

J. Y. Interpretation No.421 (February 21, 1997) *

ISSUE: May regular remuneration be disbursed by the National Treasury to the Speaker and Vice Speaker of the National Assembly?

RELEVANT LAWS:

Articles 1, Paragraph 8 of the Amendments to the Constitution (憲法增修條文第一條第八項); J. Y. Interpretations Nos. 282 and 299 (司法院釋字第二八二號、第二九九號解釋); the Act Governing the Compensation and Fees for the National Assembly Delegates (國民大會代表報酬及費用支給條例).

KEYWORDS:

National Assembly (國民大會); National treasury (國庫); remuneration (報酬); Central Government's budgets (中央政府總預算).**

HOLDING: Article 1, Paragraph 8, of the Amendments to the Constitution, which was promulgated on August 1, 1994, stipulates that, commencing from the third term, the National Assembly shall inaugurate both the Speaker and the

解釋文：中華民國八十三年八月一日公布之憲法增修條文第一條第八項規定，國民大會自第三屆國民大會起設議長、副議長，由國民大會代表互選之。國民大會議長對外代表國民大會，對內綜理會務，並於開會時主持會議，

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** Contents within frame, not part of the original text, are added for reference purpose only.

Vice Speaker who will be elected by the Delegates to said Assembly from among their members. The Speaker of the National Assembly represents the National Assembly and internally the Speaker coordinates and manages the affairs of the National Assembly and presides over meetings of the National Assembly. Such post is of a regular nature and differs from that of the ordinary Delegates to the National Assembly; regular remuneration is disbursed by the National Treasury. The items and amount of the remuneration fall within the scope of the legislative authority so long as they are within reasonable limits. Therefore, the total budget of the Central Government which was passed by the Legislative Yuan in 1997, to the extent that it relates to the annual salaries, disbursements and special fees of the Speaker and the Vice Speaker, is not in conflict with the Constitution.

In view of the fact that the Speaker and Vice Speaker of the National Assembly hold governmental posts under the Constitution, which represent the National Assembly and that such posts are of a

屬經常性之職位，與一般國民大會代表有異，自得由國庫支給固定報酬。至報酬之項目及額度，在合理限度內係屬立法機關之權限。是立法院通過八十六年度中央政府總預算中，關於議長、副議長之歲費、公費及特別費部分，與憲法尚無牴觸。

國民大會議長、副議長，既為憲法上之國家機關，對外代表國民大會，且屬經常性之職位，復受有國庫依其身分、職務定期支給相當之報酬，除法律另有規定外，自不得兼任其他公職或執

regular nature, they shall be compensated by the National Treasury with remuneration comparable to their position and job duties on a regular basis. Moreover, unless otherwise prescribed by the law, they shall not assume other full-time positions of public service or operate a business.

REASONING: Article 1, Paragraph 8, of the Amendments to the Constitution, which was promulgated on August 1, 1994, stipulates that, commencing from the third term, the National Assembly shall inaugurate both the Speaker and the Vice Speaker who will be elected by the Representatives of the National Assembly from among their members. The Speaker of the National Assembly represents the National Assembly and internally coordinates and manages the affairs of the National Assembly and presides over meetings of the National Assembly. Such post is of a regular nature and differs from that of the ordinary Delegates to the National Assembly; therefore, the Speaker should be entitled to regular remuneration disbursed by the National Treasury. The

行業務，併此敘明。

解釋理由書：八十三年八月一日公布之憲法增修條文第一條第八項規定，國民大會自第三屆國民大會起設議長、副議長，由國民大會代表互選之。國民大會議長對外代表國民大會，對內綜理會務，並於開會時主持會議，屬經常性之職位，與一般國民大會代表有異，自得由國庫支給固定報酬。至報酬之項目及額度，在合理限度內係屬立法機關之權限。本院釋字第二八二號、第二九九號有關國民大會代表應否由國庫定期支給待遇之解釋，以及國民大會代表報酬及費用支給條例，均係在前開憲法增修條文修正前所為，既未包括支給議長、副議長之報酬在內，是以立法院於審查八十六年度中央政府總預算時，決議通過國民大會議長、副議長之歲費、公費及特別費，與憲法尚無牴觸。惟今後修正國民大會代表報酬及費用支

items and amount of the remuneration fall within the scope of the legislative authority so long as they are within reasonable limits. The Interpretations Nos. 282 and 299 of this Yuan which relate to whether representatives of the National Assembly should be remunerated by the National Treasury on a regular basis and the Act Governing the Compensation and Fees for the National Assembly Delegates were all made before the relevant provision in the Amendments to the Constitution was amended, therefore they did not include disbursement of remuneration to the Speaker and the Vice Speaker. Consequently, when the Legislative Yuan was reviewing the Central Government's annual budget for the year 1997 and passed the resolution on the annual salaries, disbursements and special fees payable to the Speaker and Vice Speaker of the National Assembly, such resolution was not in conflict with the Constitution. However, in the future, when the Act Governing the Compensation and Fees for the National Assembly Delegates is being amended, clear stipulations should be made with respect to the Speaker and the Vice Speaker so as to

給條例時，其有關議長及副議長之部分，自應予以明定，以為支給之依據。

provide a legal basis for remuneration.

It is hereby explicated that in view of the fact that the Speaker and Vice Speaker of the National Assembly are government authorities under the Constitution representing the National Assembly and that such posts are of a regular nature, payment should be disbursed by the National Treasury with remuneration comparable to their position and job duties on a regular basis. Moreover, unless otherwise prescribed by the law, they shall not take on other full-time positions of public service or operate a business.

國民大會議長、副議長，既為憲法上之國家機關，對外代表國民大會，且屬經常性之職位，復受有國庫依其身分、職務定期支給相當之報酬，除法律另有規定外，自不得兼任其他公職或執行業務，併此敘明。