkmoon, Mrs. Umakon Sithong, Mr. Krithiran Lersauritpakdee, Miss Tisana Choonhavan, Mr. Sahassawat Kumkong, and Mr. Tawiwong Totawiwong, who made their appearances within the area of the assembly, they were personal actions. As for Mr. Rangsiman Rome, who collected letters from those who attended the assemblies to make their political movements, his action was carried out in accordance with the duties and powers of the Committee on Legal Affairs, Justice and Human Rights, and was neither a personal action nor an action on behalf of the respondent

Party. Moreover, the participation in the discussion of Mr. Rangsiman Rome at the Faculty of Political Science, Chulalongkorn University, was a personal action. For the delivery of speech on stage of Miss Tisana Choonhavan, this was a personal action and was not carried out as a member of the respondent Party, and no assignment or order was given by the respondent Party's executive committee. The assembly for the "Stand, Stop Imprisonment" campaign of Mr. Sakon Soontornvanichkit, a member of the respondent Party, together with Mr. Chetawan Thuaprakhon, and the holding of sign inviting people to vote on whether they "support[ed] section 112 of the Penal Code or view[ed] that it should be revoked" by Mr. Wisarut Somngam were all personal actions with no connection to the respondent Party. The campaign for the revocation of section 112 of the Penal Code and the expression of opinions on online social media of Mr. Rangsiman Rome and Mrs. Amarat Chokepamitkul were carried out as individuals with no connection to the respondent Party and were not carried out according to a resolution or an order of the respondent Party's executive committee. Neither did this expression of opinions include the revocation of section 112 of the Penal Code. As for the conduct of problem hearing within the area of assembly for the people's demands by Miss Bencha Sangchantra, this was merely a field visit for the benefit of listening to the problems of the people who made their political movements with no use of violence. In addition, the campaign for the revocation of section 112 of the Penal Code of the Progressive Movement by Mr. Piyabutr Saengkanokkul and Miss Pannika Wanich, who were not members of the respondent Party, had no connection to the respondent Party.

7. The applicant submitted a closing statement, the contents of which were similar to those of the application, additional application, list of evidence, affidavit affirming facts or opinions, objection to evidence, and accompanying documents.

8. The respondent submitted a closing statement, the contents of which were similar to those of the statement of reply, affidavit affirming facts or opinions, list of evidence, objection to evidence, and accompanying documents.

The Constitutional Court considered the application, additional application, statement of reply, list of evidence of the applicant, affidavits affirming facts or opinions of both parties, evidence acquired through the inquiry in the case of Ruling No. 3/2567, objections to evidence of both parties, closing statements of both parties, and accompanying documents, and deemed that the case entailed legal issues and sufficient evidence to render a ruling, and thus ceased the inquiry under section 58 paragraph one of the Organic Act on Procedures of the Constitutional Court, B.E. 2561 (2018) and specified 3 issues to be considered and adjudicated, as follows.

First Issue: whether there was a reasonable ground for the dissolution of the respondent Party under section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017).

Upon consideration, the Court was of the opinion that section 45 paragraph one of the Constitution provided that “[a] person shall enjoy the liberty to unite and form a political party under the democratic regime of government with the King as Head of State, as provided by law.” It aimed to ensure the people’s liberty to form a political party, since it was a political institution with the objectives of shaping the thoughts, ideologies, aspirations and wishes of the people, in terms of politics, economy, and society all together, and turning them into political parties’ policies in order to establish the people’s political mandates through representatives. Therefore, political parties played an essential role in a democratic regime of government. However, although the people enjoyed the liberty to form a political party afforded by section 45 paragraph one of the Constitution, this form of liberty was not one without boundary or limitation. The liberty to form a political party was always regulated by the Constitution and the course of the democratic regime of government with the King as Head of State as provided by law.

Section 49 paragraph one of the Constitution provided that “[n]o person shall exercise the rights or liberties to overthrow the democratic regime of government with the King as Head of State” and section 92 paragraph one of the Organic Act on Political Parties, B.E. 2560 (2017) provided that “[t]he Commission, when having reliable evidence to believe that political party committed any of the following acts, shall submit an application to the Constitutional Court to dissolve such political party: (1) an act to overthrow the democratic regime of government with the King as Head of State or to acquire the sovereign power by any means that are not provided in the Constitution; (2) an act that might be hostile to the democratic regime of government with the King as Head of State ….,” and paragraph two provided that “[o]nce the Constitutional Court has conducted the inquiry and there is reliable evidence to believe that the political party committed an act under paragraph one, the Court shall order the dissolution of such political party ….”. Section 49 of the Constitution recognised the people’s right of peaceful protest against any action carried out by a person or a political party which asserted the exercise of the rights or liberties for the purpose of overthrowing the democratic regime of government with the King as Head of State, in order to provide supervision and adjudication by which an order could be issued for such person to cease the action that was detrimental to the regime of government as a form of preemptive measure. As for section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017), these were rules consistent with section 49 of the Constitution and related to the principles of militant democracy. The provision which provided for dissolution of political party constituted a mechanism for self-protection to prevent a threat to the regime or from a political party with a hostile nature towards the Constitution or the democratic regime of government. Thus, dissolution of political party provided a countermeasure to impede any effort to destroy further the fundamental principles of the democratic regime of government with the King as Head of State in the future.

