

Resolution of the Current Electoral Disputes through Administrative Ballot Recount, Judicial Ballot Recount or Emergency Decree

Published: March 24, 2004

By: Premier Yu Shyi-kun

Source: Government Information Office, Republic of China (Taiwan)

I. Emergency Decree:

A. Issuance of an emergency decree by the President for the conducting of a ballot recount would not accord with the prerequisite conditions for initiating a ballot recount, and violates the constitutional system.

B. An emergency decree needs to pass various legally prescribed procedures including resolution by the Executive Yuan Council, issuance by the President, and ratification by the Legislative Yuan. These could take even more time than amending legislation.

C. As the target of the opposition camp's accusations, President Chen Shui-bian might be accused of being "both player and referee" were he to issue an emergency decree as the legal basis for a ballot recount.

II. Judicial Ballot Recount

A. According to Paragraph 5, Article 53 of the Presidential and Vice Presidential Election and Recall Act, political parties can apply for a judicial recount of the ballots. The case of a legislative election ballot recount in Hualien (concerning late DPP chairman Huang Hsin-chieh), which has been raised in the last few days by opposition parties, was one example of a judicial ballot recount. After receiving the lawsuit, that case was handled by the Hualien District Prosecutor Office according to Article 145 of the Criminal Code.

B. A judicial ballot recount may be undertaken on condition that concrete evidence is provided, and must be handled by judicial personnel. Given that Taiwan has only 900 prosecutors, manpower and schedule restrictions will slow down the process to such an extent that it will not be able to meet the urgency of the situation.

C. Only a partial ballot recount will be allowed for those ballot boxes suspected of

irregularities. This will not satisfy the opposition camp's demand for a full recount.

III. Administrative Ballot Recount

A. An administrative ballot recount is the most rapid and feasible approach. If the Legislative Yuan passes an amendment to the Presidential and Vice Presidential Election and Recall Act in the next few days, and this is promulgated by the President, then the Central Election Commission can be expected to prepare relevant administrative measures by next Monday (March 29), conduct a full ballot recount the following Saturday (April 3), and complete it the same day.

B. An administrative ballot recount conducted after amendment of the law conforms to the principles of accuracy, fairness, transparency and lawfulness. It also helps build up a foundation of trust, promotes social stability, and ensures the credibility of the election result.

In conclusion, considering the time schedule, scope for a recount, maintenance of social order and other variables, an administrative ballot recount is the only way to settle the current social disputes fairly and within the shortest time possible, and accords with Taiwan's highest national interests.