

中華民國(臺灣)政府對公民與政治權利國際公約審查委員會及經濟社會文化權利國際公約審查委員會提出第四次國家報告問題清單之回應勘誤對照表

115 年 4 月 16 日更新

條文	頁次	公政點次	原文	更正
公政公約第 17 條	P164 -165	56	<p><u>中文回應</u></p> <p>前述判決對現行刑事訴訟法有關搜索、扣押之規定進行整體觀察後，認定對基於第三人地位之律師事務所為之搜索聲請，已採法官保留，法官應依相關法令審慎判斷是否符合法定要件，並已有事中檢視扣押物、事後救濟與證據禁止等相關程序擔保規範，可避免濫權或恣意，確保搜索、扣押限制基本權之程度，與追訴犯罪與發現真實之公共利益間，利害均衡，尚符比例原則。因此，刑事訴訟法未對律師事務所之搜索及扣押設有特別之程序規定，與憲法第 10 條保障人民居住自由、第 15 條保障律師工作權以及正當法律程序原則之意旨尚屬無違。</p> <p><u>英文回應</u></p> <p>Upon a holistic review of the current provisions in the Code of Criminal Procedure regarding search and seizure, the aforementioned judgment determines that a request for a search warrant targeting a law firm in its</p>	<p><u>中文回應</u></p> <p>112 年憲判字第 9 號判決（又稱「搜索律師事務所案」）確立了「律師與當事人秘密自由溝通權」的憲法地位。該判決指出，律師與被告（或犯罪嫌疑人、潛在受調查人）之間，因信賴關係而產生的秘密溝通紀錄（例如文書、信件、電子郵件、筆記等），應受憲法保障，因此，檢察官與警察必須在符合特定要件下才能搜索律師事務所、扣押相關紀錄，以保護被告與律師溝通的秘密性及被告訴訟權。</p> <p>該判決要求，立法機關必須「限期修法」，而在刑事訴訟法相關條文修正完成前，法官、檢察官及相關人員辦理搜索、扣押事務，應依該判決意旨為之。刑事訴訟法部分條文修正草案已於 2024 年 10 月送請行政院會銜，將於會銜完竣後送立法院審議。未來，在對律師事務所搜索時，相關程序將變得更為嚴謹。</p> <p><u>英文回應</u></p> <p>Constitutional Court Judgment No. 9 of 2023 (known as the "Law Firm Search Case") established</p>

		<p>capacity as a third party is already subject to judicial reservation; as such, a judge must prudently assess whether the statutory requirements are met in accordance with relevant laws and regulations. Furthermore, existing procedural safeguards—such as the contemporaneous examination of seized objects, the availability of post-hoc remedies, and the exclusionary rule of evidence—serve to prevent the abuse of power or arbitrariness. These measures ensure that the restriction of fundamental rights during search and seizure remains proportionate to the public interests of criminal prosecution and the discovery of truth, thereby satisfying the principle of proportionality. Consequently, the absence of specific procedural requirements in the Code of Criminal Procedure for the search and</p>	<p>the constitutional status of the "right to free and confidential communication between lawyers and clients." The judgment states that confidential communication records arising from a relationship of trust—such as documents, correspondence, emails, and notes—between a lawyer and a defendant (or a criminal suspect or potential person under investigation) shall be protected under the Constitution. Consequently, prosecutors and police may only search law firms and seize records under specific conditions to protect the confidentiality of communications and the defendant's right to legal counsel. The judgment mandates that the legislature is required to amend the relevant laws within a specified timeframe. Until the relevant provisions of the Code of Criminal Procedure are amended, judges, prosecutors, and other relevant personnel shall conduct matters relating to search and seizure in accordance with the intent of</p>
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