

MAC will Promptly Amend Laws on the Detention System for Mainlanders in Consistence with Intentions of Interpretation No. 710 of the Justices of the Constitutional Court

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1. In response to Interpretation No. 710 rendered today by the Justices of the Constitutional Court, Judicial Yuan, the Mainland Affairs Council (MAC) stated that, the Act Governing Relations between the People of the Taiwan Area and the Mainland Area (hereinafter the "Act") has been amended 14 times since its promulgation on July 31, 1992. Relevant regulations have been reviewed and amended to satisfy trends and demands arising from cross-strait interactions and to protect the people's rights and interests. In order to highlight the human rights protection issue and to revise the detention system for people of the Mainland Area, the MAC again proposed amendments to Article 18 of the Act last April (2012), where the intentions of the amendment were in correspondence to that of the Interpretation No. 710 by the Justices of the Constitutional Court. However, the legislative procedures for the amendments were not completed in due time, therefore the MAC will continue in the future to dedicate efforts to expedite follow-up legislative amendment work.
2. The MAC pointed out that, in order to conform with the spirit of personal freedom guarantees under the International Covenant on Civil and Political Rights, and to further strengthen due process protections,

it has drafted amendments to Article 18 of the Act referencing the relevant provisions of the Immigration Act. The amendments specify requirements for the deportation and detention of people from the Mainland, detention period and abolition of detention, as well as granting detainees immediate remedies through which they may file a petition against detention. By doing so, people of the Mainland subject to deportation or detention will be provided with more institutional safeguards for their personal freedom and right of due process, which in essence is consistent with Interpretation No. 710 by the Justices of the Constitutional Court. The draft amendments were submitted by the MAC to the Executive Yuan last April 19th, and upon approval, presented to the Legislative Yuan. The Internal Administration Committee of the Legislative Yuan admitted the draft for review and deliberation on December 27th of the same year (2012); currently the legislative process has yet to be completed.

3. The MAC stressed that, Interpretation No. 710 by the Justices of the Constitutional Court stated that Article 18 of the Act should grant Mainlanders-to-be-deported that entered Taiwan legally an opportunity for statement of opinions, specify the grounds for temporary detention, grant interested parties immediate judicial remedy procedures, and stipulate a reasonable period of detention. The MAC will again promptly review and adjust its proposed draft amendments to fully accord with the spirit of human rights protections and due process stated by the Justices of the Constitutional Court. The MAC will also proactively communicate with the Congress and various sectors in hope of successfully completing the legislative process.