Facts appeared from the inquiry as follows. The Constitutional Court rendered Constitutional Court Ruling No. 3/2567 on 31st January B.E. 2567 (2024), ruling that only 44 Members of the House of Representatives from the respondent Party proposed the Bill Amending the Penal Code (No. ..), B.E. .... (Amendment in Relation to Defamatory Offences) to the Speaker of the House of Representatives, the contents of which were the amendment of section 112 of the Penal Code from Book I, Title I Offences Relating to the Security of the Kingdom to Title I/II Offences Relating to the Honour of the King, the Queen, the Heir and the Honour of Regent, and by adding a provision allowing offender of such offence to prove causes for exemption from offence and punishment. In addition, it was proposed that the offence under section 112 of the Penal Code should be a compoundable offence in which the Bureau of the Royal Household would be the complainant and should be deemed the only aggrieved person. The respondent brought forward a policy similar to the contents of the Bill during the 2023 general election, and had been doing so continuously, and even habitually ran political campaigns by participating in public assemblies and holding activities relating to proposals for the revocation or amendment of section 112 of the Penal Code. Moreover, the Party also consisted of members of the executive committees, Members of the House of Representatives, and the members of the respondent Party who were bailors for the accused or the defendants in criminal cases under section 112 of the Penal Code or were the accused or the defendants of such offence themselves, and had expressed opinions in favour of the amendment or revocation of section 112 of the Penal Code through political activities and online social media several times. These suggested an intent to exercise 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 that the respondent refrain from expressing opinions, making speeches, writing, printing, publicising and expressing by other means in favour of the revocation of section 112 of the Penal Code. In addition, any amendment of section 112 of the Penal Code through a process outside of the legitimate legislative procedures in the future was also prohibited in accordance with section 49 paragraph two of the Constitution. Taking into account Constitutional Court Ruling No. 3/2567, the applicant passed a resolution at meeting no. 10/2567 on 12th March B.E. 2567 (2024), to submit an application to the Constitutional Court as there was reliable evidence to believe that the respondent had committed an act under section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E 2560 (2017), for the Constitutional Court to consider and adjudicate on the dissolution of the respondent Party.

The preliminary issue was whether the Constitutional Court had the power to admit the application of the applicant for consideration and adjudication.

For this issue, the respondent argued that the Court only had jurisdiction over the matters as provided by the Constitution, that the applicant submitted an application for the Constitutional Court to dissolve the respondent Party due to reliable evidence to believe that there existed the respondent's actions which fell under those in Constitutional Court Ruling No. 3/2567 which the Constitutional Court ruled that they constituted the exercise of the rights or liberties to overthrow the democratic regime of government with the King as Head of State under section 49 of the Constitution. This provision provided the Court with the power to issue an order to cease such action only and did not provide the Court with the power to dissolve the political party. Section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017) that provided the Court with the power to dissolve a political party was deemed to be contrary to or inconsistent with section 49 of the Constitution, and therefore unenforceable. The Constitutional Court did not have the power to consider and adjudicate on the application.

The Court was of the opinion that the Constitution was the supreme law governing the country, the rules which regulated the supreme powers of the State by providing frameworks for the performance of duties, the exercise of powers and the roles of institutions, as well as determining the different forms of relationships between those who exercised the governing powers and the people. Such rules might be in the form of written statutes or unwritten laws. As for organic laws, they were enacted to provide details and codes of conduct for specific matters within the scope of powers provided by the Constitution, the contents of which were directly related to the contents prescribed in the Constitution. They served as an explanation and elaboration of the contents of the Constitution for the purposes of its completion and enforceability to ensure that the Constitution could be enforced more effectively. Their existence also ensured that the Constitution, as the supreme law of the land, was prescribed in a way that was concise and only contained fundamental principles. Thus, organic laws and the Constitution were connected in the utmost intimate way.

Section 49 of the Constitution was a provision with the purpose of being a protective measure for the regime of government of the country. It guaranteed the people "the right to protect the Constitution" so that the people could protect the democratic regime of government with the King as Head of State. This kind of provision first appeared in section 63 paragraph one of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997), which provided that "[n]o person shall exercise the rights and liberties to overthrow the democratic regime of government with the King as Head of State as provided in this Constitution ….," paragraph two, which provided that "[i]n the case where any person or political party committed the act under paragraph one, a person having knowledge of such act shall have the right to submit the matter to the Attorney General for fact-finding and for submitting an application to the Constitutional Court for an order to cease such act ….," and paragraph three, which provided that "[i]n the case where the Constitutional Court renders a ruling to order a political party to cease the act under paragraph two, the Court may order the dissolution of such political party." This similar principle continued to be provided in section 68 of the Constitution of the Kingdom of Thailand, B.E. 2550 (2007), and section 49 paragraph one of the current Constitution provided that "[n]o person shall exercise the rights or liberties to overthrow the democratic regime of government with the King as Head of State" and paragraph two provided that "[a]ny person who has knowledge of an act under paragraph one shall have the right to petition to the Attorney General to submit an application to the Constitutional Court for an order to cease such act."

