

Judicial Opinion

(Garuda Emblem)

Black Case No. Aor. 3157/2561

Red Case No. Aor.91/2563

**Under the Name of His Majesty**

Criminal Court

Date 21 Month January B.E. 2563 [2020]

Criminal Content

Public Prosecutor, the Office of the Attorney General

Plaintiff

Between

Mr. Krisana Asasoo No. 1

Mr. Terdsak Teanpoodsa No. 2

Mrs. Praphan Pipattanamponn No. 3

Miss Wannapa Kampipoj No. 4

Miss Jinda Archariyasilp No. 5

Defendants

Re: Offense to National Security within the Kingdom: A secret organization

The plaintiff filed a complaint and revisions that during the daytime of 8 June B.E. 2561 [2018] to the daytime of 12 September 2561 [2018], both daytime and nighttime continuously, the exact date and time cannot be identified, all 5 defendants and Mr. Wuttipong Kochatamkhun, Mr. Shoosheep Sheewasut, Mr. Siam Teerawut, Mr. Wat Wannayangkul, and Mr. Krisana Thapthai, which is on the flee and has not been summoned for a case, together are a member of a group of people, which conceal its operating methods, called Sahapantarathtai [Federal State Tai], aiming to oppose the royal institution, the government and the NCPO [the National Council for Peace and Order] to change the regime of Thailand from the democracy regime with the King as the Head to federal state regime with the President as the Head, which is against the law. In addition, such all 5 defendants et. al., together, display to the public in verbal, written, by the members and public via online social medias i.e. Facebook, LINE groups, YouTube, and paper flyers, inviting the members and public to oppose the royal institution, government, and the NCPO, which is not an act under the aim of the Constitution and is not to express an opinion or criticism rightfully, [but] for the public to violate the law and to create chaos or disobedience within the public to cause unrest within the Kingdom, in order to change the regime of Thailand from the democracy regime with the King as the Head to federal state regime with the President as the Head, which is against the law. The incident happened at [1] Dok Mai sub-district, Pravet district, Bangkok, [2] Pravet sub-district, Pravet district, Bangkok, [3] Klong Toei Nua sub-district, Wattana district, Bangkok, [4] Sam Rong Nua sub-district, Mueng district, Samut Prakarn, [5] Ban Beung sub-district, Ban Beung district, Samut Prakarn, and [6] Bang Sare sub-district, Sattahib district, Chonburi, associated. On 5 September B.E. 2561 [2018], police arrested the Defendants No. 1-3. On 11 September B.E. 2561 [2018], police

arrested the Defendant No. 4. On 17 September B.E. 2561 [2018], police arrested the Defendant No. 5. During the investigation, the Defendant No. 1 and the Defendant No. 4 denied, while the Defendants No. 2, 3, and 5, pleaded guilty. [The plaintiff] requested the Court to punish all 5 defendants in accordance with the Penal Code section 83, 91, 116, 209, as amended.

The Defendants No. 1, 2, 3, and 4 denied.

The Defendant No. 5 fled during the process. The Court has ordered to temporarily dismiss the case only in the part of the Defendant No. 5.

The plaintiff attested that in B.E. 2557 [2014], the NCPO revolted and set up a government ruling the country. [The NCPO] has ordered the officials to monitor any person acting as a threat to national security, causing riot within the country, and bearing ill will to the royal institution. The officials of the NCPO in the news department found that Mr. Wuttipong or Ko-Tee Kochatamkhun, Mr. Shoosheep Sheewasut, Mr. Siam Teerawut, Mr. Krisana Thapthai Mr. Wat Wannayangkul, [and,] Mr. Surachai Saetan are people with the idea of abolishing the royal institution, and has fled to the Laos People's Democratic Republic or Laos. [Such people] have jointly created a group of its own called Sahapantarath Tai [Tai Federal State.] Its objective is to dethrone the royal institution and change the regime of Thailand from the democracy regime with the King as the Head to federal state regime with the President as the Head and divide the country into 10 states, establishing election in each level from local to president, change the Court system to be a jury system and wish to abolish the royal institution entirely. Such group of people host public relation programs via online social media, YouTube, under the program named Lung Sanam Luang. Mr. Shoosheep Sheewasut uses the [user]name Lung

