

(Unofficial Translation)
**Summary of the Decision of the Constitutional Tribunal
Case Group 1**

On 30 May 2007, the Constitutional Tribunal reached its decision in the case between the Attorney –General, the Claimant, Thai Rak Thai Party, Respondent No. 1, Pattana Chart Thai Party, Respondent No. 2, Pandin Thai Party, Respondent No. 3, on the subject that the Attorney-General has filed a petition to dissolve the Party of all three respondents.

The Constitutional Tribunal has thoroughly considered the petition, rebuttal statement from the three respondents and all of the evidence of the Parties concerned, and found, on the factual and legal basis, with the following details in summary:

1. The Constitutional Tribunal has jurisdiction over the case in accordance with section 35 of the Constitution of the Kingdom of Thailand (Interim) B.E. 2549.

2. The filing of the petition to dissolve the Party is the authorized power given to the Registrar of the political parties. If the matter appears before the Registrar, notwithstanding wherever the source is, the Registrar has the authority to inform the Attorney-General to file a petition to the Constitutional Court to dissolve the Party.

3. The investigation of factual issue and determination of issues or arguments are within the powers of the Registrar of the political parties in accordance with the Organic Act on Political Parties of B.E. 2541, and is not subject to the Organic Act on the Election Commission of B.E. 2541, Section 19 paragraph 2 and 3. Moreover, it is the action under the order of the Registrar of the political parties, not of the Election Commission, so it is not bound by Section 40 of the Election Commission's regulation.

4. The Organic Act of the Constitution of the Kingdom of Thailand of B.E. 2540 has an equal legal standing with other general legislations. Therefore, the revocation or termination of the Organic Act of the Constitution of the Kingdom of Thailand B.E. 2540 requires a revoking legislation or a new legislation issued in place of it. Hence, the cause of party dissolution that occurred before is still valid and the action that breaches the Organic Act still continues to be a breach. The statement of the Secretariat of the Council for Administrative Reform is merely an opinion and thus, does not have a legal binding effect to terminate the two mentioned Organic Acts.

5. Section 328 of the Constitution of the Kingdom of Thailand

B.E. 2540 empowers the legislative branch to issue the law that has an effect to revoke or dissolve political parties. This does not mean that it could prevent legislative branch to issue the law that punishes political party under the Organic Act on Political Parties of B.E. 2541 Sections 66(2), (3) and (4). Hence, this is not a provision in excess of necessity, nor does it have an impact on the substantive freedom of individual rights for collective establishment of a political party.

A rebuttal argument was raised that the legal provision was not issued legitimately under the Constitution of the Kingdom of Thailand B.E. 2540. Section 262 of the Constitution gives the right to rebut only for members of the House of Representatives, the Senate and the Prime Minister. It does not give rise to rebuttal on such matter by the Thai Rak Thai Party.

6. As the Constitutional Court orders the political party to cease action that undermines the Constitutional Monarchy with the King as Head of State or the acquisition of administrative power over the country through means not in accordance with this Constitution under the Constitution of the Kingdom of Thailand B.E. 2540, the Constitutional Court also has the power to exercise immediate discretion to dissolve political parties under Section 63 paragraph 3 without having to first issue an order to the political party to cease actions under paragraph 2.

7. The election on 2 April B.E. 2549, which has been annulled by the said ruling of the Administrative Court, does not have the effect as to nullify the previous conduct of wrongdoing as it is separate from each other.

8. It is found on factual basis that the Thai Rak Thai Party had hired the Pattana Chart Thai Party and Pandin Thai Party, and that the Pattana Chart Thai Party and Pandin Thai Party agreed to be hired by the Thai Rak Thai Party to seek for election candidates to assist the Thai Rak Thai Party. The Pattana Chart Thai Party together with the Election Commission's officers amended information about Pattana Chart Thai party members to the meet 90 days requirement with the support of the Thai Rak Thai Party. Moreover, the Pattana Chart Thai Party and Pandin Thai Party issued a fraudulent letter to certify their members to use as a document for the registration of the election candidates.