As for the Organic Act on Political Parties, B.E. 2560 (2017), the reasons for its promulgation were the Constitution provided that a person shall enjoy the liberty to unite and form a political party within the course of the democratic regime of government with the King as Head of State as provided by law, and that there must be oversight measures to prevent members of a political party from committing any act which violated or contravened the laws on election. It was therefore expedient to stipulate the procedures under which political parties could be formed and the administration of political parties in accordance with the provisions of the Constitution, whereby section 92 provided the Election Commission with the duties and powers to oversee and conduct inquiry on political party which acted in a way that constituted a ground for its dissolution; namely (1) an act to overthrow the democratic regime of government with the King as Head of State or to acquire the sovereign power by any means that were not provided in the Constitution; and (2) an act that might be hostile to the democratic regime of government with the King as Head of State.

Section 210 paragraph one of the Constitution provided that the Constitutional Court had 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 Representative, the Senate, the National Assembly, the Council of Ministers or Independent Organs, as well as other duties and powers prescribed in the Constitution. Section 210 paragraph three of the Constitution provided that the provision of section 188 paragraph one, which prescribed that the trial and adjudication of cases are the powers of the Courts which must be carried out in accordance with the laws and in the name of the King, shall also apply to the Constitutional Court *mutatis mutandis*. Section 49 provided that the Constitutional Court had the duty and power to adjudicate and order the person who would exercise the rights or liberties to overthrow the democratic regime of government with the King as Head of State to cease such act, without any constitutional provision that directly provided the Constitutional Court with the power to order the dissolution of political party that had acted to overthrow the democratic regime of government with the King as Head of State. Unlike section 63 paragraph three of the Constitution of the Kingdom of Thailand, B.E.

2540 (1997) or section 68 paragraph three of the Constitution of the Kingdom of Thailand, B.E. 2550 (2007), the intention of the Constitution to protect and shield the democratic regime of government with the King as Head of State, regardless of its version, was therefore expressed through the guarantee of the right of the people to protect the Constitution and the provision of power for the Constitutional Court to order the dissolution of political party if the fact appeared that a person or political party would exercise the rights or liberties to overthrow the democratic regime of government with the King as Head of State. Even though section 49 of the Constitution did not prescribe that where the Constitutional Court rendered a ruling to order a political party to cease the act, the Court might order the dissolution of such political party. Consequently, these provisions of the Constitutions showed that the Constitutional Court had the powers and duties as prescribed by both the Constitution and the laws, especially under section 7 of the Organic Act on Procedures of the Constitutional Court, B.E. 2561 (2018), which prescribed that the Constitutional Court shall have the duty and power to consider and adjudicate on the following cases: (13) any other case stipulated by the Constitution, organic laws or other laws to be within the jurisdiction of the Court, and section 92 of the Organic Act on Political Parties, B.E. 2560 (2017), which prescribed that the Constitutional Court shall have the power to admit an application for consideration and adjudication and for the Constitutional Court to order the dissolution of political parties. The respondent's argument therefore could not be sustained.

The next issue to be considered was whether the applicant allowed the respondent the opportunity to be sufficiently informed of the facts and the opportunity to respond and present its evidence confirming or refuting those facts.

For this issue, the respondent argued that the applicant submitted an application to the Constitutional Court with non-compliance with section 93 of the Organic Act on Political Parties, B.E. 2560 (2017) in conjunction with clause 7 of the Regulation of the Election Commission Re: Gathering of Facts and Evidence of the Political Party Registrar, B.E. 2566 (2023), denying the respondent the opportunity to be sufficiently informed of the facts of the case and the opportunity to respond and present its evidence. Therefore, the applicant's submission of the application to the Court was illegitimate.

The Court was of the opinion that section 92 paragraph one of the Organic Act on Political Parties, B.E. 2560 (2017) prescribed that "[t]he Commission, when having reliable evidence to believe that political party committed any of the following acts, shall submit an application to the Constitutional Court to dissolve such political party ....," while section 93 paragraph one prescribed that "[w]here it appears to the Registrar that political party committed an act under section 92, the Registrar shall gather facts as well as evidence and present opinion for the benefit of the Commission's consideration, which shall be in accordance with the rules and procedures specified by the Commission." Evidently, the submission of application for the Constitutional Court's order to dissolve a political party could be conducted under 2 scenarios. The first scenario was where the Election Commission had “reliable evidence to believe” that any political party committed an act that fell under section 92 paragraph one (1) - (4). The second scenario was “where it appear[ed]” to the Registrar that a political party committed an act that fell under section 92, the Registrar shall gather facts as well as evidence and present opinion to the Commission to consider in accordance with the Regulation of the Election Commission Re: Gathering of Facts and Evidence of the Political Party Registrar, B.E. 2566 (2023). Thus, in these scenarios the law laid down different rules regarding the process initiator and nature of the facts. Consequently, if the Commission had reliable evidence to believe that a political party committed an act that fell under those prescribed by the law, the Commission undoubtedly had the power to submit an application to the Constitutional Court. On the other hand, if it only appeared to the Registrar, the Registrar had the duty to gather facts and evidence for the benefit of the Commission’s consideration to decide whether there was reliable evidence to believe so before submitting an application to the Constitutional Court.

