

J. Y. Interpretation No.2 (January 6, 1949) *

ISSUE: Where a government agency's view in applying a law or regulation differs from the view previously held by the same or another agency in applying the same law or regulation, should such government agency file a petition for uniform interpretation of the law or regulation except where, by law, it should be bound by the previous view or may change its current view?

RELEVANT LAWS:

Articles 78 and 173 of the Constitution (憲法第七十八條、第一百七十三條) .

KEYWORDS:

interpretation [of the Constitution] (憲法解釋) , unified interpretation (統一解釋) .**

HOLDING: Article 78 of the Constitution stipulates that the Judicial Yuan shall have the power to interpret the Constitution and to unify the interpretation of laws and regulations. It is referred to as an interpretation in regard to the Constitution and a unified interpretation in regard to laws and regulations, with the

解釋文：憲法第七十八條規定司法院解釋憲法並有統一解釋法律及命令之權，其於憲法則曰解釋，其於法律及命令則曰統一解釋，兩者意義顯有不同，憲法第一百七十三條規定憲法之解釋由司法院為之，故中央或地方機關於其職權上適用憲法發生疑義時，即得聲請司法解釋，法律及命令與憲法有無牴

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two carrying distinctive meanings. Article 173 of the Constitution provides that the Judicial Yuan shall interpret the Constitution. Thus, in the event that questions are raised in the application of the Constitution while central and local agencies are discharging their duties, said agencies may petition the Judicial Yuan for an interpretation. The same [rule] applies in dealing with questions concerning whether a [given] statute or regulation contradicts the Constitution. With regard to other [types of] questions in the application of a law [or statute] or regulation, the authorized central or local agencies must initiate their own research to ensure the meaning before such application. Hence, there is no cause upon which a petition for judicial interpretation as such should be granted. If and when the opinions of an agency department in its application of a law or regulation are different from the opinions of the same agency or another agency in applying the same law [statute] or regulation, unless by law the department's opinions are to be restricted within the confines of the opinion of that agency or another agency, or may be

觸，發生疑義時亦同。至適用法律或命令發生其他疑義時，則有適用職權之中央或地方機關，皆應自行研究，以確定其意義而為適用，殊無許其聲請司法院解釋之理由，惟此項機關適用法律或命令時所持見解，與本機關或他機關適用同一法律或命令時所已表示之見解有異者，苟非該機關依法應受本機關或他機關見解之拘束，或得變更其見解，則對同一法律或命令之解釋必將發生歧異之結果，於是乃有統一解釋之必要，故限於有此種情形時始得聲請統一解釋。本件行政院轉請解釋，未據原請機關說明所持見解與本機關或他機關適用同一法律時所已表示之見解有異，應不予解釋。

adjusted, there is then the necessity to have a unified interpretation before a conflicting interpretation over the same law [statute] or regulation results. Thus, a petition for unified interpretation may be granted only under this circumstance. There will be no interpretation [offered] to the present petition, as retransmitted by the Executive Yuan, since it was not based upon the differences of opinions between the original agency department and the same or another agency in the application of the same law [or statute].