

HKSAR Government strongly disapproves of and firmly rejects annual report of European Commission

The Government of the Hong Kong Special Administrative Region (HKSAR) on August 18 strongly disapproved of and firmly rejected the groundless attacks, slanders and smears targeting the HKSAR's safeguarding of national security, human rights, etc, in the so-called annual report about Hong Kong by the European Commission and also remarks about the city by the High Representative of the European Union (EU) for Foreign Affairs and Security Policy and Vice-President of the European Commission.

A spokesman for the HKSAR Government stressed, "The HKSAR is an inalienable part of the People's Republic of China. It is a local administrative region that enjoys a high degree of autonomy under 'one country, two systems' and comes directly under the Central People's Government. The legal basis for implementing 'one country, two systems' comprises the Constitution and the Basic Law, which provide constitutional guarantee for fundamental rights and freedoms, including the right to equality before the law, and is buttressed by the rule of law and independent judicial power."

The spokesman reiterated, "The HKSAR steadfastly safeguards national sovereignty, security and development interests, and fully and faithfully lives up to this top priority of the 'one country, two systems' principle. The HKSAR Government will resolutely, fully and faithfully implement the Hong Kong National Security Law (NSL) and further strengthen the HKSAR's legal system and enforcement mechanisms for safeguarding national security to effectively prevent, suppress and punish in accordance with the law acts and activities that endanger national security. At the same time, it will safeguard the rights and freedoms enjoyed by Hong Kong people in accordance with the law. Its overarching goal is to ensure the steadfast and successful implementation of 'one country, two systems'. The HKSAR Government strongly urges the EU to discern facts from fallacies, respect the international law and basic norms governing international relations, and immediately stop interfering in Hong Kong matters, which are purely China's internal affairs."

Safeguarding National Security

The HKSAR Government spokesman said, "National security is a matter within the purview of the Central Authorities. It is the responsibility and right of every country to safeguard its national security. The HKSAR Government firmly opposes the EU's malicious slanders against the NSL again by the so-called report, and strongly disapproves of the EU turning a blind eye to the fact that the implementation of the NSL has enabled the livelihood and economic activities of the Hong Kong community at large to resume as normal and the business environment to be restored. The successful promulgation and implementation of the NSL have restored the enjoyment of

rights and freedoms which many Hong Kong people were unable to enjoy during the period of serious violence and Hong Kong version of 'colour revolution' between June 2019 and early 2020, and have swiftly and effectively restored stability and security in Hong Kong. It is incontrovertible that people living, and businesses operating, in Hong Kong have experienced the major transition from chaos to order.

"All law enforcement actions taken by law enforcement agencies of the HKSAR under the NSL, or indeed any local laws, are based on evidence, strictly according to the law and for the acts of the people, institutions or organisations concerned, and have nothing to do with their political stance, background or occupation.

"As regards the sedition offence under the Crimes Ordinance, the courts of the HKSAR have ruled in different cases that the provisions relating to sedition are consistent with the relevant provisions of the Basic Law and the Hong Kong Bill of Rights on the protection of human rights, and that a proportionate and reasonable balance has been struck between safeguarding national security and protection of the freedom of speech. It should be reiterated that the offence is not meant to silence expression of any opinion that is only genuine criticisms against the Government based on objective facts.

"Apart from providing that the principle of the rule of law shall be adhered to, Article 5 of the NSL also provides for the presumption of innocence, the prohibition of double jeopardy, and the right to defend oneself and other rights in judicial proceedings that a criminal suspect, defendant and other parties in judicial proceedings are entitled to under the law. Moreover, trial by a panel of three judges instead of by a jury under specified circumstances in accordance with Article 46 of the NSL seeks to safeguard rather than undermine the defendants' right to a fair trial, and judges will deliver the reasons for the verdicts to ensure open justice.

"In terms of the scope of application, the NSL fully aligns with the principles of international law, international practice and common practice adopted in various countries and regions. Such practice is both necessary and legitimate. The national security laws of various countries, including the United States, the United Kingdom, Australia, Canada and the Member States of the EU, also have extraterritorial effect under the principles of 'personality' and 'protective jurisdiction'."

Safeguarding Due Administration of Justice and Rule of Law

The HKSAR Government spokesman pointed out, "Hong Kong is a society underpinned by the rule of law and has always adhered to the principle that laws must be obeyed and lawbreakers be held accountable. Hong Kong's judicial system has always been highly regarded by international communities. Article 85 of the Basic Law clearly stipulates that the Judiciary shall exercise judicial power independently in accordance with the law, free from any interference. As guaranteed by the Basic Law and the Hong Kong Bill of Rights, everyone charged with a criminal offence has the right to a fair hearing.

"Pursuant to Article 63 of the Basic Law, the Department of Justice controls criminal prosecutions, free from any interference. The prosecutors act strictly in accordance with a longstanding international practice that the decision to prosecute will only take into consideration the applicable laws and the admissible evidence to justify instituting proceedings. Cases will never be handled any differently owing to the political beliefs or backgrounds of the persons involved.

"The Standing Committee of the National People's Congress (NPCSC) exercises the power of interpretation in accordance with the relevant provisions of the Constitution of the People's Republic of China and the NSL, which is a fundamental aspect of the 'one country, two systems' principle, and a manifestation of the principle of the rule of law. The legislative interpretation of the NSL given by the NPCSC last year did not directly deal with specific judicial proceedings. Rather, it clarified the meaning of the relevant legal provisions and the basis for application of the law. It did not in any way impair the independent judicial power and the power of final adjudication of the Hong Kong courts as guaranteed by the Basic Law. Through the interpretation of Articles 14 and 47 of the NSL, the NPCSC provided clear guidance for the HKSAR to resolve by itself the controversial question of whether overseas lawyers who are not qualified to practise generally in Hong Kong may be admitted on an ad hoc basis to participate in cases concerning national security.

