

LCQ14: Hong Kong resident imprisoned in Philippines

Following is a question by the Hon Paul Tse and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (October 21):

Question:

On the 18th of last month, the family members of Mr Tang Lung-wai, a Hong Kong permanent resident who has been imprisoned for more than two decades in the Philippines allegedly due to a wrongful conviction, were informed that the appeal of Mr Tang had been dismissed by the Supreme Court of the Philippines. It is learnt that the Government has obtained a copy of the judgment. In this connection, will the Government inform this Council:

(1) whether the Government, upon receipt of the judgment, has assessed what follow-up actions need to be taken for helping Mr Tang seek justice; if it has assessed, of the details; if not, the reasons for that;

(2) whether the Chief Executive will, following her letter to the President of the Philippines on January 2, 2019 urging the Philippine side to seriously take heed of the progress of Mr Tang's appeal case, contact the Philippine side personally or urge the Ministry of Foreign Affairs of China to contact it so as to provide further assistance to Mr Tang;

(3) whether the Government will set saving and bringing people back to Hong Kong as its primary goal and urge the Philippine side to grant parole or pardon to Mr Tang as soon as possible, or make a transfer request to the Philippine side in accordance with the transfer of sentenced persons agreement signed between the two governments, so that Mr Tang can return to Hong Kong as soon as possible;

(4) whether the Government or the Chinese Embassy in the Philippines (the Embassy) has sent its staff to visit or contact Mr Tang since the beginning of this year; if so, of the number of visits paid or contacts made, the recent situation and health condition of Mr Tang, and the assistance rendered to him; if not, the reasons for that;

(5) as it has been reported that the Philippines has been severely hit by the Coronavirus Disease 2019 epidemic, and the number of infection cases there is the highest among the countries in Southeast Asia, whether the Government or the Embassy has sent its staff to gain an understanding of the epidemic prevention work in the prison in which Mr Tang is held, and whether any assistance in epidemic prevention needs to be provided to him; if so, of the details; if not, whether immediate actions will be taken to gain an understanding with the local authority; and

(6) given that Mr Tang earlier registered, through his elder brother, for the Government's \$10,000 cash grants to Hong Kong permanent residents under the Cash Payout Scheme, but his registration was rejected by the Scheme's Secretariat on the grounds that the form submitted was inappropriate, and he was told that he would be informed separately when the appropriate form became available, and I have also written to the Financial Secretary twice requesting him to follow up on the matter and enquiring about the latest progress of the preparation of the relevant form, when the \$10,000 cash grant is expected to be disbursed to Mr Tang?

Reply:

President,

When the HKSAR Government receives requests for assistance from Hong Kong residents who are detained or imprisoned overseas, or when the Chinese Diplomatic and Consular Missions (CDCMs) inform the Assistance to Hong Kong Residents Unit (AHU) of the Immigration Department about Hong Kong residents being detained or imprisoned overseas, AHU will liaise with the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR (OCMFA), CDCMs and other relevant departments to understand the cases. In light of the nature and circumstances of individual cases as well as the wishes of the assistance seekers, AHU will provide practicable and appropriate assistance, such as visiting the subjects by CDCMs or providing information on local lawyers and translators; informing the subjects' family members in Hong Kong of their detention upon request and in accordance with their wishes, so that their family members can make relevant arrangements; and approaching relevant authorities of the local government through CDCMs to convey the wishes of the subjects and their family members as well as to make enquiries on case progress, or arrangements for communication with and visits by their family members. The HKSAR Government and CDCMs are obliged to respect and abide by the local jurisdiction when following up on the requests for assistance.

Having consulted relevant departments, our reply to the various parts of the question is as follows:

(1), (2), (4) and (5) Upon receipt of the concerned request for assistance in 2003, AHU has maintained contact with OCMFA and the Chinese Embassy in the Philippines (the Embassy) over the years. Whenever receiving a request for assistance from the subject or his family, AHU would, having regard to the circumstances and nature of the request, immediately follow up on the case or make relevant arrangements through the Embassy. Attaching great importance to the case, the Embassy had not only sent officials to visit the subject and provide him with daily necessities and food for several times, but also approached the local judicial authorities to understand the case progress as well as to urge for prompt, fair and impartial hearings in accordance with the local laws. Moreover, the Embassy had, according to the subject's wishes, assisted in conveying to the Philippine Government his requests numerous times, which include ensuring the subject is provided with basic necessities in prison and translation services in relation to the case. Besides, the

Embassy had also co-ordinated with the local Chinese community to assist the subject to employ an interpreter.

In the past year, AHU has been liaising with the Embassy with regard to the treatment of the subject in prison, including the request for anti-epidemic supplies and the situation in respect of testing for COVID-19, to gain an understanding of the subject's well-being in prison and to convey the requests of the subject's family. We learned that the Embassy supplied masks to Chinese citizens in the prison concerned. The prison authorities have also established a medical centre to provide instant medical assistance to the prisoners. AHU has informed the subject's family members of the arrangements.

In August 2018, the Chief Executive (CE) sent a letter to the President of the Philippines to urge the Philippine side for impartial hearings regarding the subject's case in accordance with the local laws, and striving to provide the travel records requested by the subject to the Philippine Government. The Secretary for Security had also sent a letter to the Philippine immigration authorities asking for an early response to the above requests; and also letters to OCMFA and the Consul-General of the Philippine Consulate in Hong Kong for rendering assistance to the subject through various channels. Subsequently, with the assistance of various parties, the subject successfully obtained the travel records from the Philippine authorities and submitted them to the relevant authorities of the Philippine side for lodging an appeal. AHU recently learned from the subject's family that the appeal had been dismissed by the Philippine side. AHU will continue to liaise with his family to ascertain the wishes of Mr Tang and follow up on the case. AHU will also continue to provide practicable assistance while upholding the principle of respecting the local jurisdiction. The HKSAR Government will continue to pay close attention to this case and maintain close contact with OCMFA and the Embassy to provide all practicable assistance to the subject.

CE is aware of and cares about this case. The HKSAR Government will continue to convey the wishes of the subject to the Philippine authorities through OCMFA and the Embassy.

(3) According to the Transfer of Sentenced Persons Ordinance (Cap. 513) and the agreement signed between Hong Kong and the Philippines on transfer of sentenced persons, for Hong Kong residents serving sentences in the Philippines, if the judgment of the person's offence is final or the person has no further proceedings relating to any other offence pending in the Philippines, the HKSAR Government will handle the applications from the Hong Kong residents concerned for transfer to Hong Kong to serve their sentences according to the law. However, a pre-condition is that an application is submitted by the subject.

The decision of whether or not to grant parole and pardon to Mr Tang to let him return to Hong Kong rests with the Philippine Government and the President of the Philippines.

(6) Hong Kong permanent residents who are detained or serving sentences in

places outside Hong Kong may register for the Cash Payout Scheme if they meet the eligibility criteria. If any person is not able to register through the existing channels, the Secretariat will consider appropriate arrangements after taking into account the circumstances of each case. As for the case mentioned in the question, the Secretariat has contacted Mr Tang's elder brother for information required for further examining the case upon receipt of the registration submitted by him, and is consulting the relevant departments. The Secretariat will give a reply to Mr Tang's elder brother once a decision is made.