9. General Thammarak Issarangkura na Ayudhya and Mr. Pongsak Raktapongpaisarn were the key executive members of the Thai Rak Thai Party who had been placed with great trust by the executive members committee and the Party leader to manage the Thai Rak Thai Party in such a way that the Party could promptly return back to power. They played an important role for the Thai Rak Thai Party. The Thai Rak Thai

Party had never held a meeting of executive members committee to make clarification on the accusation either before or after the date of election although such accusation was a significant matter which had an impact on the Thai Rak Thai Party's image. It is deemed that the action of General Thammarak and Mr. Pongsak was the action binding the Thai Rak Thai party.

Mr. Boontaweesak Amorasil, Pattana Chart Thai party leader had been involved with the amendment of information on the Pattana Chart Thai Party and received money from General Thammarak as a representative of the Pattana Chart Thai Party. It is deemed that Mr. Boontaweesak's action was the action binding the Pattana Chart Thai Party.

Mr. Bunyabaramipon Chinarat, Pandin Thai Party leader acknowledged and consented for Mrs. Thattima Pawali to receive money from General Thammarak, as well as to issue a fraudulent letter of certification for Party members. It can be presumed that the action of Mr. Bunyabaramipon was the action binding the Pandin Thai Party.

10. The action of the Thai Rak Thai Party can be deemed as an acquisition of administrative power over the country through means not in accordance with the Constitution under section 66(1) of the Organic Act on Political Parties of B.E. 2541. It is an act that constitutes a threat to national security or good public order and moral under Section 66(3).

The action of the Pattana Chart Thai Party and that of the Pandin Thai Party can be deemed as an action that opposes the Constitutional Monarchy with the King as Head of State in accordance with the Constitution under the Organic Act on Political Parties of B.E. 2541, Section 66(2), as well as constitutes a threat to national security or good public order and moral under Section 66(3).

11. The action of the Thai Rak Thai Party is the action which sought to acquire administrative power over the country through means not in accordance with the Constitution as well as constituting threats to national security or good public order and moral under Section 66(3). It did not uphold the key principle of democratic form of government and did not respect the law of the country. It could not maintain the form of political party that created or sustained political legitimacy to the democratic form of government of the country as a whole. Therefore, there is a reasonable cause for the dissolution of the Thai Rak Thai Party.

The Pattana Chart Thai Party and the Pandin Thai Party were established for the benefit of the founder or the executive members committee of their respective Parties. They did not have any status as

political parties. Therefore, there is a reasonable cause for the dissolution of the Pattana Chart Thai Party and the Pandin Thai Party.

12. The Announcement of the Council for Democratic Reform No. 27 is applicable to the cause of party dissolution under the Organic Act on Political Parties of B.E. 2541, Sections 1, 2 and 3 because the content of these sections clearly read as a prohibitive provision. As and when a political party acts in a certain way that is prohibited by the said sections, such political party may be dissolved. Hence, the effect is equivalent to the prohibition of a political party not to act in a certain way.

13. The Announcement of the Council for Democratic Reform No. 27 dated 30 September B.E. 2549 provides that the revocation of election rights is not criminal penalty. It is merely a legal measure derived from the effect of law which entitles the dissolution of political party which engages in prohibited acts under the Organic Act on Political Parties of B.E. 2541. It is meant to prevent the political party's executive members, who caused harm to the society and the democratic form of government, to repeat their wrongdoings in a certain period of time. Although the electoral rights are fundamental rights ensured for people in the democratic society, the law which sets criteria for persons who should be entitled for the electoral rights so as to suit the social conditions or to sustain the democratic form of that society, could still be valid. Hence the Announcement of the Council for Democratic Reform No. 27, Section 3 has a retroactive binding effect to the act that is the cause of party dissolution in this case.

14. The fact that the political party's executive members, who held their positions during the time the concerned act occurred, withdrew their positions before the date of the Constitutional Tribunal's ruling, does not annul the effect of the actions committed by the political party during such time that the executive members were holding their positions. If otherwise, it could cause an illegitimate result and invalidate the enforcement of law to meet the legal intention. Hence, the Constitutional Tribunal cannot but withdraw the election rights of the political party's executive members.

The Constitution Tribunal hereby issues an order to dissolve the Thai Rak Thai Party, the Pattana Chart Thai Party and the Pandin Thai Party as well as to suspend the electoral rights of 111 executive members of the Thai Rak Thai Party, 19 executive members of the Pattana Chart Thai Party, 3 executive members of Pandin Thai Party, for a period of five years, effective on the date of the order of party dissolution.