In this case, the applicant had reliable evidence to believe that there existed the acts which constituted a ground for the respondent Party’s dissolution based on the facts of Constitutional Court Ruling No. 3/2567, which constituted evidence that could not be perceived otherwise. As a result, the applicant, being the Election Commission, submitted an application to the Constitutional Court under section 92 paragraph one of the Organic Act on Political Parties, B.E. 2560 (2017). Additionally, the applicant provided explanations in its affidavit affirming facts or opinions that on 25th May B.E. 2566 (2023), Mr. Pacharanon Kanachodpokin petitioned to the applicant that the respondent brought forward the policy regarding the amendment of section 112 of the Penal Code as a policy of its election campaign at the Laem Chabang Municipality Public Park, Si Racha District, Chonburi Province. The applicant admitted the petition and referred it to the 2nd Factual Verification Committee under the Order of the Political Party Registrar No. 1/2566, for the purpose of examination, fact-finding and gathering of evidence. The 2nd Factual Verification Committee then examined the petition and accompanying documents, and was of the opinion that the petition should not be admitted for further proceeding as the petition provided insufficient evidence or information that the respondent had acted in the way that might be hostile to the democratic regime of government with the King as Head of State under section 92 paragraph one (2) of the Organic Act on Political Parties, B.E. 2560 (2017). On 26th September B.E. 2566 (2023), the Political Party Affairs Bureau reported to the Political Party Registrar that the Constitutional Court had admitted an application where Mr. Teerayut Suwankesorn requested the Court to adjudicate under section 49 of the Constitution, the issue of which was similar to that of Mr. Pacharanon Kanachodpokin’s petition, and thus the petition’s further proceeding should be halted in anticipation of the Constitutional Court’s ruling. After the Constitutional Court rendered Ruling No. 3/2567 on 31st January B.E. 2567 (2024), Mr.

Ruangkrai Leekitwattana and Mr. Teerayut Suwankesorn submitted a petition to the applicant, requesting the applicant to submit an application to the Constitutional Court on the same ground of action. The 6th Committee on the Gathering of Facts and Evidence of the Political Party Registrar was of the opinion that since the applicant had passed a resolution at meeting no. 10/2567 (2024) on 12th March B.E. 2567 to submit an application to the Constitutional Court for an order to dissolve the respondent Party under section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017), the case did not require the gathering of facts and evidence to be presented to the Political Party Registrar, and the Registrar was not required to present the matter to the applicant for consideration in accordance with clause 7 and clause 9 of the Regulation of the Election Commission Re: Gathering of Facts and Evidence of the Political Party Registrar, B.E. 2566 (2023).

The proceeding of the applicant in this case was first initiated as a case where the facts of the case appeared to the Political Party Registrar who must comply with section 93 of the Organic Act on Political Parties, B.E. 2560 (2017) and clause 5 of the Regulation of the Election Commission Re: Gathering of Facts and Evidence of the Political Party Registrar, B.E. 2566 (2023), which the Registrar did so by appointing the 2nd Factual Verification Committee. Later, the Constitutional Court had rendered Ruling No. 3/2567, the facts of which constituted the same ground of action as that of this case, and the crucial evidence of which could not be argued otherwise according to the applicant’s opinion. Consequently, the case was one where there was reliable evidence to believe that the respondent had acted in a way that constituted a ground for the Consideration Court’s order to dissolve the respondent Party. The applicant had the power to submit an application to the Constitutional Court in compliance with section 92. For these reasons, the 6th Committee on the Gathering of Facts and Evidence of the Political Party Registrar ceased the gathering of evidence, and thus the Registrar’s proceeding under section 93 came to an end. The applicant needed not rewind the process in order that the Registrar could initially gather facts and evidence. These procedures indicated that the processes of application submission under section 92 and section 93 were separated. Although the applicant in this case submitted the application to the Constitutional Court without having initially gathered the facts and evidence of the case first and without providing the respondent with the opportunity to be sufficiently informed of the facts or respond or present its evidence, this case and the case under Constitutional Court Ruling No. 3/2567 actually shared the same ground of action and the same respondent. The fact that the Constitutional Court considered this case on the basis of Constitutional Court Ruling No. 3/2567 by conducting a witness and evidence inquiry before the respondent, and the respondent was informed of the accusations as well as facts and was provided with the opportunity to examine and object to the evidence within all of this case’s files, including the opportunity to fully respond and present its own evidence before the Court, could be deemed a constitutional inquiry which provided fairness beyond that of a factual inquiry conducted by the Election Commission. Therefore, the respondent’s argument could not be sustained.

