

THEMATIC TITLE	LEGAL PROBLEMS RELATING TO THE QUALIFICATIONS AND PERIOD OF TIME FOR FACT-FINDING OF THE FACT-FINDING COMMISSION FOR A WRONGFUL ACT
KEYWORDS	LIABILITY FOR A WRONGFUL ACT OF THE OFFICIALS, FACT-FINDING OF LIABILITY FOR A WRONGFUL ACT OF THE OFFICIALS, DURATION OF FACT-FINDING OF LIABILITY FOR A WRONGFUL ACT, THE FACT-FINDING COMMISSION FOR A WRONGFUL ACT
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ABSTRACT

In implementation of Act of Liability for a Wrongful Act of the Officials B.E. 2539 (1996), steps of operation have provided from occurrence of damage to litigation and exercise of right of reimbursement in accordance with the Regulations of the Office of Prime Minister on the Performing Rule relating to Liability for a Wrongful Act of the Officials B.E. 2539 (1996). In the event that damage is arisen to a State agency and a reasonable cause to believe that official of such State agency causes the damage, its chief shall appoint a Fact-Finding Commission for a Wrongful Act without delay to consider and express opinion towards liable person and amount of indemnification. The study finds clause 8 of the Regulations of the Office of Prime Minister on the Performing Rule relating to Liability for a Wrongful Act of the Officials B.E. 2539 (1996) is not definite on qualifications and duration of the Fact-Finding Commission for a Wrongful Act. As a result, operation of the Fact-Finding Commission may encounter some problems and bring about unfairness to the official, damage to the State and non-reliability. These following issues are deemed appropriate to analyze.

1. As regards qualifications of members of the Fact-Finding Commission for a Wrongful Act according to the Regulations of the Office of Prime Minister on the Performing Rule relating to Liability for a Wrongful Act of the Officials B.E. 2539 (1996), such clause 8 of the Regulations of the Office of Prime Minister does not determine how qualifications of commission members are and merely determines number of not exceeding five commission members who are appointed from such State agency or other State agencies as deemed appropriate. Discretion of each State agency's competent official is usually exercised to appoint such State agency's own official from nature of his or her works in related duties regardless of qualifications and knowledges of those people are going to be members of the Fact-Finding Commission for a Wrongful Act. As a result, such appointed Commission member may be lack of knowledges and comprehension of will and principle of Law on Liability for a Wrongful Act of the Officials and inquisitorial procedural system. Consequently, qualifications of members of the Fact-Finding Commission for a Wrongful Act appointed from such State agency or other State agencies should be provided in the Law on Liability for a Wrongful Act of the Officials.

2. In respect of duration of the Fact-Finding Commission for a Wrongful Act, such duration is determined but its ending date is not certain and depends on each State agency's discretion. In case the State agency determines too long period of time, it may result delayed consideration for finding any liable person. On the other hand, in case the State agency determines too short period of time, it will bring about defect in fact-finding and request for extension of time on and on. Such indefinite and uncertain ending date causes the Fact-Finding Commission for a Wrongful Act cannot know exact timeframe and causes some problems and possibly unfairness.

The researcher, accordingly, suggests a solution based on legal method by determining qualifications of members of the Fact-Finding Commission for a Wrongful Act in clause 8/1 of the Regulations of the Office of Prime Minister on the Performing Rule relating to Liability for a Wrongful Act of the Officials B.E. 2539 (1996) and by determining exact ending date of duration of fact-finding of the liability for a wrong act and extendable duration of fact-finding in the Regulations of the Office of Prime Minister. The suggested actions will engender pleasant actions on liability of officials, effective and efficient fact-finding of liability for a wrongful act of the officials and good outcome to the State agency's official administration and for protection of the officials.