

Constitutional Court Ruling No. 14/2565 (2022)

President of the House of Representatives	Applicant
General Prayut Chan-o-cha, Prime Minister	Respondent

Constitution, section 158 paragraph four, section 170 paragraph two and section 264 paragraph one.

Section 158 paragraph four of the Constitution provided that a Prime Minister could not hold office for a total period of more than eight years regardless of whether such tenure was consecutive. However, the period of continued performance of duties subsequent to vacation of office was not included. Determination of the office of Prime Minister should be considered from the process for appointment of the Prime Minister under section 158 in conjunction with section 159, which provided that the House of Representatives would give approval to a person suitable for appointment to become the Prime Minister from candidates submitted by political parties to the Election Commission prior to an election. Such a person had to possess the qualifications and did not have prohibitions as provided under the Constitution. Upon the Royal Command, the respondent was appointed as the Prime Minister under section 19 of the Constitution of the Kingdom of Thailand (Interim), B.E. 2557 (2014), on 24th August B.E. 2557 (2014), pursuant to which the King made the appointment in accordance with the resolution of the National Legislative Assembly, and the National Legislative Assembly was appointed by the King by the advice of the National Council for Peace and Order. As a consequence, the respondent was not a Prime Minister under the Constitution of the Kingdom of Thailand, B.E. 2560 (2017). However, the Constitution of the Kingdom of Thailand, B.E. 2560 (2017), contained a transitory provision in section 264 paragraph one, which provided that the Council of Ministers administering State affairs on the day prior to the date of promulgation of this Constitution shall be the Council of Ministers under the provisions of this Constitution until the new Council of Ministers appointed subsequent to the first general election under this Constitution assumed its duties. Upon the promulgation of the Constitution of the Kingdom of Thailand, B.E. 2560 (2017), on 6th April B.E. 2560 (2017), it was therefore deemed that the Council of Ministers, despite taking office under other Constitution, became a Council of Ministers under this Constitution as of 6th April B.E. 2560 (2017) and was immediately subject to the newly promulgated rules, except where a transitory provision provided for an exemption from the application of certain matters. Therefore, the determination of the eight-year period

of holding office as Prime Minister under section 158 paragraph four had to begin from the date this Constitution came into force.

As the respondent was in office as Prime Minister administering public affairs on the day prior to the date of promulgation of the Constitution of the Kingdom of Thailand, B.E. 2560 (2017), under the transitory provision in section 264 paragraph one, the respondent became Prime Minister under section 158 paragraph four as from 6th April B.E. 2560 (2017), being the date which this Constitution came into force. Upon counting to 24th August B.E. 2565 (2022), the respondent had held office as Prime Minister for a period that had not yet reached the time limit under section 158 paragraph four of the Constitution. The ministership of the Prime Minister therefore did not terminate under section 170 paragraph two in conjunction with section 158 paragraph four of the Constitution.