

Application by HKSAR Government to Court for Injunction Order to prohibit unlawful acts relating to a song

The Department of Justice of the Government of the Hong Kong Special Administrative Region (HKSAR) applied to the Court on June 5 for injunction and interim injunction (HCA 855/2023) to prohibit four items of unlawful acts relating to the song "Glory to Hong Kong" (or "ǎŠéi~æ|@ǎ...æ,é|™æ,ǎ€<", hereby referred to as "the Song"). Directions from the Court are awaited and the hearing date is to be fixed.

The Song has been widely circulated since 2019. The lyrics of the Song contain slogan which has been ruled by the Court as constituting secession. Recently, the Song has also been mistakenly presented as the "national anthem of Hong Kong" (instead of the correct one "March of the Volunteers") repeatedly. This has not only insulted the national anthem but also caused serious damage to the country and the HKSAR. As a matter of fact, past events have shown that it is highly likely that the Song will continue to be widely disseminated contrary to the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (National Security Law) and the Crimes Ordinance. In order to discharge the constitutional responsibility of the HKSAR Government to safeguard national security by effectively preventing, suppressing and imposing punishment on acts or activities endangering national security, after careful consideration, the HKSAR Government has decided to apply to the Court for an injunction restraining any person from performing any of the following acts:

(1) Broadcasting, performing, printing, publishing, selling, offering for sale, distributing, disseminating, displaying or reproducing in any way (including on the internet and/or any media accessible online and/or any internet-based platform or medium) the Song, whether its melody or lyrics or in combination (including any adaptation of the Song, the melody and/or lyrics of which are substantially the same as the Song); and in particular to advocate the separation of the HKSAR from the People's Republic of China:

(i) with the intent of and in circumstances capable of inciting others to commit secession, contrary to Article 21 of the National Security Law; or

(ii) with a seditious intention as defined in section 9 of the Crimes Ordinance;

(2) Broadcasting, performing, printing, publishing, selling, offering for sale, distributing, disseminating, displaying or reproducing in any way (including on the internet and/or any media accessible online and/or any internet-based platform or medium) the Song, whether its melody or lyrics or in combination (including any adaptation of the Song, the melody and/or lyrics of which are substantially the same as the Song), with intent to insult the national anthem, contrary to section 7 of the National Anthem

Ordinance, in such a way:

(i) as to be likely to be mistaken as the national anthem insofar as the HKSAR is concerned; or

(ii) as to suggest that the HKSAR is an independent state and has a national anthem of her own; or

(3) Assisting, causing, procuring, inciting, aiding and abetting others to commit or participate in any of the acts as set out in (1) or (2) above; or

(4) Knowingly authorising, permitting or allowing others to commit or participate in any of the acts as set out in (1) or (2) above.

"The purpose of the HKSAR Government applying for the injunction is to restrain anyone from disseminating or performing, etc, the Song, with the intention of inciting others to commit secession, or with a seditious intent, or from disseminating or performing, etc, the Song as the national anthem of Hong Kong with the intent to insult the national anthem, with a view to safeguarding national security and preserving the dignity of the national anthem. The HKSAR Government respects and values the rights and freedoms protected by the Basic Law (including freedom of speech), but freedom of speech is not absolute. The application pursues the legitimate aim of safeguarding national security and is necessary, reasonable, legitimate, and consistent with the Bill of Rights. In fact, the injunction complements existing laws and serves to clarify to members of the public that acts mentioned above may constitute criminal offences; they should not take their chances and attempt to break the law," the Government spokesman pointed out.