

Compensation Act for Wrongful Trials on Charges of Sedition and Espionage during the Martial Law Period

Amended Date:

2006-12-18

Article 1

The act herein is enacted to compensate the convicts, who were wrongfully tried on charges of sedition and espionage during the martial law period, but could not receive compensation or relief after the martial law period.

Article 2

The term "martial law period" as used in this act refers to the period of time from May 20, 1949 to July 14, 1987, if the case took place in the main island of Taiwan. But if the case took place in Kinmen, Matsu, Dongsha and Nansha, the term "martial law period" refers to the period of time from December 10, 1948 to November 6, 1992. The term "convict" as used in this act refers to the person convicted of sedition, treason, or breach of Espionage Act in the Period of Mobilization for the Suppression of Communist Rebellion, or sent to the reformatory education in the martial law period. Unless otherwise prescribed by this act, the convict or convict's relative may apply for compensation in accordance with this act within eight years from the date this act becomes effective.

After the period of time prescribed by the preceding paragraph passes, should the convict or convict's relative fail to apply for the compensation in time due to some reasons, the deadline of the application shall be extended for another four years.

Article 3

The Executive Yuan may establish the Compensation Foundation for Wrongful Trials on Charges of Sedition and Espionage during the Martial Law Period (referred to as the foundation hereinafter) to identify qualified convicts and to review applications of compensation. The board of the foundation shall consist of scholars, righteous citizens from the community, judges, representatives of the government, and of convicts or convicts' relatives.

The number of representatives of convicts or convicts' relatives shall not be less than one fourth of the board members of the foundation. If the applicant is not satisfied with the decision of the foundation, s/he may file administrative appeals and litigations according to relevant laws.

Article 4

If the reputation of the convict and convict's relatives were damaged, they may apply for restoration of their reputation. If the household registration of the convict and convict's relative has been mistaken, they may apply for correction.

Article 5

The amount of compensation a convict may receive is calculated by units. Each unit equals to ten thousand NT Dollars. The amount of compensation one convict can receive shall not exceed sixty units. In the case where the convict has deceased, or has deceased after filing her/his application, and the compensation will be collected by convict's relative residing in Mainland China, the total amount of compensation that relative can receive shall not exceed two million NT Dollars. Convict's relative in Taiwan who has the same place in the

inheritance order shall have the right to claim the remaining amount of the compensation. If there is no such relative in Taiwan, convict's other relative in Taiwan who has the next place in the inheritance order shall have the right to claim the remaining compensation. The regulations regarding the standard, application, review and grant procedures of the compensation in the preceding paragraph shall be drafted by the foundation, and approved by the Executive Yuan.

Article 6

The candidates of compensation are as follows:

1. Convicts who were executed;
2. Convicts who were imprisoned;
3. Convicts who were sent to the reformatory education;
4. Convicts whose properties were confiscated.

Article 7

The convict or convict's relative may provide the foundation concrete materials in written for being identified as a qualified convict.

The foundation shall exercise its power independently to identify convicts, to process applications, and to grant compensation based on facts and materials from its own investigation.

The foundation shall finish the application of identification mentioned in the first paragraph within six months after accepting the application.

Article 8

One may not apply for compensation in any of the following circumstances:

1. One has already received compensation according to the Wrongful Imprisonment Compensation or the Compensation for the 228-Incident based on the same facts;
2. The conviction for sedition or treason survives reviews according to the current laws or the current evidence laws.

The review mentioned in the second subparagraph of the preceding paragraph shall be done case-by-case by a reviewing committee set up by the foundation.

The reviewing committee mentioned in the second paragraph shall consist of scholars, righteous citizens from the community, judges, and representatives of the government. Members of the reviewing committee do not necessarily come from the board of the foundation, but at least a half of them shall have the experiences or currently working as judges, prosecutors, or lawyers. The procedure and the result of the selection of the members of the reviewing committee shall be reported to the Executive Yuan by the foundation for review and approval.

The foundation may not nullify or modify the decision of the reviewing committee without the approval of two third of the attending board members in a formal board meeting. In this meeting, at least half of all board members must attend. But if the modification to the decision of the reviewing committee by the foundation has a negative effect on the applicant, the case shall be remanded to the reviewing committee. The foundation may remand the case to the committee only once.

