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## **Constitutional Court Procedure Act**

**Promulgated on February 3, 1993**

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### **Chapter I. General Principles**

#### **Article 1**

This Act is enacted in accordance with Article 6 of the Judicial Yuan Organization Act.

#### **Article 2**

The Justices of the Judicial Yuan (hereinafter “Court”) shall exercise the Judicial Yuan’s power to decide, in the form of conference, the cases on constitutional interpretation and uniform interpretation of statutes and regulations; the Court shall adjudicate, in the form of constitutional tribunal, the cases on the dissolution of unconstitutional political parties.

#### **Article 3**

In the case of whether a Justice shall disqualify himself or herself, the Administrative Court Procedure Act shall apply *mutatis mutandis*.

### **Chapter II. Procedures for Constitutional Interpretation and Uniform Interpretation**

#### **Article 4**

The subject matters of constitutional interpretation by the Court include the following:

- (1) Matters on doubts concerning the application of the Constitution;
- (2) Matters on the constitutionality of statutes or regulations; and
- (3) Matters on the constitutionality of laws on provincial self-government, laws on county self-government, provincial ordinances, and county ordinances.

The subject matters of constitutional interpretation shall be limited to those specifically enumerated by the Constitution.

### **Article 5**

Petitions for constitutional interpretation may be filed on the following grounds:

- (1) When an authority of the central or local government, in exercising its powers, has doubts about the meaning of a constitutional provision at issue; or has disputes with other authorities in the application of a constitutional provision; or has doubts about the constitutionality of a statute or regulation at issue;
- (2) When an individual, a legal entity, or a political party, whose constitutional right is unlawfully violated and after exhaustion of ordinary judicial remedies, has doubts about the constitutionality of the statute or regulation applied by a final court decision of last resort; or
- (3) When one-third or more of the incumbent Legislators, in exercising their powers, have doubts about the meaning of a constitutional provision at issue, or have doubts about the constitutionality of a statute at issue.

Either the Supreme Court or the Supreme Administrative Court may halt the court proceedings and petition the Court for constitutional interpretation if it firmly believes the applicable statute or regulation is in conflict with the Constitution.

Petitions for constitutional interpretation shall be dismissed if not meeting the requirements set forth in the preceding two Paragraphs.

### **Article 6**

Article 5 of this Act shall apply *mutatis mutandis* to petitions arising under Article 4, Paragraph 1, Subparagraph 3, except those arising under Article 114 of the Constitution.

## **Article 7**

Petitions for uniform interpretation may be filed on the following grounds:

- (1) When an authority of the central or local government, in exercising its powers, has an interpretation on a statute or regulation at issue different from an existing interpretation rendered by the same or another government authority in its application of the said statute or regulation, except that the petitioning authority shall be bound by its own existing opinion or by the opinions of other government authorities, or the petitioning authority may change such opinions.
- (2) When an individual, a legal entity, or a political party, whose right is unlawfully violated, believes that the opinion of a final court decision regarding the application of a statute or regulation is different from a past decision made by another judicial body regarding the same statute or regulation, except that the petitioned case is still appealable or the prior decision has been overturned by the subsequent decision.

Petitions under Subparagraph 2 of the preceding Paragraph shall be submitted within three months after the court decision becomes final.

Petitions for uniform interpretation shall be dismissed if not meeting the requirements set forth in the preceding two Paragraphs.

## **Article 8**

Petitions for constitutional interpretation shall be submitted to the Judicial Yuan in writing, including the following contents:

- (1) Purpose of the petition for constitutional interpretation;
- (2) Nature and factual background of doubts or disputes and the related constitutional provisions;
- (3) Grounds of petition for constitutional interpretation and the positions and arguments taken by the petitioner on the pending case; and
- (4) Names and number of Exhibits.

Petitions for uniform interpretation shall be submitted to the Judicial Yuan in writing, including the following contents:

- (1) Purpose of the petition for uniform interpretation;
- (2) Factual background regarding the different opinions of statutes or regulations and the involved statutes or regulations;
- (3) Grounds of petition for uniform interpretation and the positions and arguments taken by the petitioner on the pending case; and
- (4) Names and number of Exhibits.