As for the respondent’s argument that the applicant submitted the application to the Constitutional Court based on the facts of Constitutional Court Ruling No. 3/2567, but the Constitutional Court ruled that “[w]ere both respondents allowed to carry on doing so, it would not be beyond the cause of overthrowing the regime”, the respondent’s actions thus had not yet constituted an exercise of the rights or liberties to overthrow the democratic regime of government with the King as Head of State; that after the Court ordered the respondent to cease the actions, the respondent did remove the policy proposing the amendment of section 112 of the Penal Code from the respondent Party’s website; that in addition, the standard of proof in the case of Constitutional Court Ruling No. 3/2567 was a “clear and convincing” one, while the standard of proof in this case should be on the same level as a criminal case, which must be proven beyond a reasonable doubt. Hence, the facts and the outcome of Constitutional Court Ruling No. 3/2567 could not be used to bind the Court’s consideration and adjudication of this case, and the Court must conduct a factual inquiry for this case anew.

The Court was of the opinion that section 49 of the Constitution was prescribed in a way that prevented anyone from asserting the exercise of the rights or liberties for the purpose of overthrowing the democratic regime of government with the King as Head of State, as its grievous consequence could surely be expected to happen if such action continued, and granted the Constitutional Court the power to issue an order to cease the action immediately in order to prevent such incident. Although the democratic regime of government with the King as Head of State had not yet been abolished or ceased to exist, if the facts showed that an act which was an exercise of the rights or liberties to overthrow the democratic regime of government with the King as Head of State under section 49 of the Constitution had happened, such act instantly constituted a completed offence regardless of its consequence. Since the Constitutional Court ruled based on the facts of Constitutional Court Ruling No. 3/2567 that the respondent took part in several actions in a recurring manner that together constituted a conspiracy, by proposing the bill amending section 112 of the Penal Code which contained contents that diminished the value of the Institution of the Monarchy and bringing it forward as a policy in its election campaign, attending public assemblies, holding political activities, and campaigning the issue on online social media. If the respondent was not deterred from continuing its actions, it would not be beyond the cause of overthrowing the democratic regime of government with the King as Head of State. The actions of the respondent thus constituted the exercise of the rights or liberties to overthrow the democratic regime of government with the King as Head of State, and a completed offence under section 49 of the Constitution, even after the Constitutional Court ordered the respondent to cease its actions and the respondent eventually removed the policy proposing the amendment of section 112 of the Penal Code from the respondent Party's website.

As for the "standard of proof" to be used in each case, this meant the standard or level of probability used to verify certain facts of the case whether they were true or false depending on the creditability of the evidence acquired through the inquiry, so that the Court might balance those evidence in its final adjudication. Therefore, the standard of proof for each type of case varied but corresponded to the objective of the case and the purpose of its lawsuit. Obviously, where the cases were of the same type, the same standard of proof applied. Even though the applicant applied for the Constitutional Court ruling to dissolve the respondent Party in this case, which differed from Ruling No. 3/2567 where the Court adjudicated on the Constitutional Court's order to cease the actions under section 49 paragraph two of the Constitution, but they shared the same ground of action and only differed in terms of enforcement measures to be used by the Constitutional Court. Thus, both this case and the case under Ruling No. 3/2567 were constitutional cases, and the Court must likewise use the same standard of proof for the evidence. Section 27 of the Organic Act on Procedures of the Constitutional Court, B.E. 2561 (2018) provided that the Court must use the inquisitorial system for her proceedings and had the power of fact-finding. Through her adjudication in the case of Constitutional Court Ruling No. 3/2567, the Constitutional Court had conducted a thorough factual inquiry in accordance with the highest standard of proof. Thus, the facts acquired through the proceedings and the outcome of the adjudication in Ruling No. 3/2567 were admissible for this case. It was unnecessary to conduct factual inquiry for this case anew using a different standard of proof as the respondent claimed.

For the respondent's argument that the respondent Party was a juristic person under section 20 paragraph one of the Organic Act on Political Parties, B.E. 2560 (2017), any action must therefore be carried out by the Party's executive committee in order to be binding and be deemed the Party's action. Since the actions under Constitutional Court Ruling No. 3/2567 were the actions of Members of the House of Representatives from the respondent Party which were performance of duties outside of the Party's mandate under section 114 of the Constitution, and their expression of opinions, or status of bailors, the accused or defendants in criminal cases under section 112 of the Penal Code were all personal actions, the actions under Constitutional Court Ruling No. 3/2567 were not the respondent's actions.

