



Press Release

Taipei District Prosecutors Office

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**Responding to Taipei District Court judgment of
former President Ma Yin-Jeou's case on leaking
national confidential information**

Taipei District Court has delivered its judgment and acquitted the former President Ma Yin-Jeou on the ground of President's constitutional power to mediate pursuant to Article 44 of the Constitution. This ruling is obviously contradicted with the judgment made by the Taiwan High Court on former Prosecutor General Huang Shi-Min's case. Our office, therefore, appealed Ma's case to the Taiwan High Court in September 15, 2017; and the appellate reasons were as followings:

1. The district court had justly considered that the defendant Ma's conduct of this case had satisfied all the requirements of leaking national confidential information crime; however, the court had mistakenly applied the presidential power to mediate of the Constitution, and wrongfully denied a clear fact that former Prosecutor General Huang Shi-Min was instigated by defendant Ma to leak national confidential information, which was confirmed by the Taiwan High Court in Huang's case.

2. The presidential power of inter-agency mediation is a virtual power aimed for political resolution. It is merely a symbolic power functioning as supplementation and assistance. The aforementioned High Court's judgment agreed that at the time when the defendant conducted the crime, there was no such dispute among government agencies.

3. Defendant Ma had publicly declared that President is not appropriate to play the role to mediate inter-agency disputes, which was also the prevailing opinion in constitution study.

4. The district court judgment misinterpreted the presidential power of "inter-agency mediation" as "interpersonal mediation". Meanwhile, it arbitrarily created a vague standard for the president to intervene ongoing investigative procedure of specific cases, and therefore violate basic human rights by proclaiming presidential power of resolving "potential or possible" disputes among government agencies. This judgment invented a brand new presidential power that has never been stipulated in the Constitution, which essentially destroyed the principle of separation of powers and endangered the principle of human rights protection.

5. This judgment blatantly disregarded the clear evidence and facts confirmed in Huang's case that Huang was instigated by Ma to leak confidential national information to the then Premier Jiang, Yi-Hua of the Executive Yuan, but affirmed that Huang was voluntarily chose to reveal the information.

6. The reasoning of judgment poses a risk where executive power can easily influence judicial power by manipulation of prosecution right.