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

Government-Petitioned Uniform Interpretation Case

Issue

In what circumstances may a government authority file a petition for uniform interpretation of statutes and regulations?

Holding

Article 78 of the Constitution provides that the Judicial Yuan shall have the power to interpret the Constitution and to unify the interpretations of statutes and regulations. For the Constitution, Article 78 uses the term “interpret,” whereas for statutes and regulations, it uses the term “unify the interpretations.” These two terms carry different meanings. Article 173 of the Constitution stipulates that the Judicial Yuan has the authority to interpret the Constitution. Therefore, in the event that an authority of the central or local governments has doubts regarding the application of the Constitution in exercising its powers, it may petition the Judicial Yuan for constitutional interpretation. This also applies in dealing with questions concerning whether a given statute or regulation is in violation of the Constitution. Regarding any interpretative indeterminacy found by an authority of the central or local governments in the course of application of statutes and regulations, the authority should first conduct its own inquiry and delineate the scope of meaning. In such cases, the authority has no grounds to petition for uniform interpretation to the Judicial Yuan. However, when the statutory interpretation of a government authority differs from the existing interpretation rendered by the same or another government authority in its

* Translation and Note by Cheng-Yi HUANG

application of the said statute or regulation, there exists a necessity to unify the interpretations to avoid a conflict, unless the authority's interpretation shall be controlled by its own existing opinion or by the opinions of other government authorities, or it may change such opinions. A petition for uniform interpretation may be granted only in this circumstance. This petition, submitted by the Executive Yuan, did not present different constructions of the same statute between the said authority and other authorities. Therefore, the petition is denied.

Background Note by the Translator

In September 1948, the Executive Yuan petitioned the Judicial Yuan for interpretation to dispel doubts as to which law(s) should be applied by the Ministry of Judicial Administration in the charging of offenses against standing soldiers who desert from the reserve service.