

Constitutional Court Ruling No. 10/2565 (2022)

Central Administrative Court

Applicant

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Respondent

Constitution, section 26, section 34 paragraph one, section 37 paragraph two and section 40 paragraph two;

Alcohol Control Act, B.E. 2551 (2008), section 30(6).

Section 30(6) of the Alcohol Control Act, B.E. 2551 (2008), prohibited any person from selling alcohol by any method or other means as provided by notification of the Minister by the advice of the National Alcohol Policy Committee. The provision was a measure for controlling the practices or manners of sale of alcohol. The legislature had delegated powers to the executive, as the administrator of the law, to prescribe procedures or measures relating to the sale of alcohol by other means in addition, provided that they were consistent with the practices or manners within the meaning provided under section 30(1) to (5), in line with the spirits of the law to reduce the impact of alcohol consumption. Even though the provision of law empowered the executive to issue subordinate legislation which contained some restriction of rights and liberties of a person, such restriction was not absolute. Furthermore, the provision was appropriate in accordance with the principle of necessity, balanced between public interests and the rights and liberties of a person, and was not contrary to the rule of law. There was no prejudice to human dignity. Also, the reasons of necessity in the restriction of rights and liberties were specified. The provision was generally applicable and was not directed at any particular case or person. Therefore, section 30(6) of the Alcohol Control Act, B.E. 2551 (2008), was neither contrary to nor inconsistent with section 26, section 34 paragraph one, section 37 paragraph two and section 40 paragraph two of the Constitution.