

Content

Title :	Operation Directions for Determinations by the National Development Council Reviewing Political Archival Records Held or Possessed by Political Parties, Party-Affiliated Organizations and Party-Owned Entities Ch
Date :	2024.02.17
Legislative :	1.Promulgated by the National Development Council Decree Fa-Tang-Zeng No.1110015146A dated November 1, 2022. 2.Articles 1, 2, and Attached Form of Article 3 amended and promulgated by the National Development Council Decree Fa-Tang-Zeng No. 1130015039A dated February 17, 2024; shall come into force on February 28, 2024.
Content :	1.The National Development Council (NDC) adopts this Direction in order to make determinations (in accordance with the provisions of subparagraph 1 of Article 3 , paragraph 6 of Article 4 and paragraph 3 of Article 6 of the Political Archives Act and subparagraph 2 of Article 3, paragraph 3 of Article 11-2, and Article 18 of the Act on Promoting Transitional Justice) on whether records in the custody or possession of a political party, affiliated organization, or party-owned entity are political archives. 2. This Direction apply to all political archives in the custody or possession of a political party, affiliated organization, and party-owned entity; they also apply to the political archives of agencies (institutions) that have been dissolved. Records and all types of files and documents that had been in the custody or possession of a political party, affiliated organization, or party-owned entity during the period of authoritarian rule (i.e. the period from 15 August 1945 to 6 November 1992) may be determined to be political archives as referred to in the preceding paragraph if the description in any one of the following subparagraphs applies with respect to the archives, records, or documents in question: (1) They involve persons or matters connected to the February 28 incident. (2) They involve an investigation, inquiry, trial, or compulsory enforcement action connected to a case that pertains to sedition, treason, the Act Governing the Punishment of Rebellion, the Act Governing Espionage in the Period of National Mobilization in Suppression of the Communist Rebellion, or some other law or regulation governing political matters. (3) They involve a law or regulation governing a military tribunal or a civilian judicial body; the organizational history, personnel matters, or the authorities of such a tribunal or body; or an investigation, inquiry, trial, or compulsory enforcement action carried out by such a tribunal or body. (4) They involve a law or regulation governing an intelligence agency, or they involve the organizational history, personnel matters, authorities, or operational matters of such an agency. (5) They involve a law, regulation, measure, decision, or remedy that restricts or infringes constitutionally protected basic rights. (6) They involve a law, regulation, personnel matter, policy decision, meeting, or administrative action by the rulers that played a role in the formation, administration, or consolidation of the mechanisms of mobilization in suppression of communist rebellion, or the mechanisms of martial law. (7) They involve the establishment or consolidation of a ruler's position, or they involve a cult of personality. (8) They involve the operations of and interactions among a political party and its affiliated organizations and party-owned entities, and they are related to the exercise of government authority, the formation of government policies, social control, government agency personnel matters, operational and personnel matters at a state-owned enterprise, or the

strengthening of influence over a government agency or a state-owned enterprise.

(9) They involve member recruitment, promotion of party platforms and principles, holding of events, establishment of organizations, or handling of other operational matters by a political party, affiliated organization, or party-owned entity at government agencies, state-owned enterprises, or school campuses.

(10) They involve the operations of a political party or affiliated organization, or involve the party's or organization's obtaining, changing, or disposal of properties.

(11) They are otherwise related to the February 28 Incident, the mechanisms of mobilization in suppression of the communist rebellion, or the mechanisms of martial law.

Records and all types of files and documents produced later than 6 November 1992, that in the custody or possession of a political party, affiliated organization, or party-owned entity, any content therein that pertains to any incident or mechanism set out in paragraph 1 of Article 3 of the Political Archives Act and as referred to in the preceding paragraph if the description in any one of the above subparagraphs applies with respect to the records, or documents in question may also be determined to be political archives as referred to in paragraph 1 of this Article.

3. When political archives are in the custody or possession of a political party, affiliated organization, or party-owned entity, this matter shall be reported to the NDC (reporting form as shown in the attachment); where a report is submitted orally, the NDC shall make a record of the report. When the NDC receives such a report from a political party, affiliated organization, or party-owned entity, the NDC National Archives Administration (NAA) shall first examine the content of the report. When a report is incomplete or insufficient, the NAA may give written notice requiring that the problem be rectified within a prescribed time period. The NDC may initiate an ex-officio investigation into the custody or holding of political archives by a political party, affiliated organization, or party-owned entity, and after a determination has been made the NDC may order that such archives be transferred for management as national archives.

4. When the NDC makes a determination regarding political archives that have been reported or investigated in the manner described in the preceding point, it shall handle the matter in accordance with the following provisions:

(1) The NAA shall prepare a review opinion.

(2) The NAA may consider the issues that the archives involve, may solicit the views of scholars and experts, and may hire a concerned agency, group, or individual to conduct an assessment or study.

(3) The NAA may, as necessary, ask the concerned agency, group, or individual to furnish archives, record books, documents, and other necessary information or evidence; provided, however, that any request to retrieve materials connected with a case currently being tried must be approved by the court seized.

5. Before the NDC makes a determination on whether records in the custody or possession of a political party, affiliated organization, or party-owned entity are political archives, it shall notify the party, organization, or entity to present its views.

6. In order for the NDC to make a determination on whether records in the custody or possession of a political party, affiliated organization, or party-owned entity are political archives, the NDC may as necessary invite scholars, experts, and impartial citizens to a consultation meeting, where the Minister of the NDC or a designated Deputy Minister shall serve as the convener.

A concerned government agency (institution) or personnel thereof may be invited to attend the consultation meeting referred to in the preceding paragraph.

7. When archives have been determined by the NDC to be political archives, the concerned political party, affiliated organization, or party-owned entity shall transfer them to the NAA for management within the period specified by the NDC, and together with the NAA shall prepare a record based on the records review list.
The NDC shall inform the relevant agencies of the determination referred to in the preceding paragraph.

Files : 國家發展委員會審定政黨與附隨組織及黨營機構保管或持有政治檔案作業要點-英譯全文

Attachments : Attached Form of Article 3.pdf

Data Source : National Development Council Laws and Regulations Retrieving System