

Report No. 227/2560 on unfair practice in case of a claim that Department of Land Transport deprived persons with colour blindness right to have driving license

Complainant: Mr. S

The accused: Department of Land Transport

Persons with colour blindness who have driving capability would see and understand standard traffic lights which have established order of lights and symbols that appear the same on any set of traffic lights. The accused's test method that requires identifying colours of traffic lights that are not set in order according to real order of traffic lights provided by law is therefore considered to be an unfair practice against persons with colour blindness. The National Human Rights Commission then came up with guidelines to solve this problem of unfair practice according to Section 28 paragraph 3 of the National Human Rights Commission Act B.E. 2542 (1999) and proposed them to Department of Land Transport to take actions.

A complainant submitted a petition no. 674/2559 dated 21st October 2016 requesting the National Human Rights Commission to speedily take actions to immediately end practices that violated human rights and relieve sufferings faced by persons with colour blindness, allowing them to obtain driving licenses by abolishing the test on colour seeing or changing to use real order of traffic lights, abolishing wild-angle eye sight test or changing to use white light according to medical principle, forbidding immediate revocation of the right to apply for driving license when an applicant fails a physical body test; there must be a more in-depth proof or test driving on real road, and quickly adopting and adapting a method for issuing conditional driving license that had already been studied in order that rights and liberties of the people are affected to the least while situation could be controlled to ensure road safety at the same time.

The National Human Rights Commission took this case into consideration and saw that the accused's method of testing applicants for driving license by showing to them lights that are in different order from order of traffic lights that are really used on roads could be considered as creating a condition for testing persons with colour blindness that is unnecessary for assessing physical capability of applicants in relation to their duty to follow the traffic lights in order to create safety for all people who share the road. Even if that test is used and applied equally to all persons, this equality has resulted in making persons with another status different from others. In this case, it makes persons with colour blindness, whose eyesight is limited in term of colour, not being able to enjoy certain rights as other persons who could see all colours as they are. Taking this point into consideration together with human rights principle that confirms and protect equality, non-discrimination and use of positive measures to ensure access to rights according to the Constitution of the Kingdom of Thailand, and international obligations that Thailand is a state party, the accused's use of this testing method to test everyone the same without limitation has created difference between persons with colour blindness and persons without such condition is therefore not considered to be an

unfair discrimination and violation of human rights. However, persons with colour blindness who have driving capability would see and understand traffic lights with standardized order of lights and symbols. The accused's use of the testing method that requires applicants to tell colours of traffic lights which are lined in different order from real standard traffic lights as fixed by law is therefore considered to be an unfair practice against persons with colour blindness. The Commission also saw that, according to Section 28 Paragraph 3 of the National Human Rights Commission Act B.E. 2542 (1999), it should come up with guidelines to solve the problem of unfair practice and propose them to the accused, that is Ministry of Transport's Department of Land Transport. As Office of the National Human Rights Commission had recommendations developed from research on the problem of unfair practice against persons with colour blindness sent to the accused earlier and these recommendations have not been put into concrete practice to protect rights of persons with colour blindness, the Commission saw that its authority according to Section 15(5) of the National Human Rights Commission Act B.E.2542 (1999) should be used to coordinate with related agencies for protection of human rights as follows:

- (1) Come up with guidelines for solving the problem of unfair practice as described in the petition, using Section 28 Paragraph 3 of the National Human Rights Commission, and propose them to Department of Land Transport, Ministry of Transport, to consider reviewing, amending or changing method used to test physical capability of applicants for driving license, drivers who apply to extend the life of their driving license, and those who apply for driver identity card according to the law on cars, to have their colour sighting tested only for colours necessary for driving with traffic lights used in the test lined in the same order as standard traffic lights and symbols really used on the roads, without creating burdens and steps that are unnecessary and not proportional between rights and liberties of persons and public interests for persons with colour blindness.
- (2) In the future, when various mechanisms are ready for promoting cooperation and coordination between agencies for benefits of human rights protection according to Section 15 (5) of the National Human Rights Commission Act B.E. 2542 (1999), Department of Land Transport should work with the Medical Council of Thailand through the Royal College of Ophthalmologists of Thailand and other related Royal Colleges to develop appropriate criteria for testing visual perception and other sensory perceptions' speed of response, particularly for those who have been issued lifelong driving license because when time passes by, sensory perceptions that are necessary for safe driving could deteriorate or be less effective, such as having long-sightedness, astigmatism, blur images and less quickness of the lower brain in ordering the body to act, such as to stop the car in emergency, at the proportion that is necessary for guarding and protecting road safety for both themselves and other related people.