Constitutional Court Ruling No. 3/2561 (2018)

President of the Applicant

National Legislative Assembly

- Respondent

Constitution, section 85 paragraph one and section 95 paragraph three; Organic Bill on Election of Members of the House of Representatives, B.E., section 35(4) and (5) and section 92 paragraph one.

Section 35(4) and (5) of the Organic Bill on Election of Members of the House of Representatives, B.E. ... provided for a restriction of the right to hold office, which was a restriction of a certain benefit of a person by stipulation of a legal consequence of the act of an eligible voter not exercising a right to vote and failing to declare reasons for such failure to exercise the right to vote, or declaring a reason for not exercising the right to vote but such reason was not a reasonable cause under section 95 paragraph three of the Constitution, which provided that certain rights could be restricted as prescribed by law. Consideration was given to the period of restriction under draft section 35 paragraph two, namely intervals of two years, commencing from the election date when the eligible voter did not exercise voting right. If such person exercised voting right in the subsequent election, such restriction of right would end. Even though such provision was similar to prerequisites of qualifications and prohibited characteristics of a person for taking office, the restriction of right of the eligible voter who failed to exercise the right to vote without declaring a cause for failing to exercising voting right or declaring a cause for failing to exercise voting right but such cause was not reasonable only resulted in the restriction of right to hold such office. The holding of office under draft section 35(4) and (5) was a right which could be restricted under the Constitution by enactment of a law. The provision was neither contrary to nor inconsistent with section 95 paragraph three of the Constitution.

As for draft section 92 paragraph one, such provision prescribed the voting method for disabled, handicapped or elderly persons in the event of an inability to mark a symbol on the ballot paper. The provision was intended to facilitate and assist such persons to be able to exercise the right to vote on an equal basis with other persons. There was no disclosure of those votes to the public. The state had to prescribe clear and absolute measures in the case where a person caused a vote to diverge from the intent of the disabled or handicapped or elderly persons, or caused the voting method to not be direct and secret. The provision did not affect independence of voting and was within the scope and method of direct and secret

ballot. There was no provision which was contrary to or inconsistent with section 85 paragraph one of the Constitution.