

**Constitutional Court Ruling No. 1/2557 (2014)**

Mr. Wirat Kalayasiri	Applicant
President of the National Assembly, 1 <sup>st</sup>	Respondents
Vice-President of the National Assembly, 2 <sup>nd</sup>	
Members of the House of Representatives and Senators, 3 <sup>rd</sup> to 381 <sup>st</sup>	

Constitution, section 3, section 4, section 5, section 68 paragraph one, section 87, section 122 and section 125 paragraph one;  
Draft Constitution of the Kingdom of Thailand Amendment (No. ..), B.E. .... (amending section 190).

Although the Constitution provided the legislature with the power to amend the Constitution, such deliberation process had to be undertaken with prudence, transparency, accounting for national interests and allow Members of the National Assembly as well as the people to control, inspect and express opinions on all points pursuant to the democratic principle in which the majority had to take regard of the minority. The control of majority power without respect for the opinions of the minority would result in an elective dictatorship or a dictatorship by National Assembly, which would be contrary to the democratic principle.

A debate speech to express opinions during the legislative process was a fundamental right provided by the Constitution. Opinions and reasons expressed by Members of the National Assembly therefore held significance, especially with regard to an amendment of the Constitution. Even though the act of closing a debate session was within the discretion of the President of the National Assembly, and despite the majority having the right to vote for the close of a debate session, such actions should not abrogate the right to perform the duties of a Member of the National Assembly or deny a hearing of opinions from the minority. Therefore, the close of debate session during the first reading of the Draft Constitutional Amendment for approval in principle was inconsistent with section 3 paragraph two and section 125 paragraph one of the Constitution.

As for the determination of days for motions to amend the Draft Constitutional Amendment, sufficient time was needed to ensure Members were clearly aware of the period. Also, the motions submission period could not commence retroactively. The period had to commence as from the day of resolution in the sitting. Therefore, the retroactive commencement of the motions

submission period which resulted in only 1 day remaining constituted rushed proceedings and unfair conferment of benefits, which was contrary to the exercise of functions and privileges of Members of the National Assembly and the rule of law, being inconsistent with section 3 paragraph two and section 125 paragraph one and paragraph two of the Constitution.

As for the amendment of draft section 190 by adding the term “apparent” following the different types of treaties and the deletion of “any treaty... which has a wide scale impact on national economic or social security or created a significant obligation on national trade, investment or budget must be approved by the National Assembly,” was an abrogation of the National Assembly’s competence to merely a review of treaty providing for liberalisation of trade and investment. On the other hand, the competence of the Council of Ministers in entering into a treaty was increased, undermining the balance of powers, thus the performance of duties was not for the common benefit and was inconsistent with section 3 of the Constitution. Moreover, the deletion of provisions which granted the right of the public to receive information, inspect and express opinion in the making of a treaty by the executive, as well as the abrogation of the public’s right to access details on the treaty prior to the Council of Minister’s expression of intent to bind the country constituted restriction of rights and liberties of the people, which was inconsistent with section 4, section 5 and section 87 of the Constitution. The acts were committed to confer a person or group of persons with the power to govern the country by means which were not in accordance with the Constitution. Hence, the act was in violation of section 68 paragraph one of the Constitution.

As for the deliberation and voting on section 190 of the Draft Constitutional Amendment in the second reading for section 3, on a paragraph by paragraph basis, such proceedings were not prohibited by the Constitution and Rules of Procedure of the National Assembly. As a result, deliberations on such section proceeded prudently, consistently and without conflict. The proceedings were therefore neither contrary to nor inconsistent with section 125 of the Constitution.