

Transcript of remarks by CE at media session

Following is the transcript of remarks by the Chief Executive, Mrs Carrie Lam, at a media session with the Secretary for Justice, Ms Teresa Cheng, SC, and the Secretary for Constitutional and Mainland Affairs, Mr Erick Tsang Kwok-wai today (November 11):

Reporter: Hello, Mrs Lam. The first question is, under the decision, is taking quorum calls or any kind of filibustering still allowed? Will the Government regard these kinds of actions as refusal to endorse the country's resumption of sovereignty over the city? And the second question is on the legal ground. You just said in your Chinese answer that you have spelt out a number of laws, but then could you explain a little bit more about the exact laws, and is it only you to announce the decision? Thank you.

Chief Executive: Two questions. First of all, as I have explained, the purpose of seeking a decision from the National People's Congress Standing Committee (NPCSC) is because we are facing a constitutional problem. The constitutional problem arose from the fact that the NPCSC has earlier on, that is on August 11, made another decision in response to the HKSAR Government's request, because we have delayed the election by one year. They have made a decision to allow the sixth-term Legislative Council to continue its responsibilities for no less than one year. The NPCSC is the source of the authority for this extended tenure of the Legislative Council. The second point is because we all know that before the postponement of the election was decided, we were in the midst of a nomination period for candidates to contest in the seventh-term Legislative Council, and four incumbent Legislative Council members were being ruled as not fulfilling the nomination criteria, and that is they could not fulfil the conditions in the declaration that they are pledging allegiance to the HKSAR and the Basic Law. So, we need to find a way out, so to speak, because we could not allow members of the Legislative Council who have been judged in accordance with the law that they could not fulfil the requirement and the prerequisites for serving on the Legislative Council to continue to operate in the Legislative Council. That was the purpose of seeking a decision from the NPCSC, and the NPCSC made that decision today, which has made it very clear that the criteria for anyone who has taken an oath and served as a Legislative Councillor but thereafter they have engaged in activities which are breaching those requirements that they should immediately lose their qualification to become a Legislative Councillor.

I heard you mentioned a word about filibustering. This whole deliberation has very little to do with the filibustering. We would not take away Legislative Council members' qualification because they deploy certain parliamentary tactics in the Legislative Council, that is they keep on asking questions, they may call quorums and so on. Although of course we would not like to see this sort of tactics being deployed very extensively to the

extent of totally disrupting the normal functioning of the Legislative Council, but that is not the purpose of this decision at all. We will abide by the decision of the National People's Congress Standing Committee and that's why the HKSAR Government has announced only the four members who have been judged as not qualified for taking part in the seventh-term Legislative Council Election that they have lost their Legislative Council member status.

As far as the various legislation, I'll repeat again. When we said that in accordance with the law, it is both the Basic Law and also the various pieces of relevant local legislation. The Basic Law is something I'm sure everybody is now aware of, that is Article 104 concerning the taking of an oath by members of the Legislative Council, and now that we have the decision made today, which clarifies some of the concepts that were set out in the 2016 Interpretation. In due course, we will introduce amendments to some local legislation in order to align with this decision made by the National People's Congress Standing Committee. But there are several pieces of local legislations that would also have an effect that certain members of the Legislative Council might be judged to have breached the requirements. These include the electoral legislation under the Legislative Council Ordinance as well as the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation, under which the Returning Officer will judge in accordance with the law whether certain candidates have fulfilled the requirements in the declaration. It also includes Legislative Council Ordinance section 73, which gives the Secretary for Justice – in fact also any member of the public – the power to apply to court to suggest that certain members have lost their status as a Legislative Council member. It also includes Basic Law Article 79(7), where the Legislative Council President could declare that the Legislative Council member has lost their status because of having breached their oath after a two-thirds majority approval of the motion. It also includes the national security law article 35, which says that whoever is being convicted of having breached the national security law will not be eligible to participate in an election and if they are already a member of the Legislative Council, they will immediately lose their qualification. These are the various pieces of local legislation that will come under that particular aspect.

Reporter: The first question is, can you clarify again why they are endangering national security, and what does that mean? And the second question is other opposition lawmakers have threatened to resign, there's a view that if the opposition resigns it becomes a "rubber stamp parliament". What do you think? Can the LegCo continue to perform its duties to the public without an opposition? Thank you.

Chief Executive: First question about under what circumstances is "endangering national security", one would have to go to the national security law. On June 30, the National People's Congress Standing Committee enacted a piece of legislation for Hong Kong to safeguard national security and immediately that piece of national legislation was included in Annex III to the Basic Law for promulgation in Hong Kong. From that day onwards, Hong Kong has a piece of national security legislation to enforce. Our enforcement agents will use that piece of legislation to safeguard national security.

There are four main offences under the national security law. I can't really go into a lot of details but you can read that national security law to understand very clearly that there are four types of offences being included in the national security legislation.

The second question is about, I thought, more than 10 or 15 current Legislative Council members who have indicated- I have not heard a confirmation- that if a decision was made to disqualify the four members, then they might contemplate a mass resignation. If that happened, we will have a total of 19 less Legislative Council members in the Legislative Council when they are supposed to discharge their responsibilities in the extended term for no less than one year.

I wouldn't say that for members remaining in the Legislative Council we would have a "rubber stamp" Legislative Council. Each member of the Legislative Council has to account for his or her actions to the constituents, to their voters. And there are many occasions that even amongst the so-called "pro-establishment members", that our proposals did not get through, either because they said that it was not good enough or they said that this was not welcomed by members in their respective constituencies. I clearly will say that it is unfair to the pro-establishment members that once the 19 members left the Legislative Council, then they will become a "rubber stamp" of the HKSAR Government. That certainly would not happen.

In the same way, we, especially myself, welcome diverse opinion in the Legislative Council. I respect the check and balance responsibility of the Legislative Council. That is clearly written in the Basic Law as the constitutional duties of the Legislative Council. But all these responsibilities have to be exercised in a responsible manner. If some members of the Legislative Council are not there to discharge their constitutional duties, then many people will have a lot to say about their behaviour. As far as we are concerned, we follow the Basic Law. Under Basic Law Article 75, we could continue to have Legislative Council members – the statutory quorum is no less than half, so for the Legislative Council consisting of 70 members, we need no less than half, that is 35 members. It is clear that there should still be more than 35 members to enable the Legislative Council to operate in the coming months.

(Please also refer to the Chinese portion of the transcript.)