Sanam Luang. Mr. Krisana Thaptha uses the [user]name Sahai Young Blood, Mr. Wat Wannayangkul uses the [user]name Sahai 112. The program contains conversation inciting the public to join the group in dethroning the royal institution and the change of national regime, conversation inducing and encouraging the public that is a member with the same ideology to act in various ways in important events e.g. Bike For Dad, inviting members to throw green beans on the roads that the King will bike through, or inviting members to throw eggs at the King while traveling, or inviting members to shoot the King with a gun, etc. The public following the programs have commented in a manner that agree with the abolishment of the royal institution and the change of country regime, in accordance with the programs published via YouTube recorded in DVD, the material evidence Wor. Jor. 1 to Wor . Jor. 10 and document evident Jor. 33 page 9 to 11, which the officials has investigated the content of such programs and typed them in writing, as shown in the document evidence Jor. 12 to Jor. 31, and Jor 40 to Jor. 46. Additionally, such group of people also use Facebook under the name of Sahapantarath Tai [Tai Federal State], disseminating events in accordance with the aims of the group, under the administrative of the Defendant No. 1 or Admin. [The Facebook page] has published message attacking the royal institution and republishing the Lung Sanam Luang YouTube programs in such Facebook. [The Facebook page] is set to public that general public can access, as shown in the copies of Facebook, document evidence Jor. 6 page 6. Such group of people also use the flag of Sahapanttarath Tai [Tai Federal State], with 20% of white stripes on each side, claimed to mean the purity of the people and red stripe in the middle, claimed to mean the bravery of the people. [The group] also made black shirts with such flag to distribute to the members, as shown in the material evidence Wor. Jor. 11 and distributed flyers, stickers to the

public. Such officials were informed that on 20 August 2561 [2018], a person put the flyers and stickers around Ram Khamhaeng University, Sri Nakarinviroj University, Pat Onnut Management College, as shown in the flyers and stickers, the document evidence Jor. 35 page 6, Jor. 35 page 7, and Jor. 57 to Jor. 59. Once the police investigate CCTV footage, they found that the Defendants No. 1 and 2 were the one putting flyers and stickers on 20 August 2561 [2018]. Later during 30 August 2561 [2018], the officials then searched the Defendant No. 1's place and found the Defendant No.1, the flyers and stickers similar to those put up at such universities and black shirts with "Sahapantarath Tai" flag, in accordance with material evidence Wor Jor. 11, therefore impound. The officials summoned the Defendant No. 1 to 11<sup>th</sup> Army Division for questioning. The Defendant No. 1 gave a statement confessing that he put the flyers and stickers at such places and implicated that the Defendant No. 2 and 3 were also involved. The Defendant No. 1 signed the questioning report as shown in the document evidence Jor. 6 and Jor. 35. Then, the officials searched the Defendant No. 2's place and found 400 flyers, hand-written with blue ink, as show in the document evidence Jor. 60 and summoned the Defendant No. 2 for questioning, in which the Defendant No. 2 gave a statement as shown in the questioning report, document evidenc Jor. 36 and Jor. 56. On 3 September 2563 [2020 –this is likely a typo], the officials searched the Defendant No. 3 and summoned the Defendant No. 3 for questioning. The officials from the news department found that the Defendant No. 3 invited the public to become a member Sahapantarath Tai via online social media communication, "LINE" program. The Defendant No. 3 gave a statement as shown in the questioning report, the document evidence Jor. 7 and Jor. 37. The police also found that the Defendant No. 4 traveled to Laos to pick up shirts in accordance with the material evidence