The Court was of the opinion that the respondent was a political party under the Organic Act on Political Parties, B.E. 2560 (2017), with the essential objective of carrying out political activities in accordance with the principles of democratic regime of government with the King as Head of State. Since the facts of Constitutional Court Ruling No. 3/2567 were conclusive of a finding that the proposal of the Bill Amending the Penal Code (No. ..), B.E. .... (Amendment in Relation to Defamatory Offences) on 25th March B.E. 2564 (2021), which contained contents that diminished the value of the Institution of the Monarchy, was an action by Members of the House of Representatives solely from the respondent Party, and the respondent, in its testimony, admitted that the respondent had presented a policy similar to the Bill to the applicant to be used as a policy in its 2023 general election campaign, and this policy still appeared on the respondent Party's website, it must be deemed that the respondent together with its Members of the House of Representatives proposed the Bill. As the respondent presented a policy amending section 112 of the Penal Code to the applicant and brought it forward as a policy in its election campaign, frequently campaigned and expressed political opinions by giving speeches on election campaign stages or through online social media, bailed out the accused and defendants in criminal cases under section 112 of the Penal Code, or were the accused or defendants of such offence themselves, although these actions were not carried out by the members of the respondent Party's executive committee or according to the Party's resolution, the Party's executive committee had the duty to control and supervise the members of the Party so that they might not act in violation of the Constitution or the laws. These actions were actions with the intention to push the respondent Party's policy towards its success as intended, and thus must be deemed indirect commission of the offences of the respondent Party by exploiting its members or Members of the House of Representatives as its agents or tools in the commission of the offences. Moreover, the respondent had signed the Memorandum of Understanding for the Formation of Government, during which its leader at the time gave interviews to news reporters regarding the Party's policy on the amendment of section 112 of the Penal Code, as well as assumed a role and made political movements in line with various political groups by means of campaigning, encouragement, agitation and provocation in order to boost social trends to support the revocation and amendment of section 112 of the Penal Code, which could cause discontent among the people and bring about a division among members of the nation, the characteristic of which constituted an incitement to hatred. These actions certainly resulted in the constitutional principle and value that supported the vitality of the democratic regime of government with the King as Head of State as an identity of the nation being abolished or ceasing to exist. The respondent could not avoid its liabilities. The respondent's argument therefore could not be sustained.

For the respondent's argument that the actions of the respondent in the case of Constitutional Court Ruling No. 3/2567 did not constitute an overthrow of the democratic regime of government with the King as Head of State or an act that might be hostile to the democratic regime of government with the King as Head of State under section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017), and that the facts which constituted the ground for political party's dissolution met neither the proportionality nor the necessary requirements for the respondent Party to be dissolved, and therefore the Constitutional Court should not dissolve the respondent Party, according to the respondent's argument.

The Court was of the opinion that the respondent submitted the statement of reply in opposition to Constitutional Court Ruling No. 3/2567, stating that despite the signing of petition by Members of the House of Representatives from the respondent Party for the proposal of a bill amending section 112 of the Penal Code, the bill did not contain any content that undermined the protection afforded to the Institution of the Monarchy, and the respondent did not have any intent to separate the Institution of the Monarchy from Thailand's national identity. Instead, such amendment was merely to ensure compliance with the general and international principles of law. The applicant had never prohibited the respondent from bringing forward a policy on the amendment of section 112 of the Penal Code in its election campaign and had even rejected a complaint by a complainant regarding such policy in election campaign. The participation of the Party's members in political campaigning or their expression of opinions through online social media was all personal actions and merely for the benefit of observing and hearing the opinions and demands of the people. Bailing out the accused and defendants or being the accused or defendants in criminal cases under section 112 of the Penal Code was carried out in accordance with the presumption of innocence principle. The sticking of a sticker on the revocation of section 112 of the Penal Code poll by Mr. Pita Limjaroenrat on the election campaign stage in Chonburi Province was merely an act of political climate management during his speech. While the respondent objected to documentary evidence no. C 1 (C 21 - C 37) which was documentary evidence used for the adjudication in the case of Constitutional Court Ruling No. 3/2567, all the various facts raised by the respondent as its assertion or objection were pre-existing facts which the respondent also raised to defend itself during the proceedings of the case of Constitutional Court Ruling No. 3/2567. Since the Constitutional Court had heard all the facts and had made the final ruling that these behaviours of the respondent constituted the exercise of the rights or liberties to overthrow the democratic regime of government with the King as Head of State under section 49 of the Constitution, and since section 211 paragraph four of the Constitution provided that "[t]he decision of the Constitutional Court shall be final and binding on the National Assembly, the Council of Ministers, Courts, Independent Organs, and State agencies", these facts therefore must also bind the Constitutional Court in her consideration and adjudication of this case.

