

LCQ17: Surrender of fugitive offenders agreements

Following is a question by the Hon Kenneth Leung and a written reply by the Acting Secretary for Security, Mr Sonny Au, in the Legislative Council today (June 20):

Question:

The Government of the Hong Kong Special Administrative Region (SAR) has so far signed agreements with 20 jurisdictions on the surrender of fugitive offenders (SFO). On matters relating to SFO, will the Government inform this Council:

(1) of the respective numbers of SFO requests made pursuant to the relevant agreements which were received, accepted and rejected by the Government in each of the past 10 years; whether it consulted the Central Government in respect of any of such requests; if so, of the number of requests involved and the consultation details, and set out such information one by one by the jurisdictions concerned;

(2) of the number of SFO requests made by the Government pursuant to the relevant agreements in each of the past 10 years and, among them, the respective numbers of requests accepted and rejected; whether it consulted the Central Government before making any of such requests; if so, of the number of requests involved and the consultation details, and set out such information one by one by the jurisdictions concerned; and

(3) as the Department of State of the United States (US) stated in the Hong Kong Policy Act Report submitted to the Congress last month that the Chief Executive of SAR had rejected in October last year "at the behest of the Central Government" an SFO request made by the US Government, of the reasons of the SAR Government for rejecting the request; whether the SAR Government had consulted the Central Government upon receipt of the request; if so, of the reasons and the legal basis for that; whether the person requested to be surrendered has been arrested, detained and deported from Hong Kong by the SAR Government; if so, of the details?

Reply:

President,

The Hong Kong Special Administrative Region (HKSAR) Government has been actively taking forward co-operation with other jurisdictions on surrender of fugitive offenders (SFO) and mutual legal assistance in criminal matters (MLA). The juridical assistance network has been expanded through signing relevant agreements with more jurisdictions, with a view to combating crimes and upholding the law. According to Article 96 of the Basic Law, "[w]ith the

assistance or authorisation of the Central People's Government, the Government of the Hong Kong Special Administrative Region may make appropriate arrangements with foreign states for reciprocal juridical assistance". As far, Hong Kong has signed SFO agreements with 20 jurisdictions (Note 1) and MLA agreements with 32 jurisdictions (Note 2).

Having consolidated inputs from the Department of Justice (DoJ), my reply to the Hon Kenneth Leung's question is as follows:

(1) and (2) In the past 10 years, Hong Kong, pursuant to its signed SFO agreements with other jurisdictions, made 24 SFO requests to other jurisdictions; while other jurisdictions, pursuant to their signed SFO agreements with Hong Kong, made 66 SFO requests to Hong Kong. Pursuant to these requests, other jurisdictions surrendered 11 persons to Hong Kong and refused four requests from Hong Kong; while Hong Kong surrendered 23 persons to other jurisdictions and refused five requests from other jurisdictions. For the remaining requests, some are being processed, some cannot be implemented due to failure in locating fugitive offenders or other reasons, and some have been withdrawn due to arrest of the fugitive offenders in another place or the requesting place, or because of other reasons.

(3) All SFO requests are processed in strict accordance with the Fugitive Offenders Ordinance (FOO) (Chapter 503 of the Laws of Hong Kong) and pursuant to the agreements signed between Hong Kong and the relevant jurisdictions. Regarding SFO requests made by the Government of the United States, the Agreement between the Government of Hong Kong and the Government of the United States of America for the Surrender of Fugitive Offenders has stipulated clearly the circumstances under which surrender requests may be refused. The relevant provisions are extracted at Annex. It is inappropriate to discuss individual surrender cases in public or disclose the information involved. As regards the movement of persons in and out of Hong Kong, they have all along been dealt with by the HKSAR Government in accordance with the laws of Hong Kong.

Under section 6 of the FOO, on receipt of a surrender request from another jurisdiction by the HKSAR Government, the Chief Executive (CE) must first issue an authority to proceed before the request can be processed further. The decision on whether to issue an authority to proceed rests entirely with the CE, who would consult the DoJ in making such a decision. For the purpose of complying with the FOO and the applicable bilateral agreement, the CE would only make a decision after taking into full account the relevant facts and circumstances of each case. It is also stipulated in section 24 of the FOO that the HKSAR Government is required to give notice to the Central People's Government in relation to surrender requests received and made by Hong Kong.

Note 1: Australia, Canada, Czech, France, Finland, Germany, India, Indonesia, Ireland, Malaysia, the Netherlands, New Zealand, the Philippines, Portugal, the Republic of Korea, Singapore, South Africa, Sri Lanka, the United Kingdom and the United States.

Note 2: Argentina, Australia, Belgium, Canada, Czech, Denmark, France, Finland, Germany, India, Indonesia, Ireland, Israel, Italy, Japan, Malaysia, Mongolia, the Netherlands, New Zealand, the Philippines, Poland, Portugal, the Republic of Korea, Singapore, Sri Lanka, South Africa, Spain, Sweden, Switzerland, the United Kingdom, the United States and Ukraine.