

香港特別行政區政府
保安局



The Government of the
Hong Kong Special Administrative Region
Security Bureau

香港添馬添美道 2 號

2 Tim Mei Avenue, Tamar, Hong Kong

本函檔號 Our Ref.:

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24 March 2021

Dear Members of the European Parliament,

I refer to the earlier letter from 61 Members of the European Parliament addressed to the Chief Executive of the Hong Kong Special Administrative Region (HKSAR). I am authorised to reply on her behalf.

We object vehemently to the double standard and biased position adopted by the 61 members. Their assertions do not reflect the truth.

First, Hui mentioned in your letter is an absconder who has openly jumped bail. He is currently wanted by the Hong Kong court for nine offences in connection with four cases, including criminal damage, access to computer with dishonest intent, attempt to pervert the course of justice, contempt, etc., contrary to the Crimes Ordinance, Offences against the Person Ordinance and others. We should point out that these offences were committed by Hui when he was a member of the HKSAR Legislative Council (LegCo) and in the LegCo Building. These are not offences under the Hong Kong National Security Law. In order to escape justice in Hong Kong, he conspired together with other people to provide fictitious information to cheat the Court to release his travel document.

Your letter seems to suggest that people of a certain category can be immune from the law and are untouchable. In Hong Kong, nobody is above the law. Wherever any persons are suspected of having committed a crime in organising, planning or aiding the abscondence, or in such criminal conspiracy, the Police will investigate and pursue their legal liabilities under the Hong Kong law within its jurisdiction. There will be a due process of investigation

and evidence gathering. Any course of action would be based on evidence and carried out in accordance with the law.

As regards your postulation on the course of action to be taken, we shall not comment on the specific details of the criminal case to avoid jeopardising the investigation and the due process of justice. It should, however, be emphasised that the Hong Kong Police are under a statutory duty to take action against any acts that contravene the laws of the HKSAR, regardless of the offender's political background or status.

National Security Law

The Law of the People's Republic of China on Safeguarding National Security in the HKSAR was passed by the Standing Committee of the National People's Congress, to establish and improve the legal system and enforcement mechanisms for safeguarding national security in the HKSAR. It is the legitimate right and duty of every state to safeguard its national security. Safeguarding national security in the HKSAR is a matter within the purview of the Central Authorities of the People's Republic of China which has an overarching responsibility for national security affairs relating to the HKSAR. This is the basic principle of national sovereignty and reflects the common practice of states around the world.

The National Security Law is enacted in accordance with the Constitution of the People's Republic of China, the Basic Law of the HKSAR of the People's Republic of China, and the Decision of the National People's Congress on Establishing and Improving the Legal System and Enforcement Mechanisms for Safeguarding National Security in the HKSAR, and not the Sino-British Joint Declaration.

The Sino-British Joint Declaration stipulated the resumption of exercise of sovereignty by China over Hong Kong and relevant arrangements during the transition period. The basic policies regarding Hong Kong declared by China in the Joint Declaration were China's statement of policies, not commitment to the United Kingdom

or an international obligation. With the resumption of exercise of sovereignty by China over Hong Kong and the completion of follow-up matters, all UK-related provisions have been fulfilled. The international community should fully acknowledge this fact and stop interfering in Hong Kong affairs which are internal affairs of China.

The Basic Law is enacted to implement the "One Country, Two Systems" policy of the People's Republic of China regarding Hong Kong. The National Security Law ensures the full and faithful implementation of "One Country, Two Systems", "Hong Kong people administering Hong Kong" and a high degree of autonomy. It has stipulated four types of offences to safeguard national security, namely, secession, subversion, terrorist activities, and collusion with a foreign country or with external elements to endanger national security. At the same time, the National Security Law provides that Hong Kong people's rights and freedoms under the Basic Law and the relevant provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong shall be protected in safeguarding national security in the HKSAR.

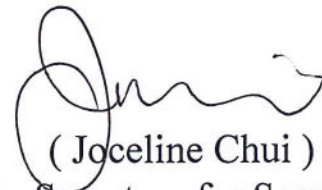
The extraterritorial application of the National Security Law is in line with the well-recognized international law principle of "protective jurisdiction". As observed by the International Law Commission, this principle "may be understood as referring to the jurisdiction that a State may exercise with respect to persons, property or acts abroad which constitute a