

Government welcomes CFA judgment on ERO

The Government of the Hong Kong Special Administrative Region (HKSAR) welcomed the judgment delivered by the Court of Final Appeal (CFA) today (December 21), which upheld the compatibility of the Emergency Regulations Ordinance (ERO) with the Basic Law and the proportionality of the restrictions of rights in prohibiting the use of facial coverings at public order events contained in the Prohibition on Face Covering Regulation (PFCR).

The CFA acknowledged that the very nature of the ERO requires the giving of wide and flexible legislative powers to the executive to deal with emergencies or public dangers quickly and adequately. Given the situations concerned are one of emergency or public danger, it should be left to the judgment of the Chief Executive in Council to make regulations which she may consider desirable in the public interest. The Court also pointed out that such legislative powers are necessary in particular when the Legislative Council may not be able to function and respond promptly enough or at all to the occasion of emergency or public danger in terms of passing the requisite legislation.

As to the PFCR, the CFA noted certain rights are affected by the prohibitions imposed by the PFCR but emphasised that the rights are not absolute and may be subject to lawful restrictions including the interests of public safety, public order and the protection of the rights and freedoms of others.

The CFA agreed that the preventative and deterrent nature of the PFCR is crucial and the need to prevent the deterioration of peaceful gatherings into violence is an integral part of the legitimate aim.

The HKSAR Government fully echoed the views expressed by the CFA that, when striking a fair balance between the societal and individual interests, "the interests of Hong Kong as a whole should be taken into account since the rule of law itself was being undermined by the actions of masked lawbreakers who, with their identities concealed, were seemingly free to act with impunity".