

Rulings are out of scope for Control Yuan checks

Written by Chen Mao-hsiung 陳毛雄
Thursday, 23 January 2020 07:18

Before tendering his resignation, Control Yuan member Chen Shih-meng (陳世萌) was planning to question Taipei District Court Judge Tang Yue (唐越), who acquitted former president Ma Ying-jeou (馬英九) of leaking classified information in a wiretapping case during the 2013 “September strife,” to investigate whether judges allowed “free evaluation of evidence through inner conviction” to affect their rulings.

The plan was met with strong backlash from the judiciary, which launched a petition to condemn Chen for interfering with the judiciary.

Chen tendered his resignation on Monday last week and announced three days later that he would step down at the end of the month.

The following day, Judicial Yuan President Hsu Tzong-li (許宗力) said that Chen’s action was destroying the rule of law.

Hsu said that judicial independence aims to prevent improper external interference and pressure to ensure that judges remain neutral and above the parties involved, and make rulings that are fair and impartial without having to bend to the will of certain people.

This means not only absence of interference before a ruling is made, but also that a judge not become the target of score-settling after issuing a verdict, he said.

The judiciary prosecutes any contravention of the law committed by any person, and it pays particular attention to evidence. Without evidence, a person cannot be found guilty, even if common sense says that they clearly contravened the law.

Moreover, the judiciary upholds the principle of “presumption of innocence,” which means that judges must consider a suspect innocent before a conviction is affirmed.

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These issues do not affect common people, but they are somewhat flawed when dealing with public servants. On the one hand, a case often takes a long time to reach a final ruling, which can cause significant harm to public affairs when the accused is a government employee.

On the other hand, a civil servant could jeopardize others or society with misconduct or delinquency, even without contravening the law.

This is why a more rigorous control power is needed for supervising civil servants.

The Control Yuan is different from the judicial, as it establishes a case through a vote without the need of evidence. It is a kind of political trial designed to promptly remedy harm caused by civil servants' dereliction of duty.

Even if a civil servant does not break the law, the Control Yuan can punish them for misconduct that could hurt people or society.

In any government, a leader who interferes with the judiciary is viewed as authoritarian. The basic feature of democracies is that no government department interferes in judicial affairs. It goes without saying that the judiciary is professional and independent, and not even a head of state can interfere with it.

The problem is that judicial personnel are civil servants and subject to supervision by the Control Yuan, according to the Constitution. Left unsupervised, judicial personnel are likely to commit delinquencies or misconduct. This led to Chen's confrontation with the judiciary.

The conflict between the two branches can be easily solved. As the Control Yuan supervises civil servants, judicial personnel are also included in its scope. However, as no one can interfere with a judge's case, the Control Yuan can only investigate judges' behavior, but not their cases.

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Regular public affairs must be impersonal and only deal with issues, but if the Control Yuan supervises judges, it deals with individuals rather than issues.

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