Top court says security law is still necessary

August 27, 2004 — Amid heated public debate over efforts to abolish the National Security Law, the Constitutional Court ruled yesterday that a controversial portion of the law should be retained, citing Korea’s security situation as the justification for its continued existence.

The court’s nine-judge panel agreed unanimously that Article 7 of the anti-communist law is constitutional.

An individual had filed a constitutional petition against Clauses 1 and 5 of Article 7, that allow punishment for those who praise or encourage the activities of anti-state organizations, and for those who produce or acquire anti-state materials. The petitioner had said the clauses infringed upon fundamental human rights.

The court judged that the possibility of Clause 1 being politically abused disappeared with revisions of 1991 that restricted the subjects of punishment only to those who praised and encouraged anti-state organizations, “with the knowledge that such action threatens the nation’s existence and security and the order of liberal democracy.”

Refuting critics who argue anti-state activities can be punished according to the Criminal Code, rather than the security law, the court said yesterday, "The security law still has value, so should exist independently."

The ruling comes as voices in civic groups and political circles are seeking extensive revisions to, or outright abolition of, the law. On Monday, the National Human Rights Commission, a governmental body, said the law should be scrapped.

The commission, the left-wing Democratic Labor Party and some in the governing Uri Party denounced the court ruling. “Our moves to abolish the law will proceed regardless of the court’s decision,” said Im Jong-seok, a Uri lawmaker, yesterday.

In a press release after its ruling, the court said: “It will be necessary for the National Assembly, when it deals with the security law issue, to reflect on public opinion and the constitutional court’s ruling.”

It is highly unusual for the court to issue press releases on its verdicts.

“The court overstepped its authority when it asked the National Assembly to consider its ruling,” Mr. Im said.

Separately, the court ruled yesterday that the Military Service Act is constitutional, overturning a petition filed by conscientious objectors. The court said that the civic duty to serve in the armed forces takes precedence over constitutional rights to freedom of conscience, given Korea’s security situation.

by Ha Jae-sik