

## LCQ7: Taiwan homicide case

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

Question:

A Hong Kong man was suspected of murdering an accompanying Hong Kong woman in Taiwan in February last year and returned to Hong Kong afterwards. As the Government may not, under the existing legislation, transfer the man to Taiwan for trial, the Security Bureau submitted to this Council in February this year a legislative proposal seeking to amend the Fugitive Offenders Ordinance (Cap 503) and the Mutual Legal Assistance in Criminal Matters Ordinance (Cap 525). On the 23rd of this month, the Government formally withdrew the bill concerned. On the other hand, that man, who had been sentenced to imprisonment for convicted offences of money laundering, finished serving the sentence and was released this month. In this connection, will the Government inform this Council whether, at present, it has any plans (e.g. through the existing mechanism) to expeditiously transfer the man to Taiwan for trial, in order to seek justice for the deceased, thereby upholding justice; if so, of the details; if not, the reasons for that?

Reply:

President,

The Taiwan homicide case that took place in February 2018 involved a Hong Kong female being murdered by a Hong Kong male who returned to Hong Kong afterwards. The suspect was arrested by the Hong Kong Police in March 2018. After considering all relevant evidence, the Department of Justice (DoJ) charged the suspect with four counts of "money laundering". He was convicted of money laundering on April 29, 2019 and sentenced to 29 months' imprisonment.

On October 18, the Chief Executive received a letter from the suspect who was in prison. In the letter, the suspect expressed that he decided to surrender himself to Taiwan for his alleged involvement in the homicide case upon prison discharge, and requested the Hong Kong Special Administrative Region (HKSAR) Government to assist him in making relevant arrangement. The suspect was released from prison on October 23, and on the same day expressed via the media his wish to surrender himself to Taiwan and stand trial there.

At present, Hong Kong does not have law for surrender of fugitives to and legal assistance in criminal matters with Taiwan. With regard to the criminal prosecution against the suspect, DoJ has thoroughly and comprehensively considered the Hong Kong Police's investigation and the available evidence. There has only been sufficient evidence in Hong Kong to institute criminal prosecution in Hong Kong courts against the suspect for

money laundering but not for other offences including his suspected offence of homicide in Taiwan. In making prosecutorial decisions, DoJ has always taken into account the available evidence and applicable laws, and acted independently in accordance with the Prosecution Code. A prosecution would only be commenced if there is sufficient admissible evidence to demonstrate a reasonable prospect of conviction.

It is widely known that the homicide offence was committed in Taiwan, and the corpse of the deceased, the key witnesses, the exhibits and the relevant evidence are all in Taiwan. Therefore, Taiwan definitely has jurisdiction over the case. Since December last year, the Taiwan authorities issued a warrant of arrest against the suspect and the warrant has been subsequently changed to be permanently valid. As the suspect has expressed his wish to stand trial in Taiwan and is a wanted person there, the HKSAR Government maintains that his surrender to Taiwan has no direct relation with juridical assistance, and can be dealt with directly outside any juridical assistance regime.

The suspect has already served his sentence and is a free person now. The HKSAR Government has no authority to continue to detain him or impose compulsory measures on him as claimed by Taiwan. As for the suspect's decision to voluntarily surrender himself, the HKSAR Government is pleased to see that he has repented and is willing to shoulder his criminal responsibility, as this will bring progress to the handling of the case. In fact, upon receipt of the suspect's letter, the HKSAR Government has immediately relayed the suspect's wish to the Taiwan authorities via the Hong Kong Police Force, informing Taiwan that Hong Kong would assist him in making the relevant arrangements and would be pleased to provide Taiwan with all necessary and lawful assistance where practicable. However, this must be conducted under the principle that Taiwan respects Hong Kong's law and jurisdiction. Presently, Hong Kong and Taiwan have already commenced liaison to make arrangements for the suspect to travel to Taiwan. It is hoped that both sides will, on the basis of mutual respect for each other's judicial system, handle the matter in a pragmatic manner and strive to find a solution to promptly allow the suspect, who is willing to surrender, to travel to Taiwan to face trial, with a view to giving him an opportunity for self-redemption, upholding the rule of law and justice as well as bringing relief to the victim's family.