Wor. Jor. 11 from Mrs. Sompit Sombuthom, the Defendant No.4's mother and sent them to the members several times. The officials searched the Defendant No. 4 and found the Defendant No.4 and such shirts, list of recipients, list of shirt amount and sizes, as shown in the photograph evidence Jor. 38 page 5 to 17. The Defendant No. 4 gave a statement as shown in the questioning report, the document evidence Jor. 38. From an investigation and news, the officials also found that the Defendant No. 5 is a leading member of the Sahapantarath Tai, in charge of Chonburi province area. On 12 September 2561 [2018], the officials searched the Defendant No. 5's place and summoned the Defendant No. 5 for questioning. The Defendant No. 5 admitted that he is a leader with a code number 02030001. The number 02 means east states or state No. 2. The number 03 means Chonburi province. The number 0001 means the first member of Chonburi province and he deposited several bank notes written "Lung Sanam Luang" in the ATM machines for the public to withdraw and see the written message and also contributed in making the shirts. The Defendant No. 5 gave a statement as shown in the questioning report, document evidence Jor. 11 and Jor. 39. Later, the NCPO authorized Major General Burin Tongpraphai to file a complaint against all 5 Defendants in accordance with the Power of Attorney, document evidence Jor. 34. During investigation process, the investigating officials pressed charges for together, displaying to the public in verbal, written, or other methods, which is not an act under the aim of the Constitution and is not to express an opinion or criticism rightfully, [but] to create chaos or disobedience within the public to cause unrest within the Kingdom and for the public to violate the law and for being a secret organization. The Defendants No. 1 and 4 denied. The Defendants No. 2, 3, and 5 confessed, as shown in the investigating report, document evidence Jor. 1 to Jor. 5, respectively.

The Defendants No. 1, 2, and 3 did not testify.

The Defendant No. 4 testified that before getting arrested, the Defendant No. 4 worked as a motorbike for hire, lived with 2 children. Around 2557 [2014], the military officials searched Mrs. Sompit Sombuthom, the Defendant No.4's mother but the mother fled and could not be contacted. Until 2559 [2016], a friend of the mother named Kanokponn brought the Defendant No. 4 to meet the mother in Laos and stayed with the mother for 2 to 3 days. In 2561 [2018], the mother of the Defendant No. 4 contacted the Defendant No. 4 via Facebook. Later on 14 or 15 July 2561 [2018], the Defendant No. 4 brought his son to meet the mother in Laos. The Defendant No. 4 saw many black shirts and asked the mother. The mother told the Defendant No. 4 that if the Defendant No. 4 would like to earn money, the Defendant No. 4 shall bring such shirts to her friends, the mother would pay compensation. The Defendant No. 4 would like to earn income, so he agreed to send the shirts several times. The mother told the details of the recipients. Later the military officials searched the Defendant No. 4's place and found 400 shirts and a computer. The officials seized such materials and brought the Defendant No. 4 to to 11<sup>th</sup> Army Division. The military official told the Defendant No. 4 that such shirts contain a flag symbol which contradicts security laws. The Defendant No. 4 was not aware of such fact. The Defendant No. 4 took a picture with a "Sahapantarath Tai" in Laos without noticing the text and had never heard about such organization. The Defendant No. 4 also took pictures in various places per the mother's request, as shown in the photograph Jor. 38 page 27 to 31. The Defendant No. 4 gave a statement to the military official. His mobile phone had Facebook but not LINE. The Defendant No. 4 never expressed political opinion and had never

heard of the Lung Sanam Luang channel on YouTube and never knew or met Mr. Lung Sanam Luang.

[The Court] considers preliminary facts and summarized that the Defendants 1 to 4 were searched by the military officials and summoned for questioning in accordance with the questioning report of the Defendant No. 1 Jor. 16 and Jor.35, the questioning report of the Defendant No. 2 Jor. 36 and Jor.56, the questioning report of the Defendant No. 3 Jor. 7 and Jor.37, the questioning report of the Defendant No. 4 Jor. 8 and Jor.38. Here, there is an issue to be considered whether the Defendants No. 1 to 4 committed the offenses as complained or not. But first, the Court shall consider whether the acts of the founding members exist and are illegal. The plaintiff with Manager General Burin Tongpraphai, Police Major General Surasak Khunarong, Police Lieutenant General Nopanant Songsaengjan, Police Lieutenant General Sawek Boonjan, Police Captain Kanchit Seeharod as witnesses testifying confirming that after the NCPO revolted and set up a government ruling the country, order the officials to monitor any person with a manner that is a threat to the national security, creating chaos within the country, and opposing the royal institution. It was found that Mr. Wuttipong Kochatamkhun or Ko-Tee, or Sahai Mha Noi, collected weapons and had used weapons to attack the protestors called PDRC. Mr. Shoosheep Sheewasut or Lung Sanam Luang used to idolize communist party, Mr. Siam Teerawut, Mr. Krisana Thapthai or Sahai Young Blood, Mr. Wat Wannayangkul or Sahai 112, [and,] Mr. Surachai Saetan, which was prosecuted for section 112 of the Penal Code and later pardoned, are a group of people with the ideology to dethrone the royal institution and change the regime of Thailand from the democracy regime with the King as the Head to federal state regime with the President as the Head and divide the country into 10 states,



