

**The Republic of China Constitutional Court
Reporter**

R.O.C.
Constitutional Court
Reporter

INTERPRETATIONS
Nos. 393～498
(1996－1999)

Second Edition

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Nos. 393～498

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Under Personal Supervision of

Dr. Yueh-Sheng Weng

President of Judicial Yuan

Compiled and Executed by

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Justice Tzu-Yi Lin

Justice Vincent Sze

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reunification. Does the provision of said Article violate Article 23 of the Constitution, thus infringing upon the bond holders' property rights protected by the Constitution?

No. 476700

If some special criminal laws enacted for certain crimes have the due purposes, necessary means, and proper restrictions required by Article 23 of the Constitution, are those special criminal laws unconstitutional merely because they may infringe upon the people's lives and physical freedom, thus violating the people's right to life and physical freedom?

No. 477710

Article 6 of the Act Governing the Recovery of Damage of Individual Rights during the Period of Martial Law limits its application to "those who had been detained or subjected to execution of sentences but affirmatively found innocent." Without extending its application to other similar victims, does this provision contradict the principle of equal protection under Article 7 of the Constitution?

No. 478719

Is the Ministry of Finance directive unconstitutional in making "approval of the tax collection agency for payment of land value tax at the rate applicable to residential land for the owner's use" a requirement for refund of the land value increment tax?

No. 479726

Section 4 of the Regulation for Registration of Social Entities promulgated by the Ministry of the Interior requires that any social organization must be named in accordance with the administrative district where it is located. Does the said Regulation surpass the permissible bounds of the relevant Law's details and technicalities, thus constituting an infringement on the people's freedom of association guaranteed by the Constitution and being null and void?

No. 480733

Does the 6-month period for application for a completion certificate under Article 32-1, Paragraph 2, Subparagraph 8, of the Enforcement Rules of

the Act for Upgrading Industries exceed the scope of the enabling statute, thus violating Articles 19 and 23 of the Constitution?

No. 481740

Shall Fukien Province hold gubernatorial and representative body elections as Taiwan province does?

No. 482745

Is the precedent of the Supreme Court stating that “pertinent to the peremptory period of a retrial prescribed by the Code of Civil Procedure the court in conducting inquiry may take into account the specific circumstances of the case and order the party to produce the required evidence” in conformity with the provision of the Code of Civil Procedure and constitutional protection of the right of instituting legal proceedings?

No. 483751

Are the provisions of Article 18, Paragraph 1, Subparagraph 3, of the Public Functionaries Appointment Act, which allows the transfer of a legally appointed official to a lower rank or lower grade position, and Article 13, Paragraph 2, of the Public Functionaries Remuneration Act and Article 7 of the Enforcement Rules of said Act, which have the effect of capping the annual salary increase of the transferred official once he/she reaches the cap in his/her new position, consistent with Article 18 of the Constitution, which protects the people’s right to hold public office?

No. 484758

Does the Directive T.T.S.T. No. 36889 of the Ministry of Finance exceed the legislative intent of Article 2 of the Deed Tax Act, and is it thus unconstitutional?

No. 485764

Do the public housing benefits for military personnel and their families provided according to the Act Governing the Reconstruction of Old Villages for Military Personnel and Their Dependents and its Enforcement Rules violate Article 7 of the Constitution guaranteeing the principle of equality?

No. 486772

XXIV

Is Article 37 of the Trademark Act, which provides that a trademark logo bearing the name of another group may not be registered unless such other group gives its consent, in violation of the Constitution?

No. 487778

Is the first sentence of Article 2, Subparagraph 2, of the Act of Compensation for Wrongful Detentions and Executions inconsistent with the constitutional principle of proportionality in regard to its exclusion of the right of a wrongfully imprisoning person to claim state compensation, due to the mere fact that his or her was against the public order or morality, without differentiating the degree of gravity or considering whether the act was beyond the standards acceptable to the society in general?

No. 488785

Do Articles 11 and 14 of the Regulation Governing the Supervision and Taking-Over of Financial Institutions concerning purchase and assumption exceed the scope of authority as delegated by the Credit Cooperatives Act and Banking Act, thus violating Article 15 of the Constitution for the protection of property right and being void?

No. 489794

What is the meaning of the term “other necessary actions” in Article 62-I and -II of the Banking Act and Article 27-I of the Credit Cooperatives Act?

No. 490801

Article 1 of the Conscription Act provides that all eligible males shall be drafted for military service, and Article 59, Paragraph 2, of the Enforcement Act of the Conscription Act further prescribes that the person sentenced to imprisonment who is eventually given pardon, commutation, probation or parole shall not be relieved from military service if he has served less than four years in prison, with no exception to be made for conscientious objectors. Do the said provisions violate Article 13 of the Constitution guaranteeing the freedom of religious belief, thus being null and void?

No. 491812

Should the grounds for disciplinary actions against civil servants be stipulated by law, or can they be prescribed by the competent administrative agency with administrative regulations? Should due process of law be followed in making a discharge decision?

No. 492820

Does the directive issued by the Ministry of Economic Affairs, which states that an entity whose business registration has been dissolved or revoked under the Company Act is deemed as a "terminated business," violate the people's property rights protected under Article 15 of the Constitution?

No. 493828

Is it unconstitutional to use income ratio as the apportionment basis for costs and expenses of taxable and tax-free income?

No. 494834

The Labor Standards Act provides that the minimum standard regarding an increase of overtime pay specified by Article 24 of the said Act is applicable to the types of business specified in Article 3 of the said Act. Is the said standard applicable as well to supervisory, intermittent or other special types of jobs not within the categories of the aforesaid Article 24?

No. 495840

Is Article 31-1 of the Customs Smuggling Control Act unconstitutional by providing that, where the Customs finds that the goods imported or transported for transshipment to other domestic ports by vessels, aircraft, vehicles or other means of transportation are inconsistent with those stated in the hatch list, manifest, transshipment manifest, or carriage contract and documents, such goods shall be confiscated, unless it is evidenced that shipment has been made by mistake?

No. 496845

Are the Ministry of Finance's Directive Ref. No. TTSTF-2665 dated September 2, 1970, and No. TTS-770656151 dated May 18, 1988, which provide that "where the non-operating income is less than non-operating losses, such income shall be considered as zero," unconstitutional?

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