

J. Y. Interpretation No.183 (October 7, 1983) *

ISSUE: What are the requirements to be satisfied before the people may apply for a constitutional interpretation? And to what extent will the interpretation so rendered be valid?

RELEVANT LAWS:

Article 4 of the Grand Justices Council Adjudication Act (司法院大法官會議法第四條) ; and J.Y. Interpretation No.177 (司法院釋字第一七七號解釋) .

KEYWORDS:

Interpretation (解釋) .**

HOLDING: Reference to “Interpretations by this Yuan rendered upon the people’s applications” in Interpretation No.177 means interpretations requested by the people in accordance with Article 4, Paragraph 1, Subparagraph 2, of the Grand Justices Council Adjudication Act. The matter of the force of this Yuan’s interpretation given upon request by the central or regional authorities with respect to doubts and disputes that have

解釋文：本院釋字第一七七號解釋文所稱「本院依人民聲請所為之解釋」，係指人民依司法院大法官會議法第四條第一項第二款之規定，聲請所為之解釋而言。至本院就中央或地方機關行使職權適用憲法、法律或命令發生疑義或爭議時，依其聲請所為解釋之效力，係另一問題。

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arisen due to their adoption of the Constitution, statutes or orders is a separate issue.

REASONING: When the people's constitutionally-protected rights are illegally infringed upon, the people may institute proceedings pursuant to legal procedures, and may apply for interpretations of the Constitution when there are doubts concerning the constitutionality of the laws or orders adopted by final court judges. The foregoing is expressly provided in Article 4, Paragraph 1, Subparagraph 2, of the Grand Justices Council Adjudication Act. Pursuant to the said provision, there are three elements to be satisfied when the people apply for an interpretation of the Constitution: 1) the people's constitutionally-protected rights must have been unlawfully infringed upon; 2) proceedings must have been instituted under lawful procedures; and 3) there must be doubts concerning the constitutionality of the laws or orders adopted by the final court judge. Only when all three elements are satisfied can an action stand. Therefore, applications by the peo-

解釋理由書：按人民於其憲法上所保障之權利，遭受不法侵害，經依法定程序，提起訴訟，對於確定終局裁判所適用之法律或命令，發生有牴觸憲法之疑義者，得聲請解釋憲法，司法院大法官會議法第四條第一項第二款定有明文。依此規定，人民聲請解釋憲法之要件有三：(1)須人民於其憲法上所保障之權利，遭受不法侵害。(2)須依法定程序提起訴訟。(3)須對於確定終局裁判所適用之法律或命令，發生有牴觸憲法之疑義。三項要件俱備，始得為之。故人民聲請解釋憲法係以曾受法院之確定終局裁判為必要，從而本院釋字第一七七號解釋之解釋文所稱「本院依人民聲請所為之解釋」，係指人民依司法院大法官會議法第四條第一項第二款之規定，聲請所為之解釋而言，該項解釋之效力，及於該聲請人所據以聲請解釋之案件，俾得依法定程序請求救濟。至本院就中央或地方機關行使職權適用憲法、法律或命令發生疑義或爭議時，依其聲請所為解釋之效力，係另一問題。

ple for an interpretation of the Constitution shall be with respect to a final court judgment. Accordingly, reference to “Interpretations by this Yuan rendered upon the people’s applications” in Interpretation No. 177 shall mean interpretations requested by the people in accordance with Article 4, Paragraph 1, Subparagraph 2, of the Grand Justices Council Adjudication Act. The force and effect of the said Interpretation extend to cases based on which applicants may apply for interpretations and for relief pursuant to lawful procedures. The matter of the force of this Yuan’s interpretation given upon request by the central or regional authorities with respect to doubts and disputes that have arisen due to their adoption of the Constitution, statutes or orders is a separate issue.