

**Constitutional Court Ruling No. 5/2557 (2014)**

Ombudsman

Applicant

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Respondent

Constitution, section 93 paragraph one and paragraph six and section 108 paragraph two;

Organic Act on Election of Members of the House of Representatives and Acquisition of Senators, B.E. 2550 (2007), section 78, section 88, section 94 and section 95;

Royal Decree to Dissolve the House of Representatives, B.E. 2556 (2013) only with respect to the part prescribing the general election of Members of the House of Representatives on 2<sup>nd</sup> February B.E. 2557 (2014).

The election day for Members of the House of Representatives was a general election prescribed under the Royal Decree to Dissolve the House of Representatives enacted by virtue of section 108 paragraph two of the Constitution. Persons who were involved in the election had a duty to take actions for the general election to proceed.

The voting date, on the other hand, was prescribed by virtue of the Organic Act on Election of Members of the House of Representatives and Acquisition of Senators, B.E. 2550 (2007). Voting days could extend over a period of several days, such as polling outside of a constituency under section 94 and advance voting under section 95. However, an exercise of voting right was possible only when there were candidates on the voting day in order to enable the voter to cast a vote, whereas the election day for Members of the House of Representatives could only be one day under section 108 paragraph two of the Constitution. Upon finding that there were no candidates in 28 constituencies, it was thus deemed that no general election was held in those constituencies. It was therefore not within the competence of the Election Commission and the Supreme Court to hold new elections. In addition, section 93 paragraph one and paragraph six of the Constitution intended for the installation of all five hundred Members of the House of Representatives who had to come from a general election on the same day throughout the entire Kingdom pursuant to section 108 paragraph two of the Constitution. The Constitutional Court had already decided in Ruling No. 2/2557 that if necessary, a new general election day different from the original general election day prescribed under the Royal Decree to Dissolve the House of Representatives could be designated. Such a new designation would be within the joint powers, duties and responsibilities of the Prime Minister and Chairman of the Election Commission. Yet, the Prime Minister did not postpone the general election day and

the general election was held on 2<sup>nd</sup> February B.E. 2557 (2014), which failed to conduct voting in 28 constituencies. Thus, it was deemed that 2<sup>nd</sup> February B.E. 2557 (2014) was not the day when a general election day for Members of the House of Representatives was held throughout the Kingdom. The election was therefore unconstitutional and as a consequence the Royal Decree to Dissolve the House of Representatives, B.E. 2556 (2013), only with respect to the part prescribing the general election of Members of the House of Representatives on 2<sup>nd</sup> February B.E. 2557 (2014), raised questions of constitutionality under section 108 paragraph two of the Constitution.