

**Provisions Relating to the Rules and Procedures of the Constitutional Court
B.E. 2541 (1998)**

Translation

Authorized by Section 269 of the Constitution of the Kingdom of Thailand, the Constitutional Court, by a Constitutional Court Tribunal unanimous resolution, stipulates the Procedures of the Constitutional Court, to be as follows:

Article 1

This Provision shall be called "The Constitutional Court Provision on the Procedures of the Constitutional Court B.E. 2541 (1998)."

Article 2

This Provision shall come into force on the day after the date of its publication in the Government Gazette.

Article 3

In this Provision:

"Court" means the Constitutional Court or the Constitutional Court Tribunal as the case may be.

"President" means President of the Constitutional Court.

"Judge" means Judge of the Constitutional Court.

"Case" means Petition submitted to the Court for consideration and decision.

"Motion" means any motion, application, opinion, offer, claim, defense, protest filed with the Court for consideration and decision.

"Petitioner" means the person who submits a motion to the Court for consideration and decision.

"Proceeding" means any act, as provided by the Constitution in relation to a case, filed by a petitioner or by the Court or by order of the Court, irrespective of whether such act is undertaken by a petitioner directly to the Court or to another petitioner, or by the Court to any or all of the petitioners. It includes service of motions, decisions, and admissible evidence, votes and includes any official act under Section 265 of the Constitution.

"Day" (abrogation)⁽²⁾

Article 4

President of the Constitutional Court shall be in charge of this Provision.

Chapter 1**Filing and Withdrawal of Motion****Article 5⁽³⁾**

A motion shall be in writing, using appropriate language and containing the following particulars:

- (1) the name and address of the petitioner.
- (2) specify the section in the Constitution that is related to the motion.
- (3) specify the nature of the rights and the facts or circumstances related to the case.
- (4) request for action by the Court and supporting reasons for such a request.
- (5) signature of the petitioner. Power of attorney is required in the case of any motion and its submission or its dispatch on behalf of other persons.

A motion must be submitted including twenty certified copies of the motion and relevant documents.

Article 6

A motion that has already been filed with the Court may be withdrawn by the petitioner anytime before the Court issues a decision or order. In case of withdrawal, the Court may dispose of that motion.

In case the petitioner fails to act in accordance with the Court order within a specific deadline without reasonable grounds, it is deemed that the petitioner has abandoned the motion, and the Court may dispose of that motion.

Chapter 2 Challenge of Judge(s)

Article 7

Judge(s) may be challenged on any of the following grounds:

- (1) having an interest in the case;
- (2) being or having been a husband or wife or relative of either the petitioner or the respondent, either as an ascendant or descendant to any degree, or as a collateral of the third degree, or by affinity of the second degree;
- (3) having been cited as a witness on account of his knowledge of the facts except in the case of having participated in the legislative process or having been cited as an expert on account of his specialized knowledge in connection with the relevant motion;
- (4) being a legal representative or a representative or having been a lawyer of any of the petitioners;
- (5) being a judge of another court, a member of the Council of State, a member of Petition Committee or an arbitrator in the same motion;
- (6) there being another case pending in which that judge, his wife, her husband or his or her relatives in a directly ascending or descending line on the one part, is in a dispute with any of the petitioner or the respondent, husband, wife or relatives in directly ascending or descending line of the petitioner or the respondent on the other part.

Article 8

Any judge who may have a cause for being challenged as specified in Article 7 may make a statement to the Court stating the grounds on which a challenge may be made and request his/her withdrawal from sitting in such case.

Once there is a challenge of judge(s) in accordance with Article 7, the Court shall decide on that matter before further proceeding with the motion, with the exception of the Court's consideration related to section 180 paragraph seven in the Constitution.

The proceeding, which has been carried out before a challenge is made shall remain valid unless the Court decides otherwise in its order.

Article 9

Where a challenge is made, and a judge who is challenged makes no request for withdrawal from sitting, the Court shall issue an order as appropriate.

In making a decision as to the challenge as stated in the first paragraph, that judge shall not be allowed to sit or vote on the matter.

A decision shall be made by a majority vote. Each judge has one vote. In case of a tie, it is deemed that the challenge is sustained.

Chapter 3 Trial

Article 10

After acknowledging receipt of a motion submitted to the Court under the provisions of the Constitution, the Court shall examine and rule whether it shall accept or reject that motion within seven days.

Article 11

For the sake of justice, the Court may order the petitioner who has made a petition inconsistent with the procedure of the Court to correct it within a period of time and under conditions as deemed appropriate by the Court.

Article 12

Once a motion is accepted by the Court, the Court shall serve a copy of that motion to the respondent. After the respondent receives a copy of the motion and submits a statement to the Court, or if the respondent does not submit a statement within fifteen days after it receives a copy of that motion, or fails to obtain a copy of that motion and the Court's notice within the timetable for submission of a statement, the Court shall schedule the date and time for the commencement of the trial within seven days after the expiry date.

The petitioner may request an amendment to the motion already submitted to the Court only if it is an essential matter deserving to be amended and having a connection with the original motion. An amendment must be submitted to the Court in writing before the beginning of the trial.

A requested amendment under paragraph two may be granted or dismissed by the Court as appropriate.

