

Constitutional Court Ruling No. 9/2557 (2014)

Mr. Paiboon Nititawan, Applicants
Senator, and others, a total of 28 persons
Miss Yingluck Shinawatra, Respondent
Prime Minister

Constitution, section 181, section 182 paragraph one (7), section 266(2) and (3), section 268 and section 269.

Section 182 paragraph one (7) of the Constitution provided that an individual ministerial office terminated upon commission of a prohibited act under section 267, section 268 or section 269 of the Constitution. Section 266(2) and (3) was a provision which intended to provide security for a state official from political intervention, except only for acts performed in the discharge of functions. Section 268 of the Constitution applied such principle to the Prime Minister and Ministers as members of the executive to prevent acts amounting to a conflict of interests. The respondent was involved in the transfer of Mr. Tawin Pleansri from the office of Secretary-General of the National Security Council to the office of Advisor to the Prime Minister, Permanent Officials Section, Office of the Prime Minister, with the intent of causing a vacancy in the office of Secretary-General of the National Security Council to enable the transfer of Police General Wichien Pojposri, Commissioner General of the Royal Thai Police at the time, to fill the office of Secretary-General of the National Security Council, which in turn caused a vacancy in the office of Commissioner General of the Royal Thai Police to open up the opportunity to appoint Police General Preawpan Damapong, a relative of the respondent, to replace such position. Thus, this was a case where the respondent exploited her status or office of Prime Minister to interfere or intervene for her own benefit or for others with respect to the recruitment, appointment, transfer, reassignment or removal from office of an official having a permanent office or salary, and not being a political official. The reason argued by the respondent was insufficient for a finding of an official benefit obtained in line with policies stated by the Council of Ministers to the National Assembly. The actions were rushed and not in accordance with regular official practice. The case was within section 268 in conjunction with section 266(2) and (3) of the Constitution, resulting in the termination of the respondent's individual ministerial office under section 182 paragraph one (7) of the Constitution, and the respondent could not remain in office to perform duties until the newly appointed Council of Ministers took office under section 181 of the Constitution.