

# Constitutional Court of Thailand Press Release on Dissolution of Move Forward Party

*Translated by Andy Ransone*

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## Translator's Introduction

On Wednesday, 7 August 2024, Thailand's Constitutional Court delivered their verdict in a petition submitted by the Election Commission of Thailand to dissolve the Move Forward Party and impose a 10-year ban on political activities for eleven members of the party for violating Section 49 of the Constitution. The Constitutional Court ruled against the Move Forward Party in all aspects of the petition. The ruling will take effect once it is published in the Royal Gazette at some future date. This ruling should be viewed as part of a years-long effort by the conservative establishment in Thailand to retain their grip on power through various attempts to stamp out progressive efforts to reform the country.

The Move Forward Party was established in February 2020 after the Constitutional Court dissolved their predecessor, the Future Forward Party, on a questionable legal interpretation.<sup>1</sup> Both the Future Forward Party and the Move Forward Party promote a progressive platform focused on reform, social and economic equality, and limiting the role of the military in Thai politics. In the aftermath of the dissolution of the Future Forward Party and nationwide protests in 2020 and 2021, the Constitutional Court ruled in 2021 that Article 49 of the Constitution meant even peaceful calls for reforming parts of the Criminal Code, namely Article 112, constituted efforts to “exercise rights or liberties to overthrow the

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<sup>1</sup> For more information on this case, see BBC, “Future Forward: Thai pro-democracy party dissolved over loan,” 21 February 2020, accessed from: <https://www.bbc.com/news/world-asia-51585347>. For the court ruling, in Thai, see: Constitutional Court of Thailand, 21 February 2020, “คำวินิจฉัยที่ ๕/๒๕๖๓ เรื่องพิจารณาที่ ๓๗/๒๕๖๒” (Ruling No. 5/2563 [2020], Matter for Consideration No. 37/2562 [2019]), accessed from: [https://www.constitutionalcourt.or.th/occ\\_web/download/article/article\\_20200228165606.pdf](https://www.constitutionalcourt.or.th/occ_web/download/article/article_20200228165606.pdf)

democratic system with the King as Head of State.”<sup>2</sup> In doing so, the Constitutional Court made the verbal or written expression of certain opinions tantamount to treason.

In the May 2023 General Elections, the Move Forward Party, which ran on a platform of progressive reforms, opposing the military-backed conservative ruling government, and amending Article 112 through a parliamentary process, surprised the entire nation by winning not only the largest total share of valid votes, 38.48%, in the nationwide party list vote giving them 39 MPs, also tied for the largest number of local constituency representatives with the Pheu Thai Party at 112 MPs each. This included winning nearly every constituency in Bangkok Metropolitan Area, several traditionally Pheu Thai held seats in Northern Thailand, and constituencies in Southern Thailand that historically leaned conservative and supported military-backed parties. In total, over 14 million Thais, out of almost 40 million voters, cast a vote for the Move Forward Party.<sup>3</sup>

Almost immediately after the election, and even before the results were certified by the Election Commission, the conservative establishment started making moves to sideline the Move Forward Party and disenfranchise those 14 million Thais who had voted for them. Complaints were filed

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<sup>2</sup> For more information on this case, see: Tyrell Haberkorn, “Constitutional Court Ruling No. 19/2564: A Selection of Documents,” Justice in Translation 7/2021, December 2021, accessed from: <https://seasia.wisc.edu/wp-content/uploads/sites/1794/2022/06/Justice-in-Translation-7-CORRECTED-FINAL.pdf>

<sup>3</sup> All statistics in this paragraph were derived from: Election Commission of Thailand, “ข้อมูลสถิติการเลือกตั้ง สมาชิกสภาผู้แทนราษฎร พ.ศ. 2566 [2023] (House of Representatives Members Election Statistics Information B.E. 2566 [2023],” in Thai, accessed from: [https://www.ect.go.th/web-upload/1xff0d34e409a13ef56eea-54c52a291126/m\\_document/2028/21360/file\\_download/bed-084d15e44d121196b713d93506bb8.pdf](https://www.ect.go.th/web-upload/1xff0d34e409a13ef56eea-54c52a291126/m_document/2028/21360/file_download/bed-084d15e44d121196b713d93506bb8.pdf).

with the Election Commission and with the police against the party and specifically against Pita Limjaroenrat, their candidate for Prime Minister. For example, on 25 May, just eleven days after the election, Patcharanon Thanachotphokin filed a complaint with the Election Commission regarding the allegation that the Move Forward Party had used amending Article 112 of the Criminal Code as an election campaign policy. Later, on 12 July, the Election Commission filed a case with the Constitutional Court seeking to disqualify Pita on the grounds that he was ineligible to run because he held shares in a long defunct media company.