A notice of the date and time scheduled for the trial must be posted at the Court. A notice of the beginning of the trial must be served to all the petitioners and the respondents at least fifteen days in advance of the trial.

Article 13

A motion, notice or other notes must be served to the petitioner or the respondent at their domicile or the address given by the petitioner or the respondent.

As the Court sees fit, the Court may post a notice as mentioned in the first paragraph at the Court or announce it in newspapers.

Article 14⁽⁴⁾

Subject to section 180 paragraph seven of the Constitution, the period of time provided in this Provision may be reduced or extended by the Court for the sake of justice.

Article 15

The Court shall openly conduct its hearing for the purpose of taking evidence, allowing the parties to express their opinions or make their statements.

As the Court deems appropriate and for the sake of national security, the Court may specify the persons who are permitted to be present in the Court room.

Article 15 bis⁽⁵⁾

(abrogation)

Article 16

In consultative meetings of the Court for decision-making or issuance of an order, the President of the Court may allow the Secretary-General and officers of the Court to be present.

Article 17

In the interests of a fair trial, the petitioner and the respondent have the right to attend the Court trial, presenting themselves and other evidence as evidence, and to inspect the relevant documents at the Court during its working hours as announced by the Court.

Article 18

Witnesses may give their testimony orally or in writing.

In case a witness gives his or her testimony in writing, the Court may also order the witness to testify in person before the Court.

Article 19

In addition to a written record of the witness' testimony, which is prepared to be read and signed by the witness, the Court may record the witness' testimony by tape or audio-visual recorders.

Article 20

The petitioner and the respondent may submit a declaration of their opinion to the Court. An oral declaration to the Court may be permitted as deemed appropriate by the Court.

Such a declaration shall be submitted to the Court before the trial is over.

For an oral declaration, the petitioner shall make a declaration first, to be followed by the respondent.

During or after an oral declaration by either party, the Court may ask additional questions.

Article 21

During a trial, the Court shall order the petitioner, the respondent or the witness to provide facts or their opinions in writing.

Witness or expert testimony shall be permitted only as necessary.

Witness or expert examination shall be begun by the Court, and the petitioner or the respondent may cross-examine them.

Article 22

The Court may stay any witness/ evidence testimony; if it is irrelevant to the claim, unnecessary for the trial, or will unnecessarily delay the case.

Article 23

In the event the Court deems it appropriate, or by the claim of either party, the Court may order an examination of any evidence, memoranda, documents, materials or places at any time, inside or outside the Court.

Article 24

The Court shall have full power to carry out the proceeding and decide whether or not the evidence obtained, existing or adduced by the parties is relevant to the issues and sufficient to be taken as conclusive.

Article 25

The trial by the Court shall proceed expeditiously and continuously until the trial is over. When necessary, the Court may adjourn the trial.

Article 26

Report by the Court or witness testimony shall be made by the Court.

Article 27

Order, notice or any notes from the Court shall be signed by President of the Court.

**Chapter 4
Decision or Order**

Article 28

Decision or order by the Court shall consist of the nature of the case or the claim, a summation of the facts obtained from the trial, the ratio decedent on the question of law and fact, the relevant provisions of the Constitution and the relevant law(s).

**Chapter 5
Printed Materials**

Article 29

The Court shall approve the purposes of use of the printed materials of the Court, their design, size and content.

Chapter 6 Conclusion

Article 30

The Court shall have the power to maintain order in the Court during the trial, to expel any violator from the Courtroom, and to act so as to ensure a peaceful and expeditious trial. The Court also has the power to issue an additional directive for the purpose of ensuring an orderly and efficient proceeding.

Article 31

The maintenance of order involving third parties who may enter the Court, its precincts, or be part of the audience in the trial, as well as their behavior, shall be governed by regulations to be announced by the Court.

Announced on June 9, 1998

Signed by Mr. Chao Saicheua as President of the Constitutional Court

Note

- (1) Published in the Government Gazette Vol. 115, Special Part 47, page 13, dated 12th June B.E. 2541 (1998).
- (2) Abrogated a law by the Provisions Relating to the Rules and Procedures of the Constitutional Court, Article 3 (No.4), B.E. 2544 (2001).
- (3) Article 5 paragraph two is added by the Provisions Relating to the Rules and Procedures of the Constitutional Court, Article 4 (No.4), B.E. 2544 (2001).
- (4) Article 14 is abrogated by Article 5 of the Provisions Relating to the Rules and Procedures of the Constitutional Court (No.4), B.E. 2544 (2001)
- (5) Article 15 bis is added by the Provisions Relating to the Rules and Procedures of the Constitutional Court, Article 3 (No.2), B.E. 2541 (1998).
- (6) Article 15 bis is abrogated by Article 3 of the Provisions Relating to the Rules and Procedures of the Constitution Court (No.3), B.E. 2542 (1999).

Disclaimer

This translation is intended to help Thais or foreigners to understand Thailand laws and regulations only, not to use as references, because it is only the original Thai version of legislation that carries legal effect. www.ThaiLaws.com, therefore, shall not be held responsible in any way for any damage or otherwise the user may incur as a result of or in connection with any use of this publication for any purposes. It's the responsibility of the user to obtain the correct meaning or interpretation of this publication or any part thereof from Thai version or by making a formal request to the appropriate or related authorities.