

Council of Grand Justices sinks Chen

Written by Taipei Times

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The Council of Grand Justices yesterday announced a constitutional interpretation that switching judges in former president Chen Shui-bian's (陳水扁) case was not unconstitutional, dealing a serious blow to the former president and his supporters.

The Council of Grand Justices reasoned that the method the Taipei District Court used to combine corruption and money laundering cases was in agreement with the Constitution's protection of a defendant's litigation rights because it was conducted according to the law and through a committee of five judges, said Hsieh Wen-ting (許文廷), spokesperson for the Judicial Yuan.

Last December, a panel of judges replaced Judge Chou Chan-chun (周昌春) with Tsai Shou-hsun (蔡守訓) in the trial of Chen and 12 codefendants. The change prompted allegations of procedural flaws and political interference.

Chen's office then petitioned the Council of Grand Justices for an interpretation on whether switching the judges was constitutional.

On Sept. 11, after Tsai announced guilty verdicts for Chen, former first lady Wu Shu-jen (吳淑珍) and other co-defendants, some legal experts and retired judges said the first ruling was invalid because Tsai was unconstitutionally presiding over the case.

The Council of Grand Justices' ruling could weaken the case built by Chen and his lawyers, who have repeatedly stated in court that the judiciary's decision to switch judges created doubt as to whether justice would be served in the former president's case.

Speculation is rife that the judges were switched for political reasons because Chou once ruled to release Chen from detention, while Tsai has repeatedly ruled to keep him in detention.

In addition, the Council yesterday said that in accordance with the Code of Criminal Procedure (刑事訴訟法), it is constitutional for prosecutors to appeal the ruling if judges were to release Chen from detention.

Although the Council ruled that it is constitutional to detain a defendant based on the seriousness of the crimes with which he or she is charged, the Council conceded this should not be the sole criterion on which a detention ruling stands. Other factors such as flight risk or colluding with witnesses must be demonstrated to be credible for a judge to rule to detain a defendant, it said.

Chen has been in detention since December. He and his wife received life sentences and fines of NT\$200 million (US\$6.2 million) and NT\$300 million respectively in the first trial's ruling on Sept. 11.

Chen's office yesterday expressed its regret over the Council's constitutional interpretation, and said the explanation failed to clarify the issue or end disputes.

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In a written statement, the office continued to attack the Taipei District Court for switching the judges.

“We still believe that switching the judges in the first trial violates the laws and the Constitution,” the statement said.

The office further urged the judges in the second trial to reconsider whether it is necessary to continue detaining Chen and to release the former president as soon as possible.

The Democratic Progressive Party yesterday also released a press statement saying it was very disappointed by the constitutional interpretation.

“The conservative mentality of the Grand Justices is very different from the trend in other democratic countries in the world,” the statement said. “Next, we will seek to amend the Criminal Procedure Act (刑事訴訟法).”

It said the Council of Grand Justices made the ruling based on the assumption that all judges would review a case based on the same principles of impartiality, “however, for the people, the argument is hardly convincing.”

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