Constitutional Court Ruling No. 20/2564 (2021)

Central Juvenile and Family Court Applicant
- Respondent

Constitution, section 25, section 26 and section 27 paragraph one, paragraph two and paragraph three;

Civil and Commercial Code, section 1448.

Section 1448 of the Civil and Commercial Code provided that a marriage could only be entered into between a man and a woman. Such provision was consistent with natural conditions and tradition. The objective of a marriage was for a man and woman to have a marital relationship to create a familial institution, bear children and maintain natural existence of species. Even if it was likely to restrict the rights and liberties of a person, the legal provisions were consistent with natural conditions, customs and tradition of Thai society that had been enacted on the basis of reason and effect. The provision did not restrict the rights of those with gender diversity, did not prejudice human dignity, was not contrary to the rule of law and did not constitute an unjust discrimination against a person on the grounds of a difference in sex.

As for rights as a spouse, such rights did not derive directly from marital status, but were consequences of legal provisions. Section 1448 of the Civil and Commercial Code was neither contrary to nor inconsistent with section 25, section 26 and section 27 paragraph one, paragraph two and paragraph three of the Constitution.

In any event, the Constitutional Court recommended that the National Assembly, Council of Ministers and relevant State agencies should consider the enactment of a law to give proper recognition of the rights and duties of persons with gender diversity.