

J. Y. Interpretation No.479 (April 1, 1999) *

ISSUE: 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?

RELEVANT LAWS:

Articles 14 and 23 of the Constitution (憲法第十四條、第二十三條) ; Articles 3, 5 and 12 of the Civil Organizations Act (人民團體法第三條、第五條、第十二條) ; Section 4 of the Regulation for Registration of Social Entities (社會團體許可立案作業規定第四點) ; J. Y. Interpretation Nos.367, 390, 443 and 454 (司法院釋字第三六七號、第三九〇號、第四四三號、第四五四號解釋) .

KEYWORDS:

freedom of association (結社自由) , people's association (人民團體) , administrative areas (行政區域) .**

HOLDING: Article 14 of the Constitution prescribes that the people

解釋文：憲法第十四條規定人民有結社自由，旨在保障人民為特定目

* Translated by Jiunn-rong Yeh.

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shall have the freedom of association. The original intent of the Article is to protect the people's freedom to form any organizations they wish and to participate freely in their activities. Hence, a free choice of organizational name is at the very core of the protection of freedom of association since naming an organization is crucial to the purpose, nature, and identity of members in one's organization, and to its own distinctiveness from those of others. The infringement of the associations' right to their own names, hence, shall not be permitted unless under the circumstances specified by Article 23 of the Constitution and by laws or specifically delegated rules.

Article 5 of the Civil Organizations Act prescribes that organizational areas of civil associations shall be limited to administrative areas. Article 12 of the same Act, however, does not specify ways that people's organizations shall be named. Rather, it only requires that names and organizational areas of associations be specified in their own charters. In accordance with the prior Interpretations of this

的，以共同之意思組成團體並參與其活動之自由。就中關於團體名稱之選定，攸關其存立之目的、性質、成員之認同及與其他團體之識別，自屬結社自由保障之範圍。對團體名稱選用之限制，亦須符合憲法第二十三條所定之要件，以法律或法律明確授權之命令始得為之。

人民團體法第五條規定人民團體以行政區域為組織區域；而第十二條僅列人民團體名稱、組織區域為章程應分別記載之事項，對於人民團體名稱究應如何訂定則未有規定。行政機關依其職權執行法律，雖得訂定命令對法律為必要之補充，惟其僅能就執行母法之細節性、技術性事項加以規定，不得逾越母法之限度，迭經本院解釋釋示在案。內政部訂定之「社會團體許可立案作業規

Yuan, administrative agencies, based on the mandate of executing laws, may make necessary rules to supplement laws. The administrative rules, however, shall not go beyond the mandate of delegating laws and shall be limited to details and technicalities concerning the executions of laws. Section 4 of the Regulation for Registration of Social Entities, promulgated by the Ministry of the Interior, requiring that civil associations be named in accordance with their administrative areas, goes far beyond the mandate intended by the delegating Act. As a result, this section infringes upon the peoples' freedom of association guaranteed by the Constitution and shall be declared null and void.

REASONING: Article 14 of the Constitution that guarantees freedom of association as one of the people's fundamental rights is to empower people by way of freely forming associations to formulate their common wills, pursue their common beliefs, and ultimately realize their common goals. Freedom of association not only includes the people's right to freely determine the purposes and

定」第四點關於人民團體應冠以所屬行政區域名稱之規定，逾越母法意旨，侵害人民依憲法應享之結社自由，應即失其效力。

解釋理由書：憲法第十四條結社自由之規定，乃在使人民利用結社之形式以形成共同意志，追求共同理念，進而實現共同目標，為人民應享之基本權利。結社自由不僅保障人民得自由選定結社目的以集結成社、參與或不參與結社團體之組成與相關事務，並保障由個別人民集合而成之結社團體就其本身之形成、存續、命名及與結社相關活動之推展免於受不法之限制。結社團體於

forms of their associations, but also the right to join or not join any associations and related activities. It also guarantees any associations that individuals form and join, along with their creation, maintenance, naming, and promotion of their related activities from any unlawful infringement. With such a protection, associations may freely, in accordance with common consensus reached by a majority principle, decide their own business affairs related to associations including naming and openly express ideas consistent with the purpose of associations. By choosing their own names, associations express their existence as associations and show their own distinctiveness from that of others. Using their own names, associations will be able to, internally, strengthen the identity of their members, and externally, further their business relations as well as promote their activities under said names. Should associations have been deprived of the freedom to choose their own names, the nature of free association, being able to freely determine their own business affairs, would not have been incarnated, and that recruitment and main-

