

J. Y. Interpretation No.259 ( April 13, 1990 ) \*

**ISSUE:** Shall the laws of the Central Government be applicable to special (Executive-Yuan-governed) municipalities before laws of local self-governance are enacted?

**RELEVANT LAWS:**

Article 118 of the Constitution ( 憲法第一百十八條 ) .

**KEYWORDS:**

executive-governed municipality ( 直轄市 ) , local self-governance ( 地方自治 ) .\*\*

**HOLDING:** Article 118 of the Constitution expressly stipulates that the self-governance of an special (Executive-Yuan-governed) municipality shall be prescribed by law. However, the abovementioned law has not yet been enacted, and the existing organization of special municipalities and the administration of local self-governance matters are governed by laws of the Central Government. To render the constitutional intent of local self-governance effective, there shall be en-

**解釋文：**直轄市之自治，以法律定之，為憲法第一百十八條所明定。惟上開法律迄未制定，現行直轄市各級組織及實施地方自治事項，均係依據中央頒行之法規行之。為貫徹憲法實施地方自治之意旨，自應斟酌當前實際狀況，制定直轄市自治之法律。在此項法律未制定前，現行由中央頒行之法規，應繼續有效。

---

\* Translated by Wei-Feng Huang of THY Taiwan International Law Offices.

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

acted laws for the special municipalities' self-governance, taking into consideration the practical circumstances. Until such laws are enacted, the existing laws of the Central Government shall remain in effect.

**REASONING:** The Constitution provides different systems of local government for the province, counties and special municipalities in Chapter XI. Article 118 of the Constitution has authorized the enactment of laws for self-governance of special municipalities. Although the local self-governance of special municipalities need not follow the same procedures as those of the province or counties, it still has to abide by the Constitution and enact the relevant laws.

The Constitution stipulates that local self-governance must be achieved in an orderly manner; however, the abovementioned law has not yet been enacted. The existing organization of special municipalities and the administration of local self-governance matters are governed by laws of the Central Government. To ren-

**解釋理由書：**憲法關於地方制度，於其第十一章就省、縣與直轄市有不同之規定，直轄市如何實施地方自治，憲法第一百十八條授權以法律定之。故直轄市實施地方自治，雖無須依省、縣自治相同之程序，惟仍應依憲法意旨，制定法律行之。

憲法規定之地方自治，須循序實施，前述直轄市自治之法律，迄未制定。現行直轄市各級組織及實施地方自治事項，均係依據中央頒行之法規行之。為貫徹憲法實施地方自治之意旨，仍應斟酌當前實際狀況，從速制定直轄市自治之法律，以謀求改進。在此項法律未制定前，直轄市之自治與地方行政

der the constitutional intention of local self-governance effective, the government shall promptly enact laws for the special municipalities' self-governance, taking into consideration the practical circumstances in order to facilitate improvement. The self- governance and local administration of special municipalities must not be suspended, thus until the aforementioned laws are enacted, the existing laws of the Central Government shall remain in effect.

事務，不能中斷，現行由中央頒行之法規，應繼續有效。