As for the question of whether the respondent's actions constituted an act that might be hostile to the democratic regime of government with the King as Head of State, the Court was of the opinion that an act to overthrow the democratic regime of government with the King as Head of State was certainly more serious than an act that might be hostile to the democratic regime of government with the King as Head of State, since an act that might be hostile to the regime of government meant to act in resistance or opposition. Thus, if it could be concluded based on the facts of the case of Constitutional Court Ruling No. 3/2567 that the respondent had acted to overthrow the democratic regime of government with the King as Head of State, such act must also constitute an act that might be hostile to the democratic regime of government with the King as Head of State. Additionally, the Constitutional Court had also ruled in Ruling No. 3/2562 that the word “hostile” did not need to be severe to the point that there existed an intention to eradicate completely, neither did it require only that the person established himself or herself as an enemy or an opposition; merely an act which in a way hindered or blocked an advancement or an act which caused an erosion, degradation or weakening could amount to an act of being hostile. The exploitation of the Institution of the Monarchy to gain advantages and the desire for political interests therefore constituted an act that might be hostile to the democratic regime of government with the King as Head of State. Hence, as the Constitutional Court ruled in Constitutional Court Ruling No. 3/2567 that the behaviours of the respondent, being the proposing of the bill amending section 112 of the Penal Code and bringing it forward as a policy in its election campaign, an exploitation of the Institution of the Monarchy in the hopes of gaining votes and winning election, constituted an intent to place the Institution of the Monarchy against the people, the respondent had an intention to erode, degrade or weaken the Institution of the Monarchy, leading to an overthrow of the democratic regime of government with the King as Head of State eventually. The respondent’s actions thus fell within the acts that might be hostile to the democratic regime of government with the King as Head of State as well.

Ever since the Constitution of the Kingdom of Siam, B.E. 2475 (1932), the regime of government of Thailand had always adhered to a democratic regime of government with the King as Head of State, which represented our recognition and acceptance of the international norm of democracy as a form of government. This could be found in section 2 of the Constitution of the Kingdom of Thailand, B.E. 2560 (2017), which provided that “Thailand adopts a democratic regime of government with the King as Head of State.” It also adhered to the universal principle of the rule of law as appeared in section 3 paragraph two, as well as the constitutional protection of human rights in section 4 and the judicial independence in section 188 paragraph two. At the same time, section 255 of the Constitution provided that “[a]n 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.”

Consequently, it was factually proven that the respondent and Members of the House of Representatives from the respondent Party together proposed the bill amending section 112 of the Penal Code which contained contents that diminished the value of the Institution of the Monarchy and bringing it forward as the Party’s policy. The respondent habitually participated in political campaigns for the revocation or amendment of section 112 of the Penal Code, and members of its executive committees, Members of the House of Representatives and members were bailors of the accused or defendants in criminal cases under section 112 of the Penal Code or became the accused or defendants of such offence themselves. In addition, they had also expressed their opinions in support of the amendment or revocation of section 112 of the Penal Code through political activities or online social media repeatedly with the intent to separate the Institution of the Monarchy from Thai nationhood which posed a serious threat to the national security, undermined the protective status afforded to the Institution of the Monarchy, and exploited the Institution of the Monarchy in the hopes of gaining votes and winning election. These constituted an intent to place the Institution of the Monarchy against the people and causing the Institution of the Monarchy to be attacked and reprimanded, causing emotional distress to the Thai people who worshiped and revered the Institution of the Monarchy because the Institution is the Head of State and the spiritual unification of the whole nation, and leading to the overthrow of the democratic regime of government with the King as Head of State, as stated in Constitutional Court Ruling No. 3/2567. It was final and binding in accordance with section 211 paragraph four of the Constitution. Since political parties were important political institutions of the people under democracy, a political party's dissolution must be strict, careful, and proportionate to the severity of that political party's actions. It must comply with the Constitution and the laws and must depend on the political party's actions. The respondent acted in violation of section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017). This piece of legislation must be applied to all political parties, regardless of whether these political parties had been elected. Every political party must be equally subject to this piece of legislation, the legal provisions of which were proportionate to actions, and the law must be complied with in order to prevent the fundamental principles of democratic regime of government with the King as Head of State from being destroyed. The Constitutional Court was therefore inevitably required to order the dissolution of the respondent Party as prescribed by the law. Although academics, politicians or foreign diplomats at any level had their own constitutions and domestic laws, including their own regulations, which differed according to the context of each country, any expression of opinions must be in accordance with international diplomatic and foreign affairs etiquette that should be observed towards each other. There was reliable evidence to believe in this case that the respondent had committed the acts under section 92 paragraph one (1) and (2) of the Organic Act on Political Parties, B.E. 2560 (2017), which provided the ground for the respondent Party's dissolution under section 92 paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017).

Second Issue: whether and to what extent could the right to stand for election of the members of the respondent Party's executive committees be revoked under the Organic Act on Political Parties, B.E. 2560 (2017).

The respondent submitted an argument that section 92 paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017) did not clearly prescribe the period for which the right to stand for election of a member of a political party's executive committee was to be revoked. Thus, it must be considered in accordance with the proportionality principle by determining such period for 5 years as from the date the Constitutional Court ordered the dissolution of the respondent Party, and only the right to stand for election of the members of the respondent Party's 1st and 2nd executive committees should be revoked.