establishing election in each level from local to president, change the Court system to be a jury system. Such group of people escaped and operated in the Laos People's Democratic Republic or Laos and established a group or organization called Sahapantarath Tai, made a program to inform the public to acknowledge and follow and invited to become a member via online social media program, YouTube, Facebook, and LINE. The content of the program is framing the King, to dethrone the King and change the regime of the country, inviting the members to act in important events, encouraging attacking or assassinating the King. [The Court] views that the plaintiff has several witnesses, which are all officials directly involved with the monitor of national security threats. All witnesses testified confirming the same facts that there is a group of people conducting such acts. All witnesses of the plaintiff are officials acting in according with their duty, without any personal agenda against the Defendants. There shall be no doubt that the witness would give a fake statement to frame such people including the Defendants without truth. The testimony of the witnesses is, therefore, reliable. In addition, the Plaintiff also has a material evidence as a DVD, Wor Jor. 1 to Wor. Jor. 10, which the witnesses confirmed that the witnesses have verified the program that such people host together via online social media program, YouTube, under the name Lung Sanam Luang. The official has investigated the content of such programs and typed them in writing, as shown in the document evidence Jor. 12 to Jor. 31, and Jor 40 to Jor. 46. The Court has watched the visual and sound recorded in such DVD and read the transcript and found that it is true that such people, using different names, spoke in the program called Lung Sanam Luang. With further verification, such people are related to, as leaders of Sahapantarath Tai, which is a name of a group or organization. The content of the program is in line with the transcript Jor. 12 to Jor. 31

and Jor. 40 to Jor. 46, as testified by the Plaintiff. The visual and sound data in the DVD is continuous or connected as a story. The retrieve of such content, confirmed by the witnesses, is from investigating the YouTube channel and recorded and copied. The performance of duty of the officials are with the aim to bring the wrongdoers for prosecution. There is no benefit that the official would create fake evidences. In addition, such group of people host the program via YouTube with the intention to reach out to the public as much as possible. There is a reason to believe that the officials can watch and copy the data without difficulty. There is, therefore, no doubt that this is a creation of visual and sound data to frame any person and the Court believes that the visual and sound data of the YouTube program in accordance with the material evidence Wor. Jor. 1 to Wor Jor. 10 is a real data which such group of people, as listed in the complaint, has contributed in such program on YouTube. Since the content of Lung Sanam Luang programs on YouTube is the discussion of the objectives and aim of the Sahapantarath Tai to change the country regime, abolishing the royal institution, establishing a new country called Sahapantarath Tai, there is a reason to believe that such group of people is related to the group or organization called Sahapantarath Tai, as confirmed by the witnesses. When considering the acts of such group of people inviting the people to become a member of Satapantarath Tai, encouraging public to agree with them and act in material events e.g. attacking the King, assassinating the King, are there for the display to the public in verbal, writing, or other methods, which are not the aim of the Constitution and is not to express an opinion or criticism rightfully, [but] to create chaos or disobedience within the public to cause unrest within the Kingdom and for the public to violate the law, which has completed the prongs of the offense under section 116 of the Penal Code. The question whether the

