

Constitutional Court Ruling No. 21 - 28/2563 (2020)Central Administrative Court, 1st ApplicantsSupreme Administrative Court, 2nd

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Respondent

Constitution, section 3, section 26, section 27 paragraph one and section 37;
Expropriation and Acquisition of Immovable Properties Act, B.E. 2562 (2019), section 51, section 53, section 54 and section 67.

Section 51 paragraph one of the Expropriation and Acquisition of Immovable Properties Act, B.E. 2562 (2019) prescribed a time limit for a state agency to initiate activities in pursuance of the objectives of expropriation in order to protect the property rights of a person along with proportionate public interest. Section 51 paragraph two provided the construction of a path, railway, canal or other public benefit activity which required the use of land extending beyond ten kilometres, if works had commenced on any part of the project, it would be deemed that activities had initiated in pursuance with the objectives of the expropriation for the entire extent of the path, which would be consistent with the particular characteristics of a construction project that could not commence at the same time within a limited period of time. The court had the competence to review the exercise of discretion under the different facts in each case. If operations did not commence pursuant to the objectives of expropriation within the period under section 51, or there was land remaining from use, the original owner or heir thereof had the right to request for a return of the land within the period stated in section 53. Section 54 provided the interest rate for compensation which the original owner or heir thereof had to pay the state under general principles of law, and the rate should be reasonable. The transitory provision in section 67 protected and recognised the right of an owner of expropriated land who already had a right, not being a provision which derogated rights or a law which had retroactive detrimental effect on a person. The provisions were therefore neither contrary to nor inconsistent with section 3, section 26, section 27 paragraph one and section 37.