"The interpretation did not confer additional power on the Chief Executive, and only clarified that Article 47 of the NSL is applicable in handling the controversy concerning overseas lawyers. Owing to the inherent nature of matters concerning national security, the executive authority is in a far better position than the courts to make appropriate judgements. Hence, the courts will afford deference to the judgements made by the executive authority regarding national security matters. This principle is also a general rule for safeguarding national security practised by different places in the world. It must be stressed that the certificate issued by the Chief Executive only provides binding certification to the court on the questions stipulated in Article 47 of the NSL. It does not usurp the function of the court in deciding on other issues of the legal proceedings or the adjudication of the case."

Safeguarding Rights and Freedoms

The HKSAR Government spokesman said, "Hong Kong residents enjoy the rights and freedoms under the Basic Law, the Hong Kong Bill of Rights Ordinance and other relevant laws. The NSL clearly stipulates that human rights shall be respected and protected in safeguarding national security in the HKSAR and the rights and freedoms that Hong Kong residents enjoy under the Basic Law, and 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, including the freedom of speech, freedom of the press, etc., shall be protected in accordance with the law. However, such rights and freedoms are not absolute. The exercise of such rights may be subject to restrictions that are provided by law and are necessary for pursuing legitimate aims such as the protection of national

security or public order.

"Since the implementation of the NSL, the media landscape in Hong Kong has remained vibrant. As always, the media can exercise their freedom of the press in accordance with the law. Their freedom of commenting on and criticising government policies remains uninhibited as long as this is not in violation of the law.

"As regards the baseless remarks that smear the Personal Data (Privacy) (Amendment) Ordinance 2021 and Copyright (Amendment) Ordinance 2022 as laws threatening internet freedom, the HKSAR Government reiterated that the only objective of the former ordinance is to combat doxxing acts that intrude into personal data privacy. Through regular media statements, the Office of the Privacy Commissioner for Personal Data has conveyed to the public its anti-doxxing operations. Every arrest is supported by reasonable and solid evidence, with a sole aim of protecting personal data privacy. The latter ordinance aims to update Hong Kong's copyright regime to strengthen copyright protection in the digital environment, safeguarding the business environment for Hong Kong's creative and technology industries."

Improving Electoral System

The HKSAR Government spokesman said, "The improved electoral system of the HKSAR puts in place legal safeguards to ensure full implementation of 'patriots administering Hong Kong'. Keeping political power in the hands of patriots is a political rule commonly adopted in the world. No one in any country or region in the world will ever allow political power to fall into the hands of forces or individuals who do not love, or even sell out or betray, their own country. Regardless of one's background, whoever meets the requirements and criteria of patriots can participate in elections in accordance with the law and serve the Hong Kong public by entering into the governance structure of the HKSAR after getting successfully elected.

"In accordance with the improved electoral system, the sixth-term Chief Executive Election was successfully held by the HKSAR Government on May 8, 2022. The improved electoral system has broadened the representation in the electorate for the Chief Executive Election through expanding the Election Committee from 1 200 members from four sectors to 1 500 members from five sectors. Those from newly included subsectors who are eligible to elect the Chief Executive come from grassroots organisations, district groups, small and medium-sized enterprises and Hong Kong members of relevant national organisations, showcasing the broad representation and balanced participation of the improved electoral system. Also, the 2022 Legislative Council Election Committee constituency by-election was held successfully on December 18, 2022. Both elections were held strictly in accordance with the electoral laws of the HKSAR in an open, fair and honest manner."

Maintaining Long-term Prosperity and Stability

The HKSAR Government spokesman stressed, "Since the return of Hong Kong to the motherland, the HKSAR Government has been fully, faithfully and resolutely implementing the principles of 'one country, two systems', 'Hong

Kong people administering Hong Kong' and a high degree of autonomy in accordance with the Constitution and the Basic Law to ensure the long-term prosperity and stability of Hong Kong. Hong Kong has entered a new stage of advancing from stability to prosperity. Under 'one country, two systems', Hong Kong has the distinctive advantage of enjoying strong support of the motherland and being closely connected to the world. With the unparalleled connectivity to the Mainland and the rest of the world, the prospects of Hong Kong's development are promising. As the centre of economic gravity in the world is shifting eastward, the Mainland, along with other fast-growing economies in the region, will be a major engine of global economic growth and a source of ample economic opportunities. Hong Kong will continue to play its unique role as a gateway and intermediary, with a view to reaping the enormous benefits of this trend and seizing the abundant development opportunities ahead. With the motherland's strong support, and the wide room for development brought about by national strategies including the National 14th Five-Year Plan, the Guangdong-Hong Kong-Macao Greater Bay Area development and the high-quality development of the Belt and Road Initiative, Hong Kong will be presented with unlimited business opportunities."

The spokesman reiterated, "Any attempt by foreign countries or external forces to undermine Hong Kong's prosperity and stability by slandering the city's situation will only expose their own weakness and faulty arguments and be doomed to fail. The HKSAR Government will continue to discharge its duty to steadfastly ensure the successful implementation of the principles of 'one country, two systems', 'Hong Kong people administering Hong Kong' and a high degree of autonomy. It will continue to create strong impetus for growth at full steam, forge a better integration of a capable government and an efficient market, and proactively compete for enterprises and talent to strengthen the city's competitiveness. It will take the city's economic development to new heights, better serving Hong Kong citizens and fostering the city's development."