Defendants No. 1 to 4 has also committed an offense with such group of people or not, from the Plaintiff's testimony, the witnesses testified confirming that the Defendants No. 1 and 2 were involved with the distribution of flyers Jor. 36 page 7 at several universities. The Plaintiff has a footage from a CCTV while the Defendants No. 1 and 2 put up the flyers at such universities. In addition, when the military and police officers searched the Defendants No. 1 and 2's place, they found the same flyers along with stickers and black shirts as shown in the photograph evidence Jor. 35 page 6, Jor. 57, Jor. 59, and material evidence Wor. Jor. 11 and found 400 flyers with handwriting in blue ink in the Defendant No. 2's house, Jor 60. When the officials summoned the Defendants No. 1 and 2 for questioning, the Defendant No. 1 gave a statement and admitted in accordance with the questioning report Jor. 6, Jor. 35, and Jor. 36. The Defendant No. 2 also gave a statement admitting in accordance with the questioning report, Jor. 36 and Jor. 56. For the Defendant No. 3, the official found as a leader of the Sahapantarath Tai operating within the country by inviting the public to become a member via LINE. When summoned for questioning, the Defendant No. 3 gave a statement admitting in accordance with the questioning report, Jor. 7, and Jor 37. The Defendant No.4 is a son of Mrs. Sompit Sombuthom, which is a member of Sahapantarath Tai escaping to Laos, and is a person distributing shirts from Mrs. Sompit Sombuthom to the members of Sahapantarath Tai via postal several times. When the officials searched the Defendant No.4's place, they found black shirts with Sahapantarath Tai symbol. When summoned for questioning, the Defendant No. 4 gave a statement in accordance with the questioning report, Jor. 8 and Jor. 38. The CCTV footage when the Defendants No. 1 and 2 put up the flyers, Jor. 36 page 6, in several universities, would be a good evidence showing that the Defendants No. 1 and 2 were involved

with the flyers distribution. In addition, when the officials searched the Defendants No. 1 and 2's place, they found the same flyers and stickers and black shirts with Sahapantarath Tai symbol in such places. The facts can be believed that the Defendant No. 1 and 2 were involved with putting up the flyers, Jor. 36 page 6, in the universities and that the Defendants No. 1 and 2 are a member of the Sahapantarath Tai group of organization. But when considering the role of the Defendant No. 1 and 2 as testified by the witnesses, there are only distribution of the flyers in the universities and possessing the flyers, stickers, and black shirts with Sahapantarath Tai at their places. When consider the message in the flyers, Jor 36 page 6, that the Defendants put up in the universities, the flyers stated that "The Federal State is a decentralized administration like many developed countries in Europe and USA, etc., by election in all level from local to president. The Court decides by the jury, selected by the public, to become a welfare state taking care [of the citizens] from birth till death, provides free education from kindergarten to college. If interested, please watch from general public source or YouTube sanamluang200820002, Sahapantarath Tai Klang, Voice of Thailand Vot, Maew Za." Such statements are only providing knowledge regarding federal state regime. While the statements in the stickers seized from the house of the Defendants No. 1 and 2 are "Tai Federal State is a decentralized administration, with election in all level from district to president, for the well-being and welfare from birth to death. Watch via YouTube: sanamlaung20082008, every Monday to Sunday 9pm to 12am." All such statements are not in a coerce or violent manner, nor in a manner that may cause chaos or disobedience within the public to cause unrest within the Kingdom, nor the meaning for the public to violate the law of the land in any way. Apart from such involvement of the Defendants No. 1 and 2, other involvements of the Defendants

No. 1 and 2, as testified by the Plaintiff, are unlikely to cause such effects. Furthermore, the Plaintiff do not have any evidence proving the involvement of the Defendants No. 1 and 2 in other material issues. The statement given by the Defendants No. 1 and 2 in accordance with the questioning report, once read in detail, there is no involvement of the Defendants No. 1 and 2 in hosting Lung Sanamluang program on YouTube nor speaking in such program. The testimony by the Plaintiff claiming that the Defendant No. 1 uses a Facebook account, "Krisna Asasu," in accordance with document evidence Jor. 6 page 6, it does not appear that the Defendant No. 1 distributed any statement encouraging or telling to behave or act illegally, nor speaking in such manner himself. As for the Defendants No. 3 and 4, the involvement as testified by the Plaintiff also does not appear that the Defendants No. 3 and 4 were involved with hosting Lung Sanam Luang program via YouTube nor speaking in such program. The involvement of the Defendant No. 3 was merely inviting the public to become a member via LINE. The Defendant No. 4 were involved with only distributing the black shirts and taking pictures with flyers in various places without actually disseminating the flyers to the public. The statements in the flyers are also not in a manner that incites the public to act violating serious law. Such acts of the Defendants No. 3 and 4 are not not in a coerce or violent manner, nor in a manner that may cause chaos or disobedience within the public to cause unrest within the Kingdom, nor the meaning for the public to violate the law of the land similar to the Defendants No. 1 and 2. It is not clear whether the speaking in Lung Sanamluang program via YouTube of such group of people e.g. inciting to behave in materials event e.g. attacking or assassinating the King, were personal speaking of the host or on behalf of all members per a meeting and agreement of the members. It cannot be interpreted negatively against the Defendants in this

