

J. Y. Interpretation No.9 (October 27, 1952) *

ISSUE: May a party concerned indicate in the appeal that the adjudication violates the Constitution?

RELEVANT LAWS:

Article 172 of the Constitution (憲法第一百七十二條).

KEYWORDS:

violation of constitution (違憲), discrepancies (歧異).**

HOLDING:

1. Should a judgment violate the Constitution, the party concerned may, in the process of litigating, indicate the claimed violation in its reasoning.

2. According to the submitted opinions, the second point therein failed to indicate any discrepancies between the submitted opinions and the opinions which were issued by the concerned authority or other authorities. It therefore does not comply with Article 4 of the Regulation Governing the Adjudication of Grand Justices Council and, as a result, the request for uniform interpretation is thus denied.

解釋文：

一、裁判如有違憲情形，在訴訟程序進行中，當事人自得於理由內指摘之。

二、來文所稱第二點，未據說明所持見解與本機關或其他機關所已表示之見解有何歧異，核與大法官會議規則第四條之規定不合，礙難解答。

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

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