

Content

Title :	Regulation on the Investigation Procedures for Political Archives Maintained in the Custody of or Possessed by Political Parties, Affiliated Organizations, and Party-Owned Entities 
Date :	2022.09.06
Legislative :	According to the mandate at Fa-Tang-Zeng No.1110015142A issued by NDC the regulation was made and announced on September 6, 2022.
Content :	Article 1 This Regulation is prescribed in accordance with paragraph 3 of Article 11-2 and paragraph 4 of Article 14 of the Act on Promoting Transitional Justice (hereinafter referred to as the Act). Article 2 The National Development Council (hereinafter referred to as the NDC) shall conduct an ex officio investigation into facts and evidence regardless of any claim which may have been made by any related agency (institution), organization, enterprise, or individual (hereinafter referred to as a party) under investigation in accordance with the Act, and shall take into consideration circumstances both favorable and unfavorable evidence to the parties. Article 3 Parties shall assist the NDC in its efforts to investigate facts and evidence, above all disclose facts and evidence of which they are aware, and shall submit all evidence in their possession. When the NDC investigates facts and evidence in accordance with the Act, the party under investigation shall not evade, refuse, or impede unless otherwise justified. Article 4 During the investigation procedure set out in paragraph 1 of Article 14 of the Act, a party may, in addition to producing evidence on his/her own initiative, file an application with the NDC for an investigation into facts and evidence; provided that, if the NDC believes that no investigation is necessary, it may choose not to conduct an investigation and specify the reasons as required by paragraph 1 of Article 6 hereof. Article 5 In the course of investigation into facts and evidence, the NDC shall make written records based on the facts. Audio and/or video recordings may be used to supplement the written records of the preceding paragraph. Article 6 When the NDC renders an administrative disposition or carries out another administrative act as the result of an investigation procedure, it shall make a judgment of the authenticity of the facts based on logical reasoning and the empirical doctrine after taking into consideration the statements presented and the conclusion reached upon the facts found and the evidence obtained, and shall then give the party a notice of its decision and reasons therefor. Before rendering a non-beneficial administrative disposition in accordance with the Act, unless a hearing has already been held, the NDC shall give the person facing the disciplinary action an opportunity to state his/her opinion. Article 7

In conducting an investigation, the NDC shall not enter into an occupied or guarded dwelling or other premises on Saturday, Sunday, or any other holidays, or at nighttime; however, this restriction shall not apply when consent has been obtained from the occupant, guard, or a representative thereof, or when it would clearly be difficult to achieve the purpose of the investigation unless the location in question was investigated on Saturday, Sunday, or any other holidays, or at nighttime.

When an investigation has started during the daytime, it may continue into the nighttime.

The term nighttime as used in the preceding two paragraphs means the time before sunrise and after sunset.

Article 8

The NDC shall not enter a place which must be kept secret for military purposes, and investigate without the permission of the officer in charge; moreover, the officer in charge shall not withhold permission unless major national interests would be harmed.

When the NDC enters and investigates a place which must be kept secret for military purposes, it shall be accompanied by the officer in charge thereof or his/her representative.

Article 9

If a party, or an item's owner, possessor, or custodian, or a party in interest objects to the NDC placing an item under temporary seal, taking custody of it, or impounding it in accordance with paragraphs 1 and 2 of Article 15 of the Act, he/she is entitled to object instantly by stating their reasons therefor.

If the person conducting an investigation regards the protest of the preceding paragraph is considered reasonable, they shall promptly cease or change the investigation; otherwise, it may continue such acts. The investigating party shall prepare a written description of the investigation and submit to the objecting party upon its request.

Article 10

When the NDC places related material or evidence under temporary seal, takes custody of it, or impounds it in accordance with paragraphs 1 and 2 of Article 15 of the Act, it shall prepare a record of its actions. The record shall specify the time, location, titles of materials or exhibits, and other necessary matters. Persons being present at the place shall sign the record or affix a seal or fingerprint to it; if they refuse to provide a signature, seal, or fingerprint, they shall provide a written explanation of their reasons.

Article 11

A party or interested party, may apply to the NDC to view, hand-copy, duplicate, or take photographs of relevant materials or records; provided that the materials or records are necessary to assert or protect their legal interests.

An application made under the preceding paragraph to the NDC shall not be denied, except under one of the following circumstances:

1. Drafts and other preliminary operational documents prepared before an administrative decision is made;
2. Information relating to national defense, military, diplomacy and any other general official secrets, which is legally required to be kept in confidence;
3. Information relating to personal privacy, occupational secrets and trade secrets, which is legally required to be kept in confidence;
4. Information [the disclosure of which] is likely to result in infringement of the right of any third party; and
5. Information [the disclosure of which] is likely to result in serious impairment to the social security, public safety or the normal performance of any function in connection with the public interest.

For materials or records to which any of the subparagraphs under the preceding paragraph is applicable, only the non-restricted parts shall be allowed to be viewed.

Article 12

In order to investigate political archives maintained in the custody of or possessed by political parties, the NDC may commission a relevant agency (institution), legal person, organization, or individual to conduct an appraisal or research, and may commission another agency (institution) to handle a specified case or matter.

When the NDC commissions another agency (institution) to handle a specified case or matter, the commissioned entity shall promptly commence the requested matter, and shall report back in writing on the results of its handling of the matter.

Article 13

This Regulation shall come into force from the date of promulgation.

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