case that the speakers in such program spoke on behalf of the Defendants No. 1 to 4 or it is also an act of the Defendants No. 1 to 4. Merely such acts of the Defendants No. 1 to 4 are not yet considered an offense to the national security within the Kingdom per section 116 of the Penal Code. However, the Plaintiff's evidence and witnesses along with the statement of the Defendants No. 1 to 4 given to the officials, and the motion of the Defendants during the investigation process, clearly identify that the Defendants No. 1, 2, 3, and 4 were involved with the Sahapantarath Tai group or organization consisting of such group of people as testified by the Plaintiff. [The Defendants] were involved by supporting or aiding so the operations of such group may continue, whether it is putting the flyers, making stickers, distributing black shirts to members, with a statement on the flyers and stickers to watch the program via YouTube: sanamluang20082008 which is a program related to a group hosting the program on behalf of Sahapantarath Tai that has the ideology of changing the regime of the country and abolishing the royal institution as aforementioned. There is a reason to believe that the Defendants No. 1 to 4 were each a member of the Sahapantarath Tai, which is considered a member of a group that operate together on behalf of the Sahapantarath Tai group. When such Sahapantarath Tai group or organization has the objective or aim to change change the regime of Thailand from the democracy regime with the King as the Head to federal state regime with the President as the Head, which contradicts the Thai constitution, as prescribed in section 1 that Thailand is only one kingdom, cannot be divided, section 2 that Thailand is a democracy country with the King as the Head, section 3 that the sovereignty belongs to the Thai citizens. The King as the Head of the State uses such power via the parliament, cabinet, and courts. It is deemed that such group of people that are members of Sahapantarath Tai were established with objectives

contradicting the Thai constitution. The operations of the Sahapantarath Tai were also secret e.g. using a symbolic flag instead of the group or organization, using number codes with meanings known within the group. When the Defendants No. 1 to 4 merely became a member of Sahapantarath Tai, there were considered committing the secret organization offense.

The Defendants No. 1 to 3 did not testify to the Court proving their innocence, but merely deny. The Court found that suspicious and not acceptable. The testimony of the Defendant No. 4 that the Defendant No. 4 merely visited the mother in the Laos People's Democratic Republic or Laos and distributed the shirts in order to earn income only, without prior knowledge of the meaning of such shirts and never knew of Sahapantarath Tai, [the Court] views that before the incident, the mother of the Defendant No. 4 were sought after by the military officers and fled to Laos. The Defendant gave such information; therefore, the Defendant No. 4 were well aware of the fact that the mother is a person of interest, which is not normal. Therefore, when the Defendant No. 4 met the mother in Laos and the mother asked for help to distribute the black shirts via postal, it shall be in the vision of the Defendant No. 4 to know that such shirts imply which meaning. It also appears that the Defendant No. 4 took photos with the Sahapantarath sign and the flyers containing messages related to Sahapantarath Tai. [The Court] believes that the Defendants knew about such organization and contributed in the operation of such organization to continue by various acts as testified by the Plaintiff. It shall be deemed that the Defendant was a member of such organization or group. The testimony of the Defendant No. 4 is therefore not accepted.

[The Court] orders that the Defendant No. 1, 2, 3, and 4 is guilty in accordance with section 204 paragraph 1 of the Penal Code in association with section 83 and shall be

imprisoned for 3 years each. The confession of the Defendants No. 2 and 3 during the investigation process were beneficial to the case, there is a basis to reprieve. [The Court] therefore reduces one third of the punishment for such Defendants in accordance with the Penal Code section 74. The imprisonment for the Defendants No. 2 and 3 shall be 2 years. Other motions and charges shall be dismissed.

Mr. Prasong Choomjitr

Mr. Watcharapol Suwanjutha