

Constitutional Court Ruling No. 1/2560 (2017)

President of the	Applicant
National Legislative Assembly	
-	Respondent

Constitution, section 267 and section 273;
Organic Bill on Ombudsman, B.E., section 56.

Section 267 and section 273 paragraph one of the Constitution were transitory provisions which recognised the status of office holders in independent organs on the day previous to the promulgation date of the Constitution to remain in office to perform duties during the transitional period between the enforcement of the prior Constitution to the current Constitution, and after the promulgation of laws under section 267 of the Constitution. The continued tenure would be as provided by law, a task delegated by the Constitution to the National Legislative Assembly for deliberation and approval. The continued tenure could take several forms, but nevertheless should take into account reasons, necessities and suitability both in terms of composition and duties and powers of each organ, and shall be in accordance with the spirit of the Constitution.

Draft section 56 of the Organic Bill on Ombudsman, B.E. was a transitory provision on the continued tenure by recognising the status of the Chief Ombudsman and Ombudsmen holding office on the day prior to the effective date of the new law to continue in office for performing duties continuously during the transition of laws. The form prescribed for Ombudsmen might differ from the form of other independent organs. Draft section 56 was consistent with the rule of law, taking into account reasons, necessity and suitability, and was consistent with the spirit of the Constitution. As for the exemption of qualifications under draft section 8, it was deemed that section 273 paragraph one of the Constitution had delegated the National Legislative Assembly with the task of determining the continued tenure without specifically prescribing a time period for performing duties or the vacation of office, nor did it provide causes for exempting qualifications for such person. The provision was therefore neither contrary to nor inconsistent with the Constitution.