

## LCQ16: Immigration control

Following is a question by the Hon Hui Chi-fung and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (October 30) :

Question:

It has been reported that a former Secretary of Foreign Affairs of the Philippines, who arrived in Hong Kong with a diplomatic passport in June this year, was denied entry into Hong Kong after having been held by the Immigration Department (ImmD) for questioning for over five hours. In May this year, a former Ombudsman of the Philippines, who arrived in Hong Kong with an ordinary passport, was also held for questioning, notwithstanding that she was eventually granted entry. On the other hand, in March this year, these two persons, together with some Filipino fishermen, filed a lawsuit with the International Criminal Court against various Chinese officials, including the State President, for alleged crimes against humanity. In this connection, will the Government inform this Council:

- (1) of the general reasons for ImmD to reject the entry of foreigners;
- (2) of the reasons for subjecting these two persons to the aforesaid treatment upon their arrival in Hong Kong, and whether such reasons include their posing security threats to Hong Kong;
- (3) of the Central Authorities' roles in the immigration matters of the Hong Kong Special Administrative Region (SAR); whether the SAR Government had received any instruction beforehand from the Central Authorities regarding the entry of these two persons into Hong Kong; if so, of the details;
- (4) whether the SAR Government's handling of the entry of these two persons had been affected by the stance of the Central Authorities; if so, whether it has assessed if the Central Authorities had contravened (i) the principles and policies of implementing "Hong Kong people administering Hong Kong" and a high degree of autonomy in SAR, or (ii) Article 22 of the Basic Law; if it has assessed and the outcome is in the affirmative, of the follow-up actions; if the assessment outcome is in the negative, the justifications for that;
- (5) whether, under those provisions of the Vienna Convention on Consular Relations having the force of law in Hong Kong, ImmD is empowered to hold a foreigner with a diplomatic passport for questioning or to deny his/her entry; whether it has assessed if ImmD's treatment of the aforesaid diplomatic passport holder contravened the relevant provision(s); and
- (6) whether it has assessed if the aforesaid incident, which has aroused much international concern, has adverse impacts on Hong Kong's international reputation and investment environment; if it has assessed and the outcome is in the affirmative, of the measures in place to prevent the occurrence of similar incidents; if the assessment outcome is in the negative, the reasons

for that?

Reply:

President,

After consulting the relevant bureaux and departments, my consolidated reply to the question raised by the Hon Hui Chi-fung is as follows:

The Hong Kong Special Administrative Region (HKSAR) has been, in strict accordance with the Basic Law, implementing the principle of "one country, two systems" and exercising "Hong Kong people administering Hong Kong" and a high degree of autonomy. Immigration control is within the autonomy of the HKSAR under the "one country, two systems" principle. Under Article 154(2) of the Basic Law, the HKSAR Government applies immigration controls on entry into, stay in and departure from the HKSAR by persons from foreign states and regions. Pursuant to section 7(1) of the Immigration Ordinance (Chapter 115 of the Laws of Hong Kong), a person may not land in Hong Kong without the permission of the Immigration Department (ImmD) unless the person enjoys the right of abode in Hong Kong, has the right to land in Hong Kong, or may land in Hong Kong without such permission by virtue of the Immigration Ordinance (such as being a member of the crew of an aircraft). The HKSAR Government will not comment on individual entry cases or make public any information concerning individual cases.

In handling each entry case, the ImmD decides whether to allow entry after giving due consideration to the actual circumstances of each case, having regard to the prevailing HKSAR laws and policies as applicable. Pursuant to section 4(1)(a) of the Immigration Ordinance, officers of the ImmD may examine any person on his/her arrival in Hong Kong to verify his/her identity and consider whether he/she meets normal immigration requirements, such as whether he/she possesses a valid travel document, whether he/she possesses a valid visa or endorsement that corresponds to his/her purpose of entry, whether he/she has the arrangements and facilities to return to his/her place of domicile, whether he/she has sufficient funds for the proposed stay, whether he/she has any known adverse records, his/her purpose of entry, etc. Section 11(1) of the Immigration Ordinance authorises officers of the ImmD to refuse to give visitors permission to land in Hong Kong after examination. Section 18(1)(a) of the Immigration Ordinance empowers officers of the ImmD to remove persons who have been refused permission to land. The Vienna Convention on Consular Relations does not affect ImmD's lawful exercise of immigration control and right to conduct immigration examination on persons entering Hong Kong.

It is the HKSAR Government's responsibility to uphold effective immigration control in Hong Kong and refuse entry of certain individuals when circumstances so warrant. The powers and duties of the ImmD in exercising immigration control are comparable to those of the relevant authorities of other governments elsewhere. Hong Kong is a free and open society which subscribes to the rule of law. We will continue to welcome visitors from around the world to Hong Kong and make every effort to facilitate their entries and exits while duly exercising immigration control. This is an

aspect that Hong Kong has been well recognised internationally.