

Constitutional Court Ruling No. 23/2567 (2024)

Ombudsman

Applicant

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Respondent

Constitution, section 39 paragraph two

Nationality Act, B.E. 2508 (1965), section 7 *bis.* paragraph one and paragraph two, section 17 and section 18

Section 39 paragraph two of the Constitution guaranteed the right of an individual who had acquired Thai nationality by birth, by expressly prohibiting the revocation of the nationality. This protection existed because revocation of the nationality of a person considered Thai by birth would render the individual subject to deportation, with no country to reside.

Pursuant to the Nationality Act, B.E. 2508 (1965), a person born in the Kingdom of Thailand to alien parents shall not acquire Thai nationality if, at the time of birth, either parent met the conditions stipulated in section 7 *bis.* paragraph one. However, under section 7 *bis.* paragraph two, the Minister of Interior had the discretion to grant Thai nationality based on the territorial principle. This form of nationality acquisition did not constitute an absolute and irrevocable right protected under section 39 paragraph two of the Constitution.

Acquisition of Thai nationality under section 7 *bis.*, paragraph two was regarded as nationality acquired after birth by an individual born in the Kingdom of Thailand to alien parents who were not permanent residents. Consequently, such individual was not deemed to have acquired Thai nationality by birth.

Section 17 paragraph one (1) and (2) of the Nationality Act, B.E. 2508 (1965), addressed cases where a Thai national exhibited behaviour showing that he or she no longer intended to hold Thai nationality. Section 17 paragraph one (3) and (4), together with section 18, pertained to cases where a Thai national had engaged in behaviour deemed harmful or hostile to the State, and where revocation of nationality was considered necessary and appropriate. These provisions aligned with conditions enshrined in sections 4, section 25 paragraph one, in conjunction with section 39 paragraph two of the Constitution.

Furthermore, the revocation of Thai nationality under these provisions applied only to individuals who already possessed another nationality. It did not affect individuals who held solely Thai nationality. Therefore, upon revocation, such individuals retained the nationality of their alien father or mother.

Additionally, the revocation of nationality under section 17 paragraph one (1) or (2), in conjunction with section 17 paragraph two, as well as under section 18, must follow an inquiry process. Affected individuals were entitled to pursue justice by bringing their case before a competent court.

In cases of revocation under section 17 paragraph one (3) or (4), section 17 paragraph two provided the procedure of nationality revocation with the protection of individual rights and liberties through judicial oversight.

Accordingly, sections 17 and section 18 of the Nationality Act, B.E. 2508 (1965), were not contrary to or inconsistent with the Constitution and did not raise any constitutionality issue under section 39 paragraph two of the Constitution.

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