Once Parliament convened on 13 July 2023 to select a Speaker of the House of Representatives and Prime Minister, Move Forward saw their majority coalition rejected by the conservative establishment with the help of the unelected, junta-appointed Senate that was constitutionally allowed a vote in the selection of the Prime Minister. Subsequently, the Move Forward Party's coalition fell apart when the Pheu Thai Party split with them and partnered with the conservative establishment in a grand coalition to form a government – effectively putting Thailand's largest political party into the opposition.<sup>4</sup>

Even then, the Move Forward Party continued to be

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<sup>4</sup> The phrase “grand coalition” in the context of Thai political parties crossing ideological lines was used as early as 2015 by Borwornsak Uwanoo, part of the committee established to write a new constitution in the wake of the 2014 coup. See Achara Ashayagachat, “Charter Drafter sees ‘grand coalition’”, *Bangkok Post*, 9 April 2015, accessed from: <https://www.bangkokpost.com/thailand/politics/522683/charter-drafter-sees-grand-coalition>. It was also used by Ken Lohatepanont in July 2023 to specially refer to a partnership between the Pheu Thai Party and conservative parties to form a government. See: Ken Mathis Lohatepanont, “The Three Poles of Thai Politics and Pheu Thai’s Prospective Grand Coalition,” *Thai Enquirer*, 25 July 2023, accessed from: <https://www.thaienquirer.com/50288/the-three-poles-of-thai-politics-and-pheu-thais-prospective-grand-coalition/>

targeted by conservative factions with the goal of further diminishing the influence of the party in both national politics and in shaping public opinion. It remains to be seen what the fallout from this decision will be for Thailand. When the Constitutional Court ruled against the Future Forward Party in 2020, it eventually led to mass protests in the streets, people being more willing to publicly discuss taboo subjects, and the Move Forward Party gaining much popular support that helped it win the 2023 elections. Will a similar sequence of events follow this time? The Move Forward Party already reestablished itself as a new political party, the People's Party (พรรคประชาชน), and conservative elements already signaled they are not giving up their efforts to continue targeting progressive elements through legal means.

What follows is a translation of the press release produced by the Constitutional Court of Thailand in advance of the release of the full decision and the individual decisions by each of the judges at some later date, possibly weeks or months from now.

**Wednesday, August 7 B.E. 2567 [C.E. 2024]**

Today the Constitutional Court met to discuss an important case of interest as follows:

**The Election Commission requests the Constitutional Court to consider and rule on the dissolution of the Move Forward Party (Matter for Examination No. 10/2567 [2024])**

The Election Commission (petitioner), represented by the registrar of political parties, filed a petition in the case where there is evidence to believe that the Move Forward Party (the respondent) has committed acts of overthrowing the democratic regime with the King as Head of State and has acted in a manner that may be hostile to the democratic regime with the King as Head of State, which is a cause for the dissolution of the respondent party in accordance with the Organic Act on Political Parties B.E. 2560 [C.E. 2017], Section 92, Paragraph 1 (1) and (2) [1]. These are facts as shown in the Constitutional Court's Ruling No. 3/2567 [2024] [2]. Therefore, the Constitutional Court is requested to order the dissolution of the respondent party, revoke the right to run for election of persons who are executive committee members of the respondent party, and prohibit persons who hold the position of executive committee member of the respondent party and have their right to run for election revoked from registering a new political party, becoming executive committee members of a political party, or participating in the establishment of a new political party within ten years from the date the Con-

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<sup>5</sup> This press release was originally published on the Constitutional Court of Thailand's website and the original can be found online here: [https://www.constitutionalcourt.or.th/occ\\_web/download/article/article\\_20240807161031.pdf](https://www.constitutionalcourt.or.th/occ_web/download/article/article_20240807161031.pdf)

stitutional Court ordered the dissolution of the respondent party in accordance with the Organic Act on Political Parties B.E. 2560 [C.E. 2017], Section 92, Paragraph 2 and Section 94, Paragraph 2.