The Court was of the opinion that section 92 paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017) prescribed in a compulsory manner that "[o]nce the Constitutional Court has conducted the inquiry and there is reliable evidence to believe that the political party has committed an act under paragraph one, the Court shall order the dissolution of such political party and revoke the right to stand for election of the executive committee of such political party." Since the respondent had acted in a way that constituted a ground for the respondent Party's dissolution, the Constitutional Court must order the dissolution of the respondent Party in compliance with section 92 paragraph one (1) and (2) and paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017). Additionally, once the Court had ordered the respondent Party's dissolution, the Court might then legitimately order the revocation of the right to stand for election of the members of the respondent Party's executive committees who held such positions between 25th March B.E. 2564 (2021) and 31st January B.E. 2567 (2024), which was the period in which the actions that constituted the ground for the respondent Party's dissolution under section 92 paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017) occurred.

The issue to be considered further was, once it was ruled that the right to stand for election of the members of the respondent Party's executive committees should be revoked, how long should such right be revoked. The Court was of the opinion that the determination of revocation period of the right to stand for election, which was an extremely crucial political right to those who volunteered and stepped in for the benefits of the country as candidates for the Members of the House of Representatives election, must be deliberated in a way that ensured its compliance with the proportionality principle, balancing between the behaviours, together with severity of the actions and the sanctions to be imposed which constituted the restriction of the right of a person. Although the respondent's actions in the case of Constitutional Court Ruling No. 3/2567 were actions towards a main institution of the nation which established and restored the Thai nation itself, as well as being the spiritual unification of the Thai people, but since the proposal of the Bill Amending the Penal Code (No. ..), B.E. .... (Amendment in Relation to Defamatory Offences) on 25th March B.E. 2564 (2021) by the Members of the House of Representatives from the respondent Party to the Speaker of the House of Representatives was not incorporated into the House' agenda. Although the Bill was brought forward as the respondent Party's policy or campaign, it was still required to be proceeded with the legislative procedures and the National Assembly and no serious damage to the regime of government of the nation had yet been caused. In addition, in Ruling No. 3/2567 on 31st January B.E. 2567 (2024), the Constitutional Court ordered the respondent to cease its actions and on that day the respondent removed the policy regarding the amendment of section 112 of the Penal Code from the respondent Party's website, and the facts of the case did not appear that since then the respondent had ever committed any of the acts prohibited by the Court. Therefore the right to stand for election of the members of the respondent Party's executive committees who held such positions between 25th March B.E. 2564 (2021) and 31st January B.E. 2567 (2024), which was the period in which the actions that constituted the ground for the respondent Party's dissolution occurred, shall be revoked for the period of ten years as from the date the Constitutional Court ordered the dissolution of the respondent Party. This was in line with the period under section 94 paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017).

Third Issue: whether those who were members of the executive committees of the dissolved respondent Party and who had their right to stand for election revoked, were prohibited from registering a new political party, being a member of executive committee of a political party, or participating in the formation of a new political party within ten years as from the date the respondent Party was dissolved under section 94 paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017).

The Court was of the opinion that section 94 paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017) prescribed that "[n]o person who held the position of member of the dissolved party's executive committee and had his or her right to stand for election revoked due to such ground shall be permitted to register a new political party, or be a member of executive committee of a political party, or participate in the formation of a new political party within the period of ten years as from the date such political party is dissolved." This legal provision was one which provided consequence for a violation of the law and did not grant the Constitutional Court the power to order otherwise. Once the Constitutional Court ordered the dissolution of the respondent Party and the revocation of the right to stand for election of the members of the respondent Party's executive committees, those who held the positions of members of the executive committees of the respondent Party between 25th March B.E. 2564 (2021) and 31st January B.E. 2567 (2024), which was the period in which the actions that constituted the ground for the respondent Party's dissolution and the revocation of the right to stand for election of the members of the respondent Party's executive committees occurred, must be prohibited from registering a new political party, being a member of executive committee of a political party, or participating in the formation of a new political party within the period of ten years as from the date the Constitutional Court ordered the dissolution of the respondent Party in accordance with section 94 paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017).

By virtue of the aforementioned reasons, the Constitutional Court unanimously rendered her ruling and ordered the dissolution of the Move Forward Party (respondent) in accordance with section 92 paragraph one (1) and paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017), and with a majority of 8:1, ordered the dissolution of the Move Forward Party (respondent) in accordance with section 92 paragraph one (2) and paragraph two of the Organic Act on Political Parties, B.E. 2560 (2017). The Court also unanimously ordered the revocation of the right to stand for election of the members of the respondent Party's executive committees who held such positions between 25th March B.E. 2564 (2021) and 31st January B.E. 2567 (2024), which was the period in which the actions that constituted the ground for the respondent Party's dissolution under section 92 paragraph two occurred, for the period of ten years as from the date the Constitutional Court ordered the dissolution of the respondent Party, and unanimously prohibited those who held the positions of members of the executive committees of the respondent Party during that period from registering a new political party, being a member of executive committee of a political party, or participating in the formation of a new political party within the period of ten years as from the date the Constitutional Court ordered the dissolution of the respondent Party in accordance with section 94 paragraph two.