

Act
on the Determination of the Powers and Duties among Courts
B.E. 2542*

BHUMIBOL ADULYADEJ, REX

Given on the 15th Day of October, B.E. 2542;

Being the 54th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to enact the law on the Determination of the Powers and Duties among Courts;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

Section 1. This Act shall be called the “Act on the Determination of the Powers and Duties among Courts B.E. 2542”.

Section 2.¹ This Act shall come into force after a period of sixty days following the date of its publication in the Royal Gazette has elapsed.

Section 3. In this Act,

“Court” means the Court of Justice, the Administrative Court, the Military Court or other courts;

“Court of Justice” means all courts under the Law for the Organization of the Courts of Justice or other courts established and specified by the law to be under the Ministry of Justice or to be a court of justice;

“Administrative Court” means the administrative courts under the law on the Establishment of Administrative Courts;

“Military Court” means the military courts under the law for the Organization of Military Courts;

* Translated by Pongdej Wanichkittikul, Chief Judge of the Office of the President of Supreme Court, LL.B. Thammasat University, Barrister at Law, LL.M. American University.

¹ Published in the Royal Gazette, volume 116, section 104 Kor, page 5, dated 26th October, B.E. 2542 (1999).

“Committee” means the Committee on the Determination of the Powers and Duties among Courts;

“Member” means a member of the Committee on the Determination of the Powers and Duties among Courts.

Section 4. There shall be a Committee on the Determination of the Powers and Duties among Courts, consisting of the President of the Supreme Court as Chairperson, and the President of the Supreme Administrative Court, the Chief of the Military Judicial Office and four other qualified persons as members.

In the case where any other court is established, the President of such court shall become an ex-officio member of the Committee under paragraph one.

The Committee shall have power and duty to determine the dispute of powers and duties among courts, and other powers and duties as stipulated under this Act.

Section 5. Qualified members shall consist of:

(1) one person who has knowledge and experience in adjudication of cases under the jurisdiction of the Court of Justice selected by the general meeting of the Supreme Court;

(2) one person who has knowledge and experience in adjudication of cases under the jurisdiction of the Administrative Court selected by the general assembly of judges of the Supreme Administrative Court;

(3) one person who has knowledge and experience in adjudication of cases under the jurisdiction of the Military Court selected by the general meeting of judge advocates in the Supreme Military Court;

(4) one person who has knowledge and experience in law, but not being a judge, selected by the ex-officio members and qualified members under (1), (2) and (3).

Section 6. Qualified members shall possess the following qualifications and without prohibitions:

(1) being of Thai nationality by birth;

(2) being not less than forty years of age;

(3) not being an official or employee of a State agency, State enterprise, local government organization, or a director or advisor of a State agency or State enterprise;

(4) not being a holder of a political position, a member of a local council, a member of a local administrator, a member or holder of a position responsible for administration of a political party, a member or staff in a political party;

(5) not being a director, manager, advisor, employee or holder of any other similar position in a company, partnership or private enterprise in any other form.

Section 7. In case of the appointment of qualified members, the Chairperson shall notify the President of each Court and the Chief of Military Judges for the Military Court, to proceed the selection of qualified members under Section 5 (1), (2) or (3) and to nominate the name to the Chairperson.

Ex-officio and qualified members under Section 5 (1), (2) and (3) shall jointly meet to select a qualified member under Section 5 (4).

The procedure for selection of qualified members under Section 5 (1), (2) and (3) shall be in compliance with the rules as specified by the general meeting of each Court, as the case may be. Qualified member under Section 5 (4) shall be selected from the applicants who possess the qualifications and without prohibitions under Section 6. The procedure for application and selection shall be in compliance with the rules as specified by the joint meeting under paragraph two.

The Chairperson shall announce the name of qualified member in the Royal Gazette.

Section 8. Qualified members shall hold offices for a term of four years as from the publishing date of their names in the Royal Gazette.

If the office of a qualified member is vacant, the selection of a qualified member shall be arranged without delay in compliance with the rules stipulated under Section 7. Such selected member shall hold the office for a term as specified under paragraph one.

As long as a qualified member under paragraph two has not yet been selected and there is more than half of the total number of members, the remaining members shall be able to perform the duty. However, it shall not be longer than thirty days.

Section 9. In addition to the vacation of office on expiration term, a qualified member may vacate the office upon:

(1) death;

(2) resignation;

- (3) being a bankrupt;
- (4) being incompetent or quasi-incompetent;
- (5) being sentenced by the final judgment for imprisonment;
- (6) being disqualified or being under any of the prohibitions under Section

6.