## **Decision**

The Constitutional Court held a meeting and concluded that Section 210 of the Constitution prescribes that the Constitutional Court has the duty and authority to review the constitutionality of laws and draft legislation, consider and decide on issues concerning the duties and authorities of organizations according to the Constitution, and other duties and powers as established in the Constitution. According to Section 210, Paragraph 3, the provisions of Section 188, Paragraph 1, which prescribes that the consideration and adjudication of cases is the power of the court and which must proceed in accordance with the law and in the name of the King, shall apply to the Constitutional Court *mutatis mutandis*. The Organic Act on Procedures of the Constitutional Court B.E. 2561 [C.E. 2018] [3], Section 7 (13) stipulates that the Constitutional Court has the duty and power to consider and adjudicate other cases that the Constitution, Organic Laws, and other laws specify to be under the jurisdiction of the Constitutional Court. Further, the Organic Act on Political Parties B.E. 2560 [C.E. 2017], Section 92, Paragraph 2, gives the Constitutional Court the authority to order the dissolution of political parties. Therefore, the Constitutional Court has the authority to accept the petition for consideration and adjudication and to order the dissolution of political parties.

Filing a petition to the Constitutional Court to dissolve a political party can occur in two cases: first, when the Election Commission has “credible evidence” that a political party has committed an act that falls under Section 92, Paragraph 1 (1) to (4); or, “when it becomes apparent” to the Registrar of Political Parties that a political party has committed an act un-



der Section 92. The Registrar of Political Parties must collect facts and evidence to present to the Election Commission in accordance with the Election Commission's Regulations on the Collection of Facts and Evidence by the Registrar of Political Parties B.E. 2566 [C.E. 2023] [4]. Therefore, this is a case where the law sets different criteria for the initiator, process, and nature of the facts. Therefore, if the Election Commission has credible evidence that a political party has committed an act that falls under the law, the Election Commission has the authority to file a petition with the Constitutional Court.

This case and the case in Constitutional Court Ruling No. 3/2567 [2024] are both constitutional cases with the same legal basis. The Constitutional Court will examine the evidence with the same standards. When the Constitutional Court considered the facts, it concluded in Constitutional Court Ruling No. 3/2567 [2024] that the respondent's behavior was an exercise of rights or freedoms to overthrow the democratic regime with the King as Head of State according to Section 49 of the Constitution. Section 211, Paragraph 4 of the Constitution states that "The decision of the Constitutional Court shall be final and binding on the Parliament, the Cabinet, the Court, independent organizations, and state agencies." Such facts must also bind the Constitutional Court in considering and ruling in this case. In Constitutional Court Ruling No. 3/2567 [2024], the Constitutional Court found that the respondent's behavior in proposing a draft law to amend Section 112 of the Criminal Code, which contains content that diminishes the value of the monarchy and uses it as a party policy in the election campaign by taking advantage of the monarchy in order to gain votes and win the election, was intended to put the monarchy in a position of conflict with the people. The respondent has the intention to undermine or weaken the monarchy. This will ultimately lead to the overthrow of the democratic regime with the King as Head of State. The respondent's actions are therefore considered to be actions that may be hostile to the democratic regime with

the King as Head of State.

As political parties are important political institutions of the people in a democracy, the dissolution of political parties must be strict, careful, and proportionate to the violence of the political party's behavior. The respondent has committed an act that violates the Organic Act on Political Parties B.E. 2560 [C.E. 2017], Section 92, Paragraph One (1) and (2), which is a grave act. Such law applies to all political parties, regardless of whether that party is elected or not. However, all political parties must be subject to the same law equally. If there is a grave act, the law must stop the destruction of the basic principles of the democratic regime with the King as Head of State. The Constitutional Court must inevitably order the dissolution of the respondent party as provided by law. Even though academics, politicians or foreign diplomats at any level have their own constitutions and domestic laws, including their own requirements that vary according to the context of each country, any expression of opinions must be in accordance with international diplomatic and foreign affairs etiquette that should be applied to each other.

