

Transcript of remarks by S for S and Law Officer (International Law) on Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019

Following is the transcript of remarks by the Secretary for Security, Mr John Lee, and the Law Officer (International Law) of the Department of Justice, Mr Paul Tsang, at a media session after attending the Legislative Council (LegCo) Panel on Security meeting today (June 4):

Reporter: Could you just clarify whether the Chief Executive has the power to reject the Central Government's order to extradite a particular person under Article 24 of the extradition bill related to issues such as national defense as well as diplomacy?

Secretary for Security: If you look at the provision under Section 24 (of the Fugitive Offenders Ordinance), actually there are several steps. The Central Government is on notification by the Hong Kong SAR (Special Administrative Region) Government. After the notification, after the due process has been completed, of course, we will also have to report to the Central Government about the Chief Executive's decision to surrender a particular fugitive. After all these steps, according to Section 24, the Central Government can issue a directive to the Chief Executive if there are things that have serious impact on foreign affairs (or defence). But it will only happen on notification by, first of all, the Hong Kong SAR Government, so this is a procedure that will happen after the first step of notification. If the Hong Kong SAR Government does not notify because the Hong Kong SAR Government does not consider this is a case worth dealing with, then there is no notification given to the Central Government. So Subsection 3 of Section 24 in which the Central Government can give directive would not happen.

Reporter: Mr Lee, in effect, can you confirm to us that with this clause, it is only giving the Central Government a veto power to an extradition case. But it does not reverse, as your colleague said trumped any decision by Hong Kong government and the Judiciary whether it is a veto power only?

Secretary for Security: I think since we have explained it many times, maybe I ask our legal expert to answer your question.

Law Officer (International Law): Under Section 24 (3), the CPG (Central People's Government) does have the power to give an instruction to the Chief Executive to do or not to do a surrender. That's expressly provided for in the section.

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