

## Constitutional Court Ruling No. 21/2567

President of the Senate	Applicant
Mr. Srettha Thavisin, Prime Minister	1 <sup>st</sup> Respondent
Mr. Pichit Chuenban, Minister Attached to the Prime Minister's Office	2 <sup>nd</sup> Respondent

Constitution, section 82 paragraph three, section 160 (4) (5) and section 170 paragraph three Ethical Standards of the Justices of the Constitutional Court, Persons Holding Positions in the Independent Organs, the Auditor General, and Heads of the Secretariats of the Constitutional Court and the Independent Organs, B.E. 2561 (2018), clause 8 and clause 27

It appeared from the facts that the second respondent had resigned from the position of Minister Attached to the Prime Minister's Office before the Constitutional Court considered this application. Therefore, there was no ground to adjudicate the case against the second respondent.

Section 160(4) of the Constitution set out the general qualifications of a minister with regard to integrity and honesty as perceived by the public, while section 160(5) pertained to specific prohibitions defined in the Ethical Standards of the Justices of the Constitutional Court, Persons Holding Positions in the Independent Organs, the Auditor General, and Heads of the Secretariats of the Constitutional Court and the Independent Organs, B.E. 2561 (2018). The Prime Minister, who was responsible for nominating ministers and countersigning the Royal Proclamation appointing them, shall consider whether nominees met the qualifications.

The second respondent had been sentenced to imprisonment for contempt of court and had his name been removed from the lawyer's register. These actions were improper and deviate from the standard of conduct expected of a reasonable man in society and demonstrated a lack of evident integrity. As an objective in nature, this mere realisation set by the standards of a reasonable man or the general public in society was sufficient for determination.

The first respondent, as Prime Minister, was accountable for an accuracy of substance of the matters to which he countersigned the Royal Proclamation. By nominating the second respondent to serve as a minister, despite knowing or having reason to know that the second respondent lacked the qualification or had prohibition under section 160(4) of the Constitution, the first respondent acted in an unconstitutional manner.

As such, the first respondent's conduct demonstrated a lack of evident integrity, thereby having prohibition under section 160(4) of the Constitution. Furthermore, this conduct, committed while serving as Prime Minister, violated or failed to comply with clause 8 of the Ethical Standards requiring performance of duties with integrity. According to clause 27 paragraph one, such a violation or non-compliance with Ethical Standards shall be deemed serious, so it was a prohibition under section 160(5) of the Constitution.

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