

LCQ11: Designating judges to handle national security cases

Following is a question by the Hon Tanya Chan and a written reply by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in the Legislative Council today (July 15):

Question:

As provided in Article 44 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region, which has come into effect since June 30 this year, the Chief Executive (CE) shall designate a number of judges from the various levels of court to handle cases concerning offence endangering national security (judges for national security cases), and CE may, before making such designation, consult the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region (the Committee) and the Chief Justice of the Court of Final Appeal (CJ). In this connection, will the Government inform this Council if it has studied:

- (1) whether CE may designate judges for national security cases without consulting CJ; if it has studied and the outcome is in the affirmative, of the circumstances under which or the considerations based on which CE may do so;
- (2) whether CE may reject or only partially accept CJ's advice on the designation of judges for national security cases; and
- (3) in the event of discord between the advice on the designation of judges for national security cases offered by the Committee and that by CJ, whether CE should give priority consideration to the advice of CJ; if it has studied and the outcome is in the negative, of the reasons for that?

Reply:

President,

According to Article 44 of the Law of the People's Republic of China on Safeguarding National Security in the HKSAR (the National Security Law), the Chief Executive (CE) shall designate a number of judges from the magistrates, the judges of the District Court, the judges of the Court of First Instance and the Court of Appeal of the High Court, and the judges of the Court of Final Appeal, and may also designate a number of judges from deputy judges or recorders, to handle cases concerning offence endangering national security. Before making such designation, the CE may consult the Committee for Safeguarding National Security of the HKSAR (the National Security Committee) and the Chief Justice of the Court of Final Appeal (CJ).

The Government's reply to the Hon Tanya Chan's three-part question is that the CE is the authority to designate judges and may consult the National Security Committee and the CJ. In designating the first batch of magistrates on July 3, 2020, the CE has consulted both.