When the Constitutional Court orders the dissolution of the respondent party in accordance with the Organic Act, Section 92, Paragraph 1 (1) and (2) and Paragraph 2, it is proper for the Constitutional Court to order the revocation of the right to run for election of the accused party's executive committee who held office between 25 March 2564 [2021] and 31 January 2567 [2024], which was the period of the acts that led to the dissolution of the respondent party. There is a period of ten years from the date the Constitutional Court ordered the dissolution of the respondent party, which is consistent with the period under the Organic Act on Political Parties B.E. 2560 [C.E. 2017], Section 94, Paragraph 2.

When the Constitutional Court orders the dissolution of the respondent party and revokes the respondent party execu-

tive committee's right to apply for election to the executive committee of the respondent party, it is therefore necessary to order that those who previously held the said positions between 25 March 2564 [2021] and 31 January 2567 [2024] cannot register a new political party, be an executive committee member of a political party, or participate in the establishment of a new political party in accordance with the Organic Act on Political Parties B.E. 2560 [C.E. 2017], Section 94, Paragraph 2.

**The voting results are as follows:**

**Issue 1:** Is there a reasonable cause to dissolve the accused party according to the Organic Act on Political Parties B.E. 2560 [C.E. 2017], Section 92, Paragraph 1 (1) and (2)?

The Constitutional Court unanimously resolves to dissolve the respondent party according to the Organic Act on Political Parties B.E. 2560 [C.E. 2017], Section 92, Paragraph 1 (1) and Paragraph 2.

And decided by majority vote (8 to 1) to dissolve the respondent party according to the Organic Act on Political Parties B.E. 2560 [C.E. 2017], Section 92, Paragraph 1 (2) and Paragraph 2. (Dissenting Constitutional Court Judge: Mr. Banjongsak Wongprachan)

**Issue 2:** Will the right to run for election of the executive committee of the respondent party be revoked in accordance with Organic Act on Political Parties B.E. 2560 [C.E. 2017], Section 92, Paragraph 2, or not, and to what extent?

The Constitutional Court unanimously votes to revoke the right to run for election of the executive committee of the respondent party who held office between 25 March 2564 [2021] and 31 January 2567 [2024], which was the period during which the act that led to the dissolution of the respon-

dent party under Section 92, Paragraph 2, was carried out, for a period of ten years from the date on which the Constitutional Court ordered the dissolution of the respondent party.

**Issue 3:** Can a person who was an executive member of the respondent party that was dissolved and whose right to run for election has been revoked be able to register a new political party, be an executive member of a political party, or participate in the establishment of a new political party within ten years from the date the respondent party was dissolved in accordance with Section 94, Paragraph 2 of the Political Party Act B.E. 2560 [C.E. 2017]?

The Constitutional Court unanimously decides that a person who previously held the position of executive member of the respondent party is prohibited from registering a new political party, being an executive member of a political party, or participating in the establishment of a new political party again within ten years from the date the Constitutional Court ordered the dissolution of the accused party under Section 94, Paragraph 2.

*Note: Legal provisions related to the consideration in the case of Matter for Consideration No. 10/2566 [C.E. 2023], regarding the Election Commission requesting the Constitutional Court to consider and rule to order the dissolution of the Move Forward Party.*

### **Organic Act on Political Parties B.E. 2560 [C.E. 2017]**

Section 92.[5] The Commission, when having believable evidence that any political party performed any of the following actions, shall file a petition to the Constitutional Court to dissolve such political party.

(1) To overthrow the democratic form of government with

the King as head of state or to perform any action to get the power to govern the country by any means that are not in the due process of law as prescribed in the Constitution.

(2) To perform any action that may be adverse to the democratic form of government with the King as head of state.

(3) To perform any action that is an offense under Section 20 Paragraph Two, Section 28, Section 30, Section 36, Section 44, Section 45, Section 46, Section 72, or Section 74.

(4) There is a ground to dissolve a political party as prescribed by laws.

The Constitutional Court, after the hearing and if there is believable evidence that the political party performed any action under Paragraph One, shall give an order to dissolve such political party and deprive the right to apply as election candidate of the executive committee of such political party. Section 94 After the Constitutional Court has given an order to dissolve any political party, the Registrar shall announce the order to dissolve such political party in the Government Gazette, and no person is permitted to use the name, initials, or logo of political party that is identical or cognate with the name, initials, or logo of political party of such dissolved political party.

No person who had been holding position as an executive committee member of such dissolved political party and had been deprived of the right to apply as election candidate due to those grounds is permitted to register new political party, or to be an executive committee member of new political party or have participation in the foundation of new political party for ten years as from the date such political party is dissolved.

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[1] Office of the Election Commission of Thailand, 2017, “Organic Act on Political Parties, B.E. 2560 (2017),” accessed from: [https://www.ect.go.th/web-upload/1xff0d34e409a13e-f56eea54c52a291126/m\\_laws/2480/7264/file\\_download/m\\_laws\\_file\\_2480\\_202308101691652410.pdf](https://www.ect.go.th/web-upload/1xff0d34e409a13e-f56eea54c52a291126/m_laws/2480/7264/file_download/m_laws_file_2480_202308101691652410.pdf)

[2] This ruling is available in both the original Thai and in English translation. The Royal Thai Government Gazette published the court’s ruling in ราชกิจจานุเบกษา, เล่ม 141, ตอน 9 ก, 29 กุมภาพันธ์ 2567, หน้า 18-49 (*Royal Thai Government Gazette*, Volume 141, Part 9 Kor., 29 February 2567 [2024], pages 18-49). For an English translation, please see: Constitutional Court of Thailand, “Constitutional Court Ruling No. 3/2567,” translated by Tyrell Haberkorn, Justice in Translation 2/2024, May 2024, accessed from: <https://seasia.wisc.edu/wp-content/uploads/sites/1794/2024/07/Justice-in-Translation-No.-2-2024.pdf>.

[3] ราชกิจจานุเบกษา, เล่ม 135, ตอน 12ก, 2 มีนาคม 2561, หน้า 1-31 “พระราชบัญญัติประกอบรัฐธรรมนูญ ว่าด้วยวิธีพิจารณาของศาลรัฐธรรมนูญ พ.ศ. ๒๕๖๑” (*Royal Thai Government Gazette*, Volume 135, Part 12 Kor., 2 March 2561 [2018], Organic Act on the Consideration of the Constitutional Court B.E. 2561 [C.E. 2018]), accessed from: <https://www.ratchakitcha.soc.go.th/DATA/PDF/2561/A/012/1.PDF>

[4] ราชกิจจานุเบกษา, เล่ม 140, ตอน 10ก, 15 กุมภาพันธ์ 2566, หน้า 5-7, “ระเบียบคณะกรรมการการเลือกตั้ง ว่าด้วยการรวบรวมข้อเท็จจริงและพยานหลักฐานของนายทะเบียนพรรคการเมือง พ.ศ. 2566” (*Royal Thai Government Gazette*, Volume 140, Part 10 Kor., 15 February 2566 [2023], pages 5-7, “Regulations on the Collection of Facts and Evidence by the Registrar of Political Parties B.E. 2566 [C.E. 2023]”), accessed from: <https://ratchakitcha.soc.go.th/documents/140A010N0000000000501.pdf>

[5] The following is taken verbatim from the Office of the Election Commission of Thailand's English translation of the Organic Act on Political Parties, B.E. 2560 (2017). See end-note 1 for citation and link to source.

## ***About the Translator***

**Andy Ransone** holds a Master's Degree in Asian Languages and Cultures from the University of Wisconsin-Madison. He researches and writes about politics and legal affairs in Thailand. He is currently working on an English translation of a collection of interviews with people charged under Article 112 of the Thai Criminal Code in collaboration with iLaw, a Thai NGO. He is on X at @andyransone and can be reached via email at [john.t.ransone \[at\] gmail.com](mailto:john.t.ransone[at]gmail.com).