

Developments in the Law in 2010: Criminal Procedure Law

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Abstract

The paper reviews and analyzes the important developments in Taiwan's criminal procedural laws in 2010, especially focusing on the impacts of the Constitutional Court's decisions, newly amendments to statutes, and Supreme Court's decisions. The Constitutional Court held unconstitutional the provision of the Prison Act which allows the prison to hold a prisoner one more day after he/she has served his term. The other case involves a Supreme Administration Court's decision which declared that when the Ministry of Justice revokes a parole, the parolee could not seek immediate court's remedy until he/she is put back into the jail. The Constitution Court held the Supreme Administration Court's decision improper, although constitutional, and asked the authorities to add more human right protections to the current law. In legislature, Taiwan passed the Speedy Trial Act, the first and only specific law to protect the defendant's right to a speedy trial. Under the new Act, the prosecutor's right to appeal an acquittal to the Supreme Court is either prohibited or restricted in certain circumstance. A defendant could also get the remedy of reduced sentence if his/her right to a speedy has been violated. In addition, a new amendment to the Code of Criminal Procedure now explicitly allows the arrestee to meet his lawyer for an hour at the police station. As to the Supreme Court, several landmark decisions have been delivered to protect the human rights in confessions, search and seizure, indictment, an effective assistance of counsel, and etc. The Supreme Court seemingly intends to lead Taiwan to the revolution in due process of law.

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**Keywords: speedy trial, right to counsel, confession, search and seizure,
indictment, parole, prisoner's rights**