

**Recommendation of the President of the Supreme Court  
on Proceedings Conducted in Bad Faith in Criminal Cases  
B.E. 2569 (2026)**

Whereas the court is an important institution in administering justice for the people and serves as a principal mechanism for resolving disputes arising in society in a fair and equitable manner, the exercise of the right of access to court must be carried out in good faith, which is an essential foundation of the rule of law and public order. In order to ensure that court proceedings are not used as an instrument contrary to those fundamental values, section 161/1 of the Criminal Procedure Code empowers the court to examine and screen the exercise of the right to institute criminal proceedings so that it remains within the bounds of good faith and is not used to take unfair advantage of, or harass, another person. Accordingly, to ensure that criminal proceedings are conducted in accordance with the legislative intent, with due care, correctness and propriety,

By virtue of section 5 of the Act on the Organization of Courts of Justice, the President of the Supreme Court hereby issues the following Recommendation:

Clause 1. A prosecution conducted in bad faith or by distorting facts in order to harass or take unfair advantage of the defendant, or with the aim of obtaining another result beyond the benefit lawfully obtainable under section 161/1, shall include:

(1) a prosecution having the nature of vexation, intimidation, threat, unfair humiliation, or the creation of undue hardship or distress for the defendant in defending the case;

(2) a prosecution having the nature of pressuring the defendant to act or refrain from acting for an unlawful benefit, or of bargaining for a benefit that should not lawfully be obtained;

(3) a prosecution in which a material fact is intentionally alleged inaccurately or such fact is concealed;

Clause 2. The following circumstances in instituting a prosecution should be regarded as grounds for reasonable suspicion that there has been a violation of section 161/1:

(1) where it is alleged that the cause of action arose in several localities and the case is filed with a court in a locality far from the domicile or regular workplace of the defendant, without facilitating the taking of evidence or benefiting the adjudication of the case;

(2) a prosecution instituted because the defendant has taken part in campaigning, making demands, or expressing opinions in order to protect human rights, natural resources and the environment, consumer rights, labour rights, or other public interests;

(3) a prosecution instituted because the defendant disclosed information on corruption or unlawful misconduct;

(4) a prosecution instituted because the defendant has duties and responsibilities in considering the plaintiff's wrongdoing in the course of fact-finding or issuing an order or determination;

(5) the institution of several cases arising from the same cause without reasonable grounds and in a manner that creates hardship and unfairness for the defendant in defending the cases;

(6) a prosecution instituted because the defendant has exercised a right or performed a duty under the law, where the statement of claim does not disclose facts clearly showing that the defendant acted in bad faith or engaged in misconduct.

Clause 3. Where there are reasonable grounds to suspect that the prosecution has violated section 161/1, the court should order the plaintiff to provide an explanation and to present evidence. The court may also call for any other evidence to be produced for the purposes of inquiry and determination, as necessary and appropriate. For this purpose, the court may assign a case officer or court officer to assist in examining and collecting evidence for the inquiry.

Where it clearly appears that the plaintiff has instituted the prosecution in violation of section 161/1, paragraph one, the court may dismiss the case at the stage of examining the complaint.

Clause 4. If the case is at the preliminary examination stage, the court may proceed under Clause 3, paragraph one, together with the preliminary examination, and may render a ruling dismissing the case or accepting it for trial, as the court deems appropriate, in the same proceeding.

Clause 5. In exercising discretion under section 161/1, paragraph one, the court should take into account the circumstances and gravity of the alleged conduct, the public interest to be served, as well as the legitimacy and credibility of the justice process if the proceedings are to continue.

Clause 6. Where the defendant alleges that the plaintiff has instituted the prosecution in violation of section 161/1, if it appears that the defendant's conduct is intended to delay the proceedings, the court should order the suspension or termination of action on the defendant's allegation and proceed with the case without

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delay. The court may also issue directions or any other order to prohibit proceedings that are vexatious or intended to delay the case.

Clause 7. In criminal proceedings in any other respect not specified in this Recommendation, the court should apply the principles of good-faith proceedings and proportionality as the basis for the exercise of its legal discretion.

Issued on 25 May B.E. 2569 (2026)  
Adisak Tantiwong  
President of the Supreme Court