Section 10. In the case where there is a *plaint* filed with any court, if the sued party considers that such case is under the jurisdiction of another court, such party may file a petition with the *plaint-receiving* court. The petition shall be submitted, in case of the Court of Justice and the Military Court, before the date of taking evidence; or in case of the Administrative Court or any other Court, before the date of first hearing. In this regard, the *plaint-receiving* court shall temporarily stay the proceedings and deliver without delay its opinion to the court whose jurisdiction is considered competent by the party. The courts concerned shall proceed as follows:

(1) if the *opinion-delivering* court considers that the case is under its jurisdiction and the *opinion-receiving* court has the same opinion, the latter shall notify its opinion to the former to resume the proceedings;

(2) if the *opinion-delivering* court considers that the case is under the jurisdiction of another court considered by the party and the *opinion-receiving* court has the same opinion, the latter shall notify its opinion to the former; the *opinion-delivering* court may, as it deems appropriate for the benefit of justice, order the case to be transferred to such court or to be disposed of in order for the party to file the *plaint* with the competent court;

(3) if the *opinion-delivering* court and the *opinion-receiving* court have conflicting opinions with regard to the competent jurisdiction over such case, the former shall submit the matter to the Committee; the Committee shall make a determination within thirty days from the date receiving the matter; if there is a necessity, the Committee may extend the period to not longer than thirty days with a record of the reason for such necessity.

The order of the court under paragraph one (1) and (2), and the determination of the Committee with regard to the competent jurisdiction of the court under paragraph one (3) shall be final. Any higher court of its hierarchy shall be prohibited from raising and reconsidering the issue of competent jurisdiction.

The provisions in this Section shall apply *mutatis mutandis* to the case where the court itself considers the issue of competent jurisdiction before delivering the judgment.

Section 11. In the case where the Committee determines that the case is under the jurisdiction of the plaintiff-receiving court, such court shall resume the proceedings. If the Committee determines that the case is under the jurisdiction of another court, the plaintiff-receiving court shall, as it deems appropriate for the benefit of justice, order the case be transferred or disposed of, in order for the party to file the plaintiff with the competent court.

Section 12. In the case where there is a case with the same fact is filed with two or more courts whose jurisdictions are different, if the party or the court considers that the case is not under the jurisdiction of any plaintiff-receiving court, the provisions in Section 10 and Section 11 shall apply *mutatis mutandis*.

In the case where a court refuses to accept a plaintiff, considering that the case is under the jurisdiction of another court and the case is re-filed with another court but the latter also considers that the case is not under its jurisdiction, it shall submit the matter to the Committee for determination. The provisions in Section 10 paragraph one (3) and Section 11 shall apply *mutatis mutandis*.

Section 13. In case of a case is transferred by the order of the court under this Act, it shall be deemed that all proceedings that have been conducted in the court ordering the transfer of the case are also those of the court accepting the transferred case except that the latter otherwise orders for the benefit of justice.

Where the case is re-filed with a competent court under the procedure of this Act and the prescription or the period for filing the case has elapsed while it is under the consideration of the court or the Committee, as the case may be, or it is going to elapse before sixty days from the date the order is issued by the court or the Committee, as the case may be, the prescription or period of filing the case shall be extended to sixty days as from the date the order is issued by the court or the Committee, as the case may be.

Section 14. Where there are conflicting final judgments or orders among courts in the cases with the same fact, causing a party not to get redress for damages nor fairness or having conflicts with regard to the status or competency of person, the party or any person directly affected by such judgments or orders may file a petition with the Committee requesting for the determination regarding to the execution of such judgments or orders within sixty days from the date the latest judgment or order becomes final.

The Committee shall consider the petition under paragraph one on the benefit of justice and the practicability for the judgments or orders of the courts to be executed, and shall then stipulate the guidelines for execution of such judgments or orders of the courts. The determination of the Committee shall be final.

The period under Section 10 paragraph one (3) shall apply to this case *mutatis mutandis*.

Section 15. The provisions of Section 10 to Section 14 shall apply to the provisional measures before judgment, filing of petitions with the court prior to the filing of plaint as provided by the law, taking of evidences prior to filing of plaint, execution of the judgment or order of the court, and performance of other duties of the court *mutatis mutandis*.

Section 16. The quorum of a meeting of the Committee shall consist of no fewer than three-fourths of all members.

The Chairperson shall preside the meeting. If the Chairperson is not present or unable to perform the duty, the members attending the meeting shall choose a member to act as the chairperson of the meeting.

The determination of the meeting shall be made by the majority votes. One member shall have one vote. In case of equal votes, the chairperson in the meeting shall cast a decisive vote.

