

Constitutional Court Ruling No. 23/2564 (2021)

Central Criminal Court for	Applicant
Corruption and Misconduct Cases	
-	Respondent

Constitution, section 25, section 26 and section 29 paragraph two and paragraph four; Procedures for Corruption and Malfeasance Cases Act, B.E. 2559 (2016), section 21 paragraph two and section 22.

Section 21 paragraph two of the Procedures for Corruption and Malfeasance Cases Act, B.E. 2559 (2016), provided for a date for examination of evidence. If a party did not object or filed an unclear objection, the court could admit the evidence of the other party in the case record without further inquiry. Such a provision merely gave the court discretion. The consideration of corruption and misconduct cases which applied the inquisitorial system remained under the principle of *audi alteram partem*. The court had the power to find facts on its own accord without have to commit to the evidence or facts presented by a party in court, and the defendant had the opportunity to examine all evidence prior to trial. Therefore, parties had full ability to defend cases. Such a provision was not contrary to the rule of law, did not disproportionately increase burden or restrict a right or liberty of a person and did not force a person to self-incriminate. Hence, the provision was neither contrary to nor inconsistent with section 25 paragraph three, section 26 paragraph one and section 29 paragraph four of the Constitution.

Section 22 of the Procedures for Corruption and Malfeasance Cases Act, B.E. 2559 (2016), provided for the court to admit the reports and briefs of inquiries or briefs of fact-finding of the Attorney-General, public prosecutor, President of the National Anti-Corruption Commission or National Anti-Corruption Commission (NACC), in a case where such persons were the prosecuting authority, as primary evidence in the fact-finding process and could examine further evidence as appropriate. The court merely applied the outline of the case to determine whether the evidence presented by both parties carried sufficient reliability weight. Such evidence had already been subject to a fact-finding process, and therefore was beneficial to the court proceedings. However, the evidence did not bind the court to find facts and admit evidence pursuant to such documents. Such a provision also did not provide a presumption of the defendant's guilt, nor did it require the court to find facts and resolve evidence in accordance with the report and brief of inquiries or brief of fact-finding submitted solely by the NACC. Therefore, the provision was not contrary to the rule of law and did not prejudice

human dignity. Hence, the provision was neither contrary to nor inconsistent with section 25, section 26 and section 29 paragraph two of the Constitution.