

**Constitutional Court Ruling No. 17/2567 (2024)**

Civil Court

Applicant

-

Respondent

Constitution, section 26 paragraph one and section 29 paragraph two

Securities and Exchange Act, B.E. 2535 (1992), section 243, section 244 and section 317/13

Section 243 of the Securities and Exchange Act, B.E. 2535 (1992), provided that it shall be presumed that persons who fell under the characteristics specified in (1) to (5) knew or possessed information as defined in section 242.

Section 244 further stipulated that it shall be presumed that persons with the characteristics outlined in (1) to (5) who behaved in a way of trading securities or entering into futures contracts in a manner that deviated from their normal practice knew or possessed information under section 242.

These provisions did not establish a conclusive presumption that the alleged offender or defendant had committed an offence, nor did they shift the burden of proof to the defendant in a way that exempted the plaintiff from proving the defendant's conduct. The provisions were consistent with the principle of proportionality, did not violate the rule of law, did not impose an undue burden or excessively restrict individual rights or liberties, did not infringe on human dignity, and did not contradict the presumption of innocence. Accordingly, they were not contrary to or inconsistent with section 26 paragraph one and section 29 paragraph two of the Constitution.

Section 317/13 prescribed that the statute of limitations for criminal prosecution shall also apply to legal proceedings for the imposition of civil sanctions in offences subject to civil penalties under section 317/1. These civil measures were intended as alternatives to criminal ones, aimed at enhancing the effectiveness of law enforcement. Therefore, section 317/13 was appropriate and necessary for maintaining trust and protecting the investor as well as general public. It upheld the principle of proportionality, did not violate the rule of law, did not impose an undue burden or excessively restrict individual rights or liberties, did not infringe upon human dignity, and was not contrary to or inconsistent with section 26 paragraph one of the Constitution.

---