Section 17. The determination of the Committee shall be made in writing, specify the grounds for the determination and bear the signatures of all members considering the matter. The public may ask for a copy thereof in compliance with the procedure provided by the Committee.

The Committee shall have the power to stipulate the regulations on submission of matters to the Committee, consideration and determination of matters by the Committee, and on any other necessities and not in conflict with this Act. Such regulations shall be published in the Royal Gazette.

Section 18. The Secretary of the Supreme Court shall be the Secretary of the Committee, and shall have the duties as assigned by the Committee.

Section 19. The Committee and the Secretary of the Committee shall be entitled to the remuneration as specified in the Royal Decree.

Section 20. After the Administrative Court has been inaugurated, the qualified member under Section 5 (2) shall be selected within sixty days from the date of inauguration.

Within four years after this Act comes into force, the judges in the Supreme Administrative Court shall be eligible to become the qualified member under Section 5 (2).

Section 21. The Prime Minister shall be in charge of this Act.

Countersigned by

Chuan Leekpai

Prime Minister

Remarks :- The reason for the promulgation of this Act is that Section 248 of the Constitution of the Kingdom of Thailand B.E. 2540 stipulates that there shall be a committee to be responsible for considering disputes of powers and duties among the Court of Justice, the Administrative Court, the Military Court or other courts; consisting of the President of the Supreme Court, the President of the Supreme Administrative Court, the President of other courts, and qualified members as provided by the law, as members; and that the procedures for submission of the said disputes shall be in compliance with the law; therefore, it is necessary to enact this Act.

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**Regulations of the Committee on the Determination
of the Powers and Duties among Courts
on Submission Procedure for Consideration and Determination
B.E. 2544***

By virtue of Section 17 of the Act on the Determination of the Powers and Duties among Courts B.E. 2542, the Committee on the Determination of the Powers and Duties among Courts hereby issues the regulations as follows:

Article 1. These Regulations shall be called the “Regulations of the Committee on the Determination of the Powers and Duties among Courts on Submission Procedure for Consideration and Determination B.E. 2544”.

Article 2.¹ These Regulations shall come into force from the date following the date of its publication in the Royal Gazette.

Article 3. In these Regulations,

“Act” means the Act on the Determination of the Powers and Duties among Courts B.E. 2542;

“Committee” means the Committee on the Determination of the Powers and Duties among Courts;

“Chairperson” means the Chairperson of the Committee on the Determination of the Powers and Duties among Courts;

“Member” means a member of the Committee on the Determination of the Powers and Duties among Courts;

“Secretary” means the Secretary of the Committee on the Determination of the Powers and Duties among Courts;

“Assistant Secretary” means a judicial officer of the court of justice appointed by the Chairperson to be an Assistant Secretary;

“Court” means the court of justice, the administrative court, the military court or other courts;

“Submitting Court” means the Court designated by the Act to submit matters to the Committee;

* Translated by Pongdej Wanichkittikul, Chief Judge of the Office of the President of Supreme Court, LL.B. Thammasat University, Barrister at Law, LL.M. American University.

¹ Published in the Royal Gazette, Krisdika issue, volume 118, section 79 Kor, page 3, dated 12th September, B.E. 2544 (2001).

“Petition” means the petition filed under the Act and shall include the petition to amend the petition that has been filed;

“Petitioner” means the petitioner under the Act or these Regulations, and shall include the authorized person and the lawyer representing the petitioner.

Chapter 1

General Provisions

Article 4. The Committee may undertake any proceedings or issue any orders as it deems appropriate and necessary and not in conflict with the Act for the benefit of justice or to prevent the unjust action of any procedure prescribed by the Act or the delay of the case.

Article 5. The Chairperson shall call for a meeting of the Committee by a notification to all members at least three days prior to the meeting. However, in case of urgent necessity, the Chairperson may notify members less than three days prior to the meeting.

The Secretary shall issue the notice of meeting to all members except those who have known about the date of such meeting in a meeting of the Committee.

Article 6. In the meeting of the Committee, any member who has interest in the matter under consideration shall have no right to vote.

Article 7. In the performance of its duties other than the determination of the matter, the Committee may appoint any person or any group of persons to carry out any tasks assigned by the Committee.

Article 8. Regulations, announcements or any other documents of the Committee shall be signed by the Chairperson unless the Act, these Regulations or the Committee otherwise specifies.

Article 9. In case of irregularities under the Act or these Regulations, the Committee may order to annul or amend such proceedings within the duration, and under conditions, as it deems appropriate. Such order of the Committee shall be final.

Article 10. The Secretary shall have duties to perform under these Regulations or as assigned by the Committee, including the administrative works of the Committee.