### **Article 9**

When the petitioning authority is subordinate to another superior authority, its petition shall be submitted, via the administrative hierarchy, by its superior authority. The superior authority shall not submit the petition if it does not consider the petition to meet the prescribed requirements, or if it shall resolve the case *ex officio*.

### **Article 10**

A submitted petition shall first be reviewed by a panel of three Justices designated by the Court. If a petition does not meet the requirements of this Act and shall be dismissed, the panel shall present it to the Court with reasons. For those petitions to be decided on the merits, the panel shall report them to the Court for further deliberations.

Upon assigning a petition to the said panel review, a submission deadline for Court deliberation may be designated.

### **Article 11**

For those petitions submitted for Court deliberation under the preceding Article, the Court shall discuss and decide the conclusion of the holding first, and then assign a Justice to prepare a draft interpretation. Such draft interpretation shall be circulated to all Justices before Court meetings, so that it may be voted on after deliberation.

## **Article 12**

Voting of the Court shall be conducted either by a show of hands or by a roll call.

## **Article 13**

For interpretation of a petition, the Court shall refer to materials about the enactment and amendment of the Constitution, as well as the legislative history of a statute or regulation. Based on the petitioner's motion or *sua sponte*, the Court may request the petitioners, the interested parties, or authorities concerned to present briefs. The Court may also conduct its own investigation. The Court, when necessary, may hold oral arguments in open court.

In case of oral arguments held under the preceding Paragraph, the provisions governing the oral arguments of the Constitutional Tribunal shall apply *mutatis mutandis*.

## **Article 14**

Adoption of a constitutional interpretation requires the consent of two-thirds of Justices present at a meeting with a quorum of two-thirds of the total number of incumbent Justices. Adoption of an interpretation declaring a regulation unconstitutional requires the consent by a simple majority of Justices present at a meeting.

Adoption of a uniform interpretation of statutes or regulations requires the consent of a simple majority of Justices present at a meeting with a quorum of a majority of the total number of incumbent Justices.

## **Article 15**

The Justices shall hold three meetings each week and may hold extraordinary meetings when necessary.

## **Article 16**

The President of the Judicial Yuan shall chair the formal conferences of the Court. If the President is unable to chair such conferences, the Vice President shall

be the chairperson. In the case that both the President and Vice President are unable to chair the formal conferences, the most senior Justice present at that conference shall be the chairperson. In the case of several Justices with the same seniority, the oldest one shall chair.

The deliberation conferences shall be convened by the Justice serving as the monthly executive and chaired by each Justice in rotation.

#### **Article 17**

An interpretation delivered by the Court shall include the holding and the reasoning and be published by the Judicial Yuan together with the concurring and dissenting opinions. The Court shall also notify the petitioner and other parties concerned of the rendition of the Interpretation.

The Court may instruct the authorities concerned on how to implement its Interpretations, including the types and means of implementation.

#### **Article 18**

The Secretary-General of the Judicial Yuan shall attend, as a nonvoting member, the formal conferences of the Court.

### **Chapter III. Procedures for Dissolution of Unconstitutional Political Parties**

#### **Article 19**

When a political party's purpose or conduct endangers the existence of the Republic of China or the free democratic constitutional order, the competent authorities may petition the Constitutional Tribunal of the Judicial Yuan for dissolution of the said party.

Petitions under the preceding Paragraph shall be submitted to the Judicial Yuan in writing, including the following contents:

- (1) The petitioning authority and the name of its representative;
- (2) The name and address of the political party to be dissolved, the name, gender, age, and residence or domicile of the said party's representative,

- as well as the representative's relationship to the said party;
- (3) Reasons for dissolution of the political party;
  - (4) Facts and evidence supporting the dissolution of the political party;  
and
  - (5) Date of the petition.

#### **Article 20**

The most senior Justice shall be the presiding justice during the procedures of the Constitutional Tribunal. In case of several Justices with the same seniority, the oldest one shall preside.

#### **Article 21**

The Constitutional Tribunal shall hold oral arguments before rendering its judgment, unless it does not consider a petition to warrant an oral argument and decides to dismiss it straightaway.

#### **Article 22**

For the oral arguments under the preceding Article, either party may appoint no more than three legal counsels, who shall be either attorneys or law professors.

Appointment of legal counsels shall be approved by the Constitutional Tribunal in advance.