此保障下得依多數決之整體意志，自主決定包括名稱選用在內之各種結社相關之事務，並以有組織之形式，表達符合其團體組成目的之理念。就中人民團體之名稱，乃在表彰該團體之存在，作為與其他團體區別之標識，並得以其名稱顯現該團體之性質及成立目的，使其對內得以凝聚成員之認同，對外以團體之名義經營其關係、推展其活動。人民團體若對其名稱無自主決定之自由，其自主決定事務之特性固將無從貫徹，而其對成員之招募與維持及對外自我表現之發揮，尤將因而受不利之影響。故人民團體之命名權，無論其為成立時之自主決定權或嗣後之更名權，均為憲法第十四條結社自由所保障之範疇。對團體名稱選用之限制亦須符合憲法第二十三條所定之要件，以法律或法律明確授權之命令始得為之。

tenance of their members as well as external expressions of their own wills would have been disadvantaged. Hence, associations' right to choose their own names, at the time of their creation, or the right to change their names afterwards, shall be protected under the right of freedom of association that Article 14 of the Constitution guarantees. The infringement of the associations' right to choose their own names shall not be permitted unless under the circumstances specified by Article 23 of the Constitution and by laws or specifically delegated rules.

Article 3 of the Civil Organizations Act assigns agencies to regulate civil associations at the national, provincial, and county levels. Article 5 of the same Act prescribes that organizational areas of civil associations shall be limited to the abovementioned administrative areas. Although Article 12 of the Act requires that names and organizational areas of associations be specified in their own charters, it does not intend to limit associations' internal or external activities to such administrative areas specified in their own char-

人民團體法第三條規定人民團體在全國、省、縣之主管機關，第五條規定人民團體以行政區域為組織區域。至於人民團體名稱應如何訂定，同法並無明文規定。雖同法第十二條將人民團體之名稱、組織區域等，分別列為章程應記載之事項，惟探其立法意旨，關於人民團體組織區域之規定，無非在確立人民團體之主管機關及辦理法人登記之管轄法院，不在限制以章程上所記載之組織區域為人民團體實際對內或對外活動之範圍。人民團體之組織區域與名稱分別代表不同之意義，其間並無必然之關

ters. According to the original intent of the Article, the purpose of specifying organizational areas of associations is to assign agencies to regulate the civil associations as well as to determine which courts have jurisdiction with regard to registering matters on their legal person. Names and organizational areas of associations manifest differently such that between them there are no necessary relations. While administrative agencies, based on their mandate of executing laws, may make necessary rules to supplement laws, the administrative rules shall not go beyond the mandate of delegating laws and shall be limited to details and technicalities concerning the execution of related laws. This fundamental principle has been previously upheld in Interpretations Nos. 367, 390, 443 and 454. Hence, Section 4 of the Regulation for Registration of Social Entities, made by the Ministry of the Interior, requiring that civil associations be named in accordance with their administrative areas, infringes upon the peoples' freedom of association guaranteed by Article 14 of the Constitution and shall be declared null and void. Likewise,

連。行政機關依其職權執行法律，雖得訂定命令對法律為必要之補充，惟其僅能就執行母法之細節性、技術性事項加以規定，不得逾越母法之限度，此業經本院釋字第三六七號、第三九〇號、第四四三號及第四五四號解釋釋示在案。內政部訂定之「社會團體許可立案作業規定」第四點關於人民團體應冠以所屬行政區域名稱之規定，侵害人民依憲法第十四條所保障之結社自由，應即失其效力。上開作業規定之其他內容，主管機關亦應依照本解釋意旨檢討修正，以符憲法保障結社之權，併此指明。

based on this Interpretation, the competent authority shall closely examine other sections of the same Regulation and, if necessary, make correspondent revisions in order to be consistent with the rights of associations guaranteed by the Constitution.

Justice Hsiang-Fei Tung filed dissenting opinion, in which Justice Tieh-Cheng Liu and Justice Yueh-Chin Hwang joined.

本號解釋董大法官翔飛、劉大法官鐵錚與黃大法官越欽共同提出不同意見書。