For the purpose of performing duties of the Secretary, the Chairperson may appoint one or more Assistant Secretaries. The Secretary may authorize one or more Assistant Secretaries to perform the duties under paragraph one.

Article 11. In the case where there is any question regarding the interpretation or enforcement of these Regulations, it shall be determined by the meeting of the Committee.

Chapter 2

Filing of a Petition and Submission of a Matter

Article 12. A petition shall be made in writing, with polite words, and shall contain at least the following particulars:

(1) name and address of the petitioner;

(2) name and address of the other party or interested person;

(3) ground of petition by stating the plaint-receiving court, the court asserted to have the jurisdiction over the case, judgments or orders or any proceedings causing the filing of the petition;

(4) request for the court or the Committee, as the case may be, to make a determination with supporting reasons;

(5) signature of the petitioner.

Article 13. Personal competency, power of attorney and appointment of lawyer for the proceedings under the Act or these Regulations shall be in compliance with the applicable procedural law of the court carrying out such proceedings.

Article 14. A petition under Section 12 of the Act may be filed with any plaint-receiving court. In the case where the petition is filed with the court of which the jurisdiction is not challenged, such court shall refer the petition to the court of which the jurisdiction is challenged, for opinion.

In the case where there is a petition challenging the jurisdiction of more than one court, each court shall deliver its opinion to another court. If a court has already delivered its opinion, it shall be no longer required to provide any opinion on the matter. However, if it receives an opinion from another court, it shall notify such court that it has already delivered its opinion.

In the case where the matter is submitted to the Committee for a determination, the delivering court shall notify the Committee that there is another case with the same fact having also been filed with another court.

Article 15. In preparing its opinion under paragraph three of Section 10 of the Act, the court shall record the party's opinion.

Article 16. The petition under Section 14 of the Act shall be filed with the Secretary together with copies of the conflicting judgments or orders of the courts and any other copies of necessary documents in the case file.

After receiving the petition, the Secretary shall deliver the copy of the petition to the courts concerned without delay.²

Article 17. After receiving the petition, the Court or the Secretary, as the case may be, shall deliver the copy of the petition to the other party or interested person for an explanation within fifteen days from the date on which the party receives such copy.

The provision of Article 12 shall apply to the explanation *mutatis mutandis*.

Article 18. The petitioner may request for the withdrawal of the petition prior to the pronouncement of the determination or order of the Committee. In the case where the court has not yet submitted the matter to the Committee, the petitioner shall file the request with the court for its consideration. If the matter has already been submitted to the Committee, the petitioner may file a request with the Secretary or the court. In case of filing with the court, the court shall without delay deliver the request to the Secretary and the Committee shall consider the request. The request for withdrawal of petitions under Section 12 of the Act shall be considered by the Committee.

After the court or the Committee, as the case may be, has allowed the withdrawal of the petition, it is prohibited to file another petition in the same matter.

Article 19. In the case where the Act specifies that the opinion of a court be delivered to another court for opinion, the delivering court shall deliver its opinion to the central office for administrative works of another court and then such central office shall deliver the opinion to the court under its responsibility for opinion. After making an opinion, the receiving court shall deliver its opinion directly to the delivering court and shall notify its central office.

In case of the delivery of opinions among courts, the delivering court or the receiving court shall also submit the necessary documents in the case file to the other court.

In the case where a court orders the transfer of the case to another court as specified by the Act, the transferring court shall submit the case file and all evidence of such case directly to the court to which the case is transferred and notify the central office.³

Article 20. The opinion of the court shall be done by the full quorum of judges as required for adjudication of cases.

² Article 16 paragraph two was added by Article 3 of the Regulations of the Committee on the Determination of the Powers and Duties among Courts on Submission Procedure for Consideration and Determination (No. 4) B.E. 2548.

³ Article 19 paragraph three was amended by Article 4 of the Regulations of the Committee on the Determination of the Powers and Duties among Courts on Submission Procedure for Consideration and Determination (No. 4) B.E. 2548.

Article 20/1.⁴ In the case where the opinion-delivering court and the opinion-receiving court have the same opinion regarding to the competent jurisdiction under Section 10 paragraph one (1) or (2), the former shall notify the Secretary together with such opinion.

Article 21. Regarding to the submission of a matter to the Committee for consideration, the delivering court shall submit the petitions, the explanations, the opinions of the courts concerned and any other necessary documents of the case with copies thereof to the Secretary via the central office for administrative works of such court.

Article 22. In delivering the documents of the case to another court or the Committee, the delivering court may instead deliver certified copies thereof.

