

Taiwan High Court

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1. In the nullification of election and nullification of electees' status cases (docket number 2004 Suan 1) brought by Plaintiffs Messrs. Lien Chan and James Soong against Defendants Mr. Chen Shui-bian, Ms. Lu Hsiu-lien and the Central Election Commission, after careful deliberation by the collegiate bench, it is the opinion of the court that the stipulations of Article 102 of the Presidential and Vice Presidential Election and Recall Act are very clear: "Should an election or recall agency violate the law when conducting an election or recall such that the result of the election or recall is affected, then the prosecutor, the candidate, the official subject to recall or the initiator of a recall case may, within 15 days of the official proclamation of the electees or recall results, bring suit against the relevant election or recall agency before the court of jurisdiction to request that the election or recall be voided."

Paragraph 1, Article 104 of the Presidential and Vice Presidential Election and Recall Act is also clear: "An election or recall agency, prosecutor, or candidate may, within 30 days of the official proclamation of the electee, bring suit against the elected candidate before the court of jurisdiction to request that the election be voided should one of the following conditions exist." As for the "official proclamation" of the electees, Subparagraph 6, Article 34 of the Presidential and Vice Presidential Election and Recall Act stipulates that the Central Election Commission shall issue the official proclamation within seven days of the polling date. From the date that the plaintiffs filed this suit on March 21, 2004 to the date of this ruling, the defendant, the Central Election Commission, has not yet issued an official proclamation of the electees. The plaintiffs' suit is therefore "not instituted in due form or is lacking in other necessary requirements," as defined in Subparagraph 6, Paragraph 1, Article 249 of the Code of Civil Procedure. Furthermore, the official proclamation of electees is not amendable. The court therefore ruled today that the plaintiff's suit is rejected.

2. The plaintiffs may, within ten days of the date of service of the above ruling, file an appeal with this court, which shall refer it to the Supreme Court for adjudication. However, an appeal referred prior to the service shall be effective as well. (Paragraph 2, Article 487 of the Code of Civil Procedure)

3. The rejection of the plaintiffs' suit does not affect the evidence previously

perpetuated under the perpetuation procedure. Therefore, the sealed evidence will not be unsealed.

4. The rejection of the plaintiffs' suit does not affect the plaintiffs' right to file another suit. The plaintiffs may still file a suit for nullification of the election within fifteen days, or for nullification of the electees' status within thirty days, of an official proclamation of the electees by the Central Election Commission.