

Constitutional Court Ruling No. 2/2561 (2018)

President of the National Legislative Assembly	Applicant
-	Respondent

Constitution, section 107 and section 269;
Organic Bill on Installation of Senators, B.E., section 91, section 92, section 93,
section 94, section 95 and section 96.

Section 91 to section 96 of the Organic Bill on Installation of Senators, B.E. were transitory provisions which exempted the main provisions of this Organic Bill, whereby draft section 91, a provision on the classification of senatorial applicants into ten different groups, by regrouping the applicants under section 11 into groups of similar applicants without eliminating any particular group. The diversity of occupations remained intact. Applicants for selection retained their eligibility. There was no derogation of rights for applicants having the qualifications and not having the prohibited characteristics. Furthermore, the transitory provision applied only for the initial period. Section 92 and section 93 provided methods for applying and receiving applications, stating that an application should be submitted by the applicant or submitted by the applicant together with a letter of recommendation from an organ under section 93. Both methods involved applications submitted by the applicants. The recommendation of an applicant by an organ under section 93 was not a procedure for selecting applicants, not being a derogation of application right or unjust discrimination against a person. The method merely added another channel which did not affect the principle of self-selection. Section 94, section 95 and section 96 provided for selection processes at district, provincial and national levels by requiring direct self-selection within each group as the only method. Even though such process differed from direct selection and cross-selection, the selection process still involved applicants selecting from amongst themselves and participating in selection pursuant to section 107 of the Constitution. Such process did not cause the selection of Senators to fail the test of honesty and fairness. The provisions were therefore neither contrary to nor inconsistent with section 107 in conjunction with section 267 of the Constitution.