

J. Y. Interpretation No.220 (December 23, 1987) \*

**ISSUE:** Does the first sentence of Article 8 of the Regulation Governing Settlement of Labor Disputes During the Period of National Mobilization for Suppression of the Communist Rebellion stating that “If either party disobeys the ruling of the Labor-Management Arbitration Committee, the competent authority may strictly execute that ruling” infringe upon the people’s right of instituting legal proceedings under Article 16 of the Constitution?

**RELEVANT LAWS:**

Article 16 of the Constitution (憲法第十六條) ; Article 1 of the Administrative Proceedings Act (行政訴訟法第一條) ; Administrative Execution Act (行政執行法) ; The first sentence of Article 8 of the Regulation Governing Settlement of Labor Disputes During the Period of National Mobilization for Suppression of the Communist Rebellion (動員戡亂時期勞資糾紛處理辦法第八條前段) .

**KEYWORDS:**

right to litigation (訴訟權) , labor disputes (勞資糾紛) , administrative execution (行政執行) , adjudication (裁決) .\*\*

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\* Translated by Ching P. Shih.

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

**HOLDING:** The first sentence of Article 8 of the Regulation Governing Settlement of Labor Disputes During the Period of National Mobilization for Suppression of the Communist Rebellion states: "If either party disobeys the ruling of the Labor-Management Arbitration Committee, the competent authority may strictly execute that ruling." The meaning of this article is that when the parties do not comply with the intent of the ruling, the competent authority may employ its administrative execution under law. If there is any dispute, the parties may still ask for a remedy through the legal process. The article mentioned above does not infringe upon the people's right to litigation; thus, it does not contradict the Constitution. Precedent P.T. No. 528 (Ad. Ct. 1971), regardless of the nature of disputes, considers the above ruling as a final decision which can no longer be challenged. The Precedent is not in accordance with the intention of this Interpretation; therefore, it is no longer applicable.

**REASONING:** The first sentence of Article 8 of the Regulation Gov-

**解釋文：**動員戡亂期間勞資糾紛處理辦法第八條前段規定：「勞資評斷委員會之裁決，任何一方有不服從時，主管機關得強制執行。」係指當事人不依裁決意旨辦理時，該管行政機關得依法為行政上之執行而言，如有爭議，仍得依法定程序請求救濟。是前開規定並未限制人民之訴訟權，與憲法尚無牴觸。至行政法院六十年判字第五二八號判例，不分爭議性質如何，認為上述評斷概為最終之裁決，不容再事爭執，與上開解釋意旨不符，不得再行援用。

**解釋理由書：**按行政院於中華民國三十六年十一月一日發布之動員戡

erning Settlement of Labor Disputes During the Period of National Mobilization for Suppression of the Communist Rebellion promulgated by the Executive Yuan on November 1, 1947, states: "If either party disobeys the ruling of the Labor-Management Arbitration Committee, the competent authority may strictly execute that ruling." The so-called ruling is of the nature of administrative act; and the so-called strict execution aims at the execution employed by the competent authority under the Administrative Execution Act. The ruling should not, regardless of the nature of disputes, be deemed as a final decision which can no longer be challenged just because provisions such as this kind of administrative execution existed. If there is any dispute, the parties may still ask for a remedy through the legal process. Article 8 of the Measures does not infringe upon the people's right to litigation; thus, it does not contradict provisions regarding the protection of the people's right to litigation in Article 16 of the Constitution.

亂期間勞資糾紛處理辦法第八條前段規定「勞資評斷委員會之裁決，任何一方有不服從時，主管機關得強制執行。」其所謂裁決，乃屬行政處分之性質；所謂強制執行，係指該管行政機關依行政執行法所為之執行。不能因有此行政執行之規定，遂不分爭議之性質如何，而謂其評斷概為最終之裁決，不容再事爭執。當事人如有爭議，仍得依法定程序請求救濟。是上開辦法第八條並未限制人民之訴訟權，與憲法第十六條保障人民訴訟權之規定，尚無牴觸。

1971), considering the ruling made under the Measures Governing the Settlement of Labor Disputes during the Period of National Mobilization for Suppression of the Communist Rebellion as a final decision which can no longer be challenged after the ruling has been made, is not in accordance with the intention of this Interpretation and, therefore, is no longer applicable.

判例稱依照戡亂期間勞資糾紛處理辦法所為之評斷為最終之裁判，一經裁決即不容再事爭執，與前解釋意旨不符，不得再行援用。