

Developments in the Law in 2023: Constitutional Law

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Abstract

This Article gives an overview of the development of Taiwan's constitutional law in 2023 from three different aspects: constitutional decisions, important legislations, and key events of constitutional importance. It first presents the overall trends of constitutional decisions by analyzing statistical data on historical constitutional interpretations and judgments from the past decade. Additionally, it provides data on new petitions, resolved cases, and the types of petitioners and issues involved in 2023. This Article then provides a detailed analysis of litigation procedures and outcomes, highlighting the normalization of oral arguments and the Constitutional Court's permission for courts to withdraw petitions to declare laws unconstitutional. It discusses the active use of dicta and declarations regarding the application of statutory laws and briefly explains the process for determining the competent court to which a matter should be remanded when a decision is found unconstitutional. This Article also examines the overall characteristics of concurring and dissenting opinions.

This Article then selectively introduces several significant judgments and rulings made by the Taiwan Constitutional Court in 2023. These constitutional decisions address numerous vital issues, including the qualifications of female successors in ancestor worship guilds, the combination of years of service in the public sector and political organizations, defamation offenses, searches of law firms, punishment for voting with false residential registration, and the prohibition of medical advertisements by physicians.

In terms of significant legislation, 2023 saw the amendment of Article 53 of the Constitutional Court Procedure Act and the enactment of Article 7 of the

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Indigenous Peoples Health Act. The former adjusts the effect of constitutional judgments, while the latter mandates the establishment of a Health Database of Indigenous Peoples, impacting individuals' information privacy rights. Both legislative changes carry significant constitutional implications, and their future developments are worth attention.

Regarding major constitutional events, this Article briefly introduces the implementation of the Citizen Judges Act and the Executive Yuan's decision to cease the application of the interpretation that people of the mainland area are considered our nationals.

Keywords: qualifications of successors, the combination of years of service in the public sector and political organizations, defamation offenses, voting by false residential registration, right to equality, the principle of no ex post facto law, freedom of speech, right of instituting legal proceedings, the Citizen Judges Act