Article 9

In order to investigate the circumstances under which the formal judgments were made, the foundation may invite relevant people to the foundation to make explanation. It may request documents and files kept by the government or private organizations. The government or private organizations may not refuse such request. The files mentioned in the preceding paragraph include records related to trials of people accused of sedition, treason, or breach of Espionage Act in the Period of Mobilization for the Suppression of Communist Rebellion. The foundation shall return the documents and files it has requested according to the first

paragraph as soon as the investigation is done. The documents and files may not be used for purposes other than the investigation.

Article 10

Once this act and relevant regulations thereof shall apply to all convicts identified by the foundation after investigation. But if the investigation shows that the circumstance is one of those listed in the first paragraph of Article 8, the convict shall receive no compensation, and shall not enjoy the rights provided for by Article 4.

The foundation shall deliver its decisions prescribed in the preceding paragraph to the applicant and the responsible governmental agencies.

Article 11

The fund of the foundation shall be utilized for the following purposes:

1. Granting compensation;
2. Subsidizing teaching materials or works on cases of wrongful conviction of sedition and espionage during the martial law period;
3. Subsidizing investigations and research projects on wrongful trials of charges of sedition and espionage during the martial law period;
4. Organizing memorial and academic activities for wrongful trials of charges of sedition and espionage during the martial law period;
5. Subsidizing any other works or activities that can facilitate the restoration of reputation of convicts in wrongful trials of charges of sedition and espionage during the martial law period, and can promote democracy in Taiwanese society.

Article 12

The funds of the foundation come from the following sources:

1. Donations from the government through its annual budget;
2. Donations from domestic or international companies, organizations, or individuals;
3. The interest of the funds and the profit from investments of the funds;
4. Other sources of income.

In case of insufficient funds, the government shall make donations through its budget allocation.

The compensation granted in accordance with this act is exempted from the income tax.

Article 13

The term "convict's relative" as used in this act refers to the spouse of the deceased or the missing convict, and the statutory heirs of such convicts according to the paragraphs one to three of Article 1138 of the Civil Code.

Article 14

The payment of the compensation shall be made completely within two months from the date on which the foundation approves the application. The compensation shall be assigned to the Treasury if the payment is not collected within five years after the recipient is notified, unless there is a good cause for not collecting the compensation.

People residing in mainland China who are eligible for claiming the compensation may either collect the payment by themselves or delegate people in the Taiwan to do so. Those who wish to collect the payment by themselves may apply for entering Taiwan. If there are more than two people eligible for the same compensation, they shall authorize one of them to collect the payment on behalf of the other(s).

Article 15

The rights to collect compensation prescribed in this act may not be seized or transferred, or served as bond.

Article 15-1

Those who fit in one of the following circumstances may apply compensation within the period of time prescribed in the fourth paragraph of Article 2 of this act. The application shall apply mutatis mutandis of this act:

1. Where people were involved in the activities during the martial law period, in which other participants were deemed as convicts as prescribed in the second paragraph of Article 2 of this act, but were convicted of offences other than sedition, treason, or breach of Espionage Act in the Period of Mobilization for the Suppression of Communist Rebellion;
2. Where people were convicted of sedition, treason, or breach of Espionage Act in the Period of Mobilization for the Suppression of Communist Rebellion, or sent to the reformatory education during the period of time from December 10, 1948 to May 20, 1949, before the martial law was declared;
3. Where people were deprived of personal freedom by the law enforcement or the military based on suspicion of sedition, treason, or breach of Espionage Act in the Period of Mobilization for the Suppression of Communist Rebellion, but were not indicted, tried, or received or not an official decision not to prosecute during the period from December 10, 1948 to the end of the Mobilizing Sedition-Suppressing Period;
4. Where people were deprived of personal freedom by the law enforcement or the military for breach of the War Crime Trials Act in Taiwan, but were acquitted later during the period of time from October 25, 1946 to May 20, 1949, before the martial law was declared.

Article 15-2

People who were killed by the law enforcement or the military or died as a result of the official pursuit on suspicion of sedition, treason, or breach of Espionage Act in the Period of Mobilization for the Suppression of Communist Rebellion during the period of time from December 10, 1948 to the end of the Period of Mobilization for the Suppression of Communist Rebellion, may be granted for compensation according to the circumstances. The application shall apply this act mutatis mutandis.

Article 16

This act becomes effective after six months from the date this act is promulgated. The amendments to this act become effective on the dates of their promulgation.