

Abstract

According to the Constitution of the Kingdom of Thailand 2550 B.E., the Constitution legislates the public prosecutor organization as the organization of the Constitution which has freedom of legality from the executive government sector organization. The public prosecutor organization has been not directly under the Prime Minister as in the past. Apart from that, the intention of Constitution is an action in the form of freedom of legality without an executive sector's influence. As the result, the role and authority of public prosecutor organization have been changed. One consideration of this government freedom is that the public prosecutor organization should have role to examine the administrative authority of the executive government sector organization (as the administrative part) for doing an Administrative Act (make a rule and order) following its legal rights.

From the study, it found that the public prosecutor has a status as the organization according to the constitution which is guarantee, impartiality and freedom of acting. The Constitution of the Kingdom of Thailand 2550 B.E. has defined the public prosecutor to also have role in examining the government authority for the others organizations. The researcher team has ideas that the public prosecutor should be a power to examine the authority of the administrative as such by examining the legal rights for the Administrative act either Administrative rule or Administrative order. Especially the rule, this is because the rule has the regulation which impacts on either public benefit or right and freedom of people in common wealth. Hence, if the problems which relevant to legitimate happened, the public prosecutor organization as the organ which take care of and maintain the common interest which counted as "interested person" according to the establishment and procedure and administrative procedure Act 2542 B.E. section 42 paragraph 1 has a prosecute power to the administrative court in order to revoke the rule. In case of the administrative order, there are come into effect to any case or any person which particularly. Person who received or might be received the grievance or consequential damages from administrative order are subject to limited liability which focused on person who received the administrative act only. It can be seen that it is not harmonize with the public prosecutor organization's role and duty to take care of the public interest and the protection of right and liberty of people in common wealth. Therefore, "interested person" according to the establishment and procedure and administrative procedure Act 2542 B.E. section 42 paragraphs 1 cannot be interpreted along with the public prosecutor organization for litigation in order to examine the legitimacy of the administrative order. However, if the right in administrative acts is illegal, the public prosecutor should have the authority to submit the statement of claim or the statement of request to the administrative court in order to revoke such the administrative rule

and administrative order. Moreover, the public prosecutor has discretion to deny carrying out of proceedings the request of either government agency or government authority if it was considered as illegal acts. This is also the means to investigate how the administrative sectors use the right and authority in administrative acts.

The way to give the public prosecutor has the authority in examining the administrative acts by request to the administrative court, let the authority of public prosecutor to balance working with the administrative sector. This will result in improvement and better use of authority for the administrative organization.