#### **Article 23**

For fact-finding, the Constitutional Tribunal may request the prosecutor or direct the judicial police to conduct searches and seizures.

The relevant provisions of the Code of Criminal Procedure and the Statute for Directing the Judicial Police shall apply *mutatis mutandis* to the searches and seizures conducted under the preceding Paragraph and direction of the judicial police.

#### **Article 24**

For oral arguments of the Constitutional Tribunal, there shall be at least three-fourths of the total number of incumbent Justices present. Those Justices not present in the oral arguments shall not participate in the deliberation of the judgment.

Within one month after the closing of oral arguments, the Constitutional Tribunal shall designate a date to pronounce its judgment.

### **Article 25**

A judgment of the Constitutional Tribunal on the dissolution of an unconstitutional political party shall be made with a vote for the dissolution by at least two-thirds of the Justices present in the oral arguments.

The Constitutional Tribunal shall rule against the dissolution if votes for dissolution are less than two-thirds of the Justices as provided in the preceding Paragraph.

An order of the Constitutional Tribunal on a petition for dissolution of an unconstitutional political party or a decision made pursuant to the proviso of Article 21 shall be made with the consent of a majority of the Justices present at a meeting having a quorum of three-fourths of the total number of incumbent Justices.

### **Article 26**

When the Constitutional Tribunal finds a petition sustainable on the merits, it shall declare unconstitutional the defendant political party and dissolve it by a judgment; when the Constitutional Tribunal finds a petition not sustainable on the merits, it shall dismiss the petition by a judgment.

### **Article 27**

Judgments shall be in writing, including the following contents:

- (1) The petitioning authority;
- (2) The name and address of the defendant political party;
- (3) The name and residence or domicile of the party's representative, as

well as the relationship of the said representative to the party;

- (4) The name and residence or domicile of the legal counsels, if any;
- (5) Holding;
- (6) Facts;
- (7) Reasoning;
- (8) The Constitutional Tribunal of the Judicial Yuan; and
- (9) The announcement date of the judgment.

The Constitutional Tribunal may designate a government authority to execute its judgment and specify the means of execution.

Judgments shall be signed by all participating Justices.

#### **Article 28**

In addition to being announced in open court or served, judgments of the Constitutional Tribunal shall be published, together with the concurring and dissenting opinions, if any.

Judgments of the Constitutional Tribunal shall be served on the petitioning authority, the defendant political party, and the designated authority to execute the judgment. Other authorities concerned shall be notified as well.

#### **Article 29**

Judgments of the Constitutional Tribunal are not appealable.

#### **Article 30**

Once a political party is dissolved, it shall terminate all activities and shall not establish any substitute organization for the same purposes. Its representatives elected based on the party-list proportional system shall be deprived of their membership in the representative bodies immediately at the time when the judgment becomes effective.

All government authorities shall take necessary measures to carry out the mandates of the Constitutional Tribunal's judgements.

The provisions of the Civil Code regarding the legal entity shall apply

*mutatis mutandis* to the liquidation of property after a political party is dissolved.

### **Article 31**

If, during its trial on the dissolution of an unconstitutional political party, the Constitutional Tribunal finds that the conduct of the defendant political party may have endangered national security or the social order and deems it necessary to terminate part or all of the defendant political party's activities, it, upon motion of the petitioning authority and by court order, may command the defendant political party to do so before the Tribunal renders the judgment.

### **Article 32**

Except as otherwise provided in this Act, the provisions of Administrative Court Procedure Act shall apply *mutatis mutandis* to the trials of the Constitutional Tribunal on the dissolution of unconstitutional political parties. The rules of procedure of the Constitutional Tribunal shall be made by the Judicial Yuan.

### **Article 33**

Except as otherwise provided in this Act, the provisions of the Court Organization Act shall apply *mutatis mutandis* to the following matters of the Constitutional Tribunal: its yearly terms and business management, the opening and closing of court sessions, court orders, the languages used in the court, and the deliberation of court decisions.

The court dress of Justices and the seat arrangement of the Constitutional Tribunal shall be decided by the Judicial Yuan.

## **Chapter IV. Appendix**

### **Article 34**

The enforcement rules of this Act shall be made by the Judicial Yuan.

### **Article 35**

This Act shall become effective as of the date of its promulgation.