

HKSAR Government strongly condemns skewed remarks by Australia, China's Taiwan region and others on Safeguarding National Security Ordinance

“The Hong Kong Special Administrative Region (HKSAR) Government today (March 22) strongly condemned countries and regions (including Australia and China's Taiwan region) which, under the pretext of the so-called foreign travel advice, smeared the Safeguarding National Security Ordinance (the Ordinance) that the risks of travelling to Hong Kong would increase and people "could break the laws without intending to" after the Ordinance comes into effect. The HKSAR Government strongly condemned such political manoeuvres with skewed, fact-twisting, scaremongering and panic-spreading remarks.

A spokesman for the HKSAR Government said, "The offences endangering national security stipulated by the Ordinance target acts endangering national security with precision, and define the elements and penalties of the offences with clarity. All law enforcement actions taken by the law enforcement agencies of the HKSAR are based on evidence, strictly according to the law and for the acts of the persons concerned. The prosecution has the burden to prove beyond reasonable doubt that the defendant had the actus reus and mens rea of an offence before the defendant may be convicted by the court. Ordinary travellers (including travellers from Australia and China's Taiwan region) will not engage in acts and activities endangering our national security and will not unwittingly violate the law.

"Extraterritorial effect for the offences under the Hong Kong National Security Law and the Ordinance fully aligns with the principles of international law, international practice and common practice adopted in various countries and regions. It is both necessary and legitimate, and is also in line with those of other countries and regions around the world. It can be seen that the national security laws of various countries, including the United States (the US), the United Kingdom (the UK), Australia, Canada and the Member States of the European Union, also have extraterritorial effect under the 'personality principle' and the 'protective principle'. In formulating the extraterritorial effect under the Ordinance, we have taken into account the principles of international law and international practice of state jurisdiction, as well as the nature of the offences.

"We have to emphasise that all law enforcement actions taken by the law enforcement agencies of the HKSAR are based on evidence, strictly according to the law and for the acts of the persons concerned, instead of arbitrary arrests as claimed."

The spokesman reiterated, "According to the Ordinance, the detention period of a person arrested without charge can be extended only when the strict conditions provided under the Ordinance are met. Pursuant to Article 5(3) of the Hong Kong Bill of Rights, an arrested person has the right to be brought promptly before a judge, and such right is not at all prejudiced by the proposal. If it is necessary to extend the detention period of an arrested person, an application must be made to the court, and the court may only grant such application where there are reasonable grounds to believe that an extension is justified based on the specified ground, such as where the detention is necessary for securing or preserving evidence of the offence, and in any event for a total period not exceeding 14 days. These multiple safeguards ensure that the person would not be subject to arbitrary detention in breach of his right to liberty and security of person. Other countries also have relevant legislation that enable law enforcement agencies to extend the detention period, for example, in the UK, the detention period can be extended for 14 days, while in Singapore, a suspect can even be detained without charge for a period of up to two years, and can be further extended.

"As regards the power to restrict consultation with lawyers under the Ordinance, it is attended by sufficient safeguards to ensure that it is consistent with the right to confidential legal advice and the choice of lawyers. According to the judgment of the European Court of Human Rights, an arrested person's right to consult a lawyer may be temporarily restricted in exceptional circumstances where the government has compelling reasons to do so. Such restriction is permitted under the laws of, for instance, the UK, the European Union, the US and Canada. Although the arrested person's right to consult a lawyer is restricted to some extent, the investigating officers must still respect the other rights that the arrested person is entitled to under the law, including the right to silence. Overall, we believe that the restriction would not affect the right to a fair trial that the defendant enjoys."

The spokesman said, "We also note that recently individual countries (including the US, Canada and Japan) and some external organisations continue to make unfounded criticisms against the Ordinance, disregarding the strong popular support for the Ordinance and its benefits for Hong Kong's economic development and protection of human rights. Their attempt to mislead the public should be condemned."

"The Ordinance clearly specifies that the rights and freedoms enshrined in the Basic Law, as well as the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong, are to be protected in accordance with the law. Critics neglected the provisions and lashed out wantonly, fully exposing their malicious intentions to harm Hong Kong."

"Enacting laws on safeguarding national security is an inherent right of every sovereign state and also an international practice. Many common law jurisdictions have multiple national security legislation. Nevertheless, the

relevant parties deliberately turned a deaf ear and maliciously smeared the Ordinance, completely unmasking their double standards."

"The Ordinance is a piece of legislation to defend against external forces that endanger our national security, acting like a door lock to strengthen protection for our home. Only invaders who want to intrude into our home to plunder and loot will not want Hong Kong to legislate to safeguard the country. The HKSAR Government strongly urges these countries, regions and organisations, all with ulterior motives, to stop interfering in Hong Kong affairs which are internal affairs of China. Their tactics attempting to destabilise Hong Kong will never succeed," the spokesman reiterated.