Article 23. The Secretary shall have the duty to examine the petition filed under Article 14, Article 16 and the matter submitted under Article 21. In case where there is any irregular proceedings with regard to the delivery and receipt of opinions among courts, the filing of petitions to the Secretary, the submission of matters to the Committee as specified by the Act or these Regulations, or where the submitted documents are not complete, or where any proceedings is performed irregularly; the Secretary may notify the delivering court or the petitioner to make the correction within a given time or return the matter or the petition back to the court or petitioner for re-submission. In case of correction, if the delivering court or the petitioner fails to do so within the given time without notice or request for extension of time, the Secretary shall report the matter to the Committee for consideration.

If the matter or the petition is correctly and completely submitted or filed or there is a correction within the given time, the Secretary shall issue an order to accept such matter for further proceedings and shall notify in writing to the delivering court or the petitioner of such order.

Chapter 3

Consideration

Article 24. The amendment of petitions, opinions or any other documents that have been submitted to the Committee shall be processed by the same procedures for the submission of matters to the Committee. However, it must be

processed before the Committee commences the consideration of such matters except the Committee otherwise deems appropriate.

⁴ Article 20/1 was amended by Article 3 of the Regulations of the Committee on the Determination of the Powers and Duties among Courts on Submission Procedure for Consideration and Determination (No. 5) B.E. 2551.

Article 25. The Secretary shall have the duty to gather all opinions, petitions, explanations and any other documents that are necessary for the consideration of the Committee, and then make a summary of facts and laws together with the available approaches to the matter to the Committee.

For the purpose of gathering relevant documents, the Secretary shall have the power to demand documents or any article from any person, or to summon any person to give statements or opinions, and to ask any related court to perform any proceedings for the benefit of the consideration of the Committee.

Article 26. In a meeting of the Committee, the Assistant Secretary or the person authorized by the Secretary to be responsible for the matter under consideration shall attend the meeting to explain the matter in details to the Committee.

Article 27. In case of a necessity where the Committee may not consider and determine the matter under Chapter 4 within thirty days from the receiving date, the Committee may extend the period for determination as it deems appropriate but the period shall not exceed thirty days. In such case, the Secretary shall record the reasons for such necessity and the extended period, and notify in writing the delivering court or the petitioner, as the case may be, of such extension.

Chapter 4

Determination

Article 28. If the petition is not compliant with the Act or if it is filed for a determination of the matter that has already been determined by the Committee or filed with the intention to delay the case, the Committee may dismiss the petition.

Article 29. In any of the following events, the Committee may order that the case be disposed of from the case list:

(1) the petitioner requests for the withdrawal of the petition;

(2) the matter is not submitted to the Committee in compliance with the rules specified by the Act;

(3) the Committee considers that the fact appears to be no longer beneficial for consideration.

Article 30. The order for dismissal or disposal of the matter from the case list shall be in writing with the reasons thereof and signatures of all members determining the matter.

Article 31.⁵ In the case where the matter is submitted by the court to the Committee, after the Committee has a determination or issues an order under Article 28 or Article 29, the Secretary shall dispatch such determination or order to the delivering court for pronouncing to the petitioner and the persons concerned without delay and notify the central office for administrative works of the courts concerned of such delivery, together with copies thereof.

The determination or order of the Committee under paragraph one shall be effective when it is pronounced by the court to the petitioner and the persons concerned under paragraph one. If any person has been duly notified of the appointment but does not come to the court, the court shall record that absence. It is deemed that the determination is pronounced to the person on that date. The court shall notify the Secretary of the pronounced results.

Article 32. In case where the petition is filed under Article 16, after the Committee makes a determination or issues an order under Article 28 or Article 29, the Secretary shall notify all courts concerned, the petitioner and interested persons of its determination or order via the post of the register and acknowledged receipt.

Chapter 5

Miscellaneous

Article 33. A request for a certified copy of the Committee's determination or order determining the matter or any document shall be made only after it is pronounced under Article 31 or Article 32. The request shall be filed with the Secretary and the fee shall be paid in compliance with the rules as specified by the Secretary.

Article 34. All documents of the matters on the list of the Committee kept more than ten years as from the pronouncing dates of determinations or orders under Article 31 or Article 32 shall be discarded except records of the Secretary under Article 25, minutes of the meetings and determinations or final orders of the Committee.

Given on the 11th day of September, B.E. 2544

Thawatchai Pitakpol

President of the Supreme Court

Chairperson of the Committee on the

Determination of the Powers and Duties among Courts

⁵ Article 31 paragraph one was amended by Article 3 of the Regulations of the Committee on the Determination of the Powers and Duties among Courts on Submission Procedure for Consideration and Determination (No. 2) B.E. 2545.