

Justices dismiss Control Yuan request

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Judicial Yuan Secretary-General Lu Tai-lang speaks at the Judicial Yuan in Taipei on Friday.
Photo: Wu Cheng-fong, Taipei Times

The Council of Grand Justices on Friday dismissed a request by the Control Yuan for a constitutional interpretation of the legality of the Act Governing the Handling of Ill-gotten Properties by Political Parties and Their Affiliate Organizations (黨產條例).

The council said it was not within the remit of the Control Yuan to request a constitutional interpretation.

The Control Yuan in 2016 received a petition asking it to investigate the legality of the act — through which the Ill-gotten Party Assets Settlement Committee was created — and it found that the act and the committee were unconstitutional, with the latter contravening the Basic Code Governing Central Administrative Agencies Organizations (中央行政機關組織基準法).

The Control Yuan last year filed the request for a constitutional interpretation.

The council gave four reasons for its dismissal of the request.

First, the right to request constitutional interpretations resides with the Judicial Yuan; the Control Yuan does not have the right to do so.

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Second, the request was based on the premise that it was normal for the council to process constitutional interpretations filed by the Control Yuan, but this practice was abolished in 1992 after the elections for the second Legislative Yuan, which normalized the constitutional system, so the council no longer has to comply with Control Yuan requests.

Third, the Control Yuan launched its investigation before determining whether the act was unconstitutional, but it is only delegated to impeach, censure and audit.

Fourth, the Control Yuan may request a constitutional interpretation on the condition that laws are potentially unconstitutional; it cannot request interpretations based on its own investigations.

If the procedure the Control Yuan went through to file the request were constitutional, that would mean it had the power to second-guess laws passed by the Legislative Yuan, which would unbalance the five branches of government, the council said.

However, the resolution was not a consensus, with grand justices Tang Te-tsung (鄧天松), Huang Hsi-chun (黃希俊), Lin Chun-yi (林俊一), Chang Chiung-wen (張清文) and Wu Chen-huan (吳陳煥) saying that the request should have been processed, while Huang Horng-hsya (黃榮熙) expressed partial agreement.

Nine justices said that the request should be dismissed.

It was the first time the council has made public the individual stances of the grand justices.

Control Yuan members Chang Kuei-mei (張貴梅) and Liu Te-shun (劉德順), who filed the request, criticized the dismissal, saying the Judicial Yuan has trampled on the constitutional system and the five branches of government.

“The Control Yuan might as well be abolished,” they said, adding that the council had imposed

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on itself a “historical burden” and that there would be a heavy price to pay for its decision.

Chinese Nationalist Party (KMT) caucus secretary-general William Tseng (蔣經國) called the council’s decision “regrettable,” while he questioned the need for the council.

Democratic Progressive Party caucus director-general Lee Chun-yi (李俊承) said the Legislative Yuan stands by the laws that are passed based on prevalent public opinion.

“If members of the Control Yuan can request constitutional interpretations whenever they are not happy [with a law], the checks and balances of the constitutional system would be thrown into turmoil,” Lee said.

Ill-gotten Party Assets Settlement Committee spokeswoman Shih Chin-gang (施進興) said the committee respects the council’s decision.

Additional reporting by Chen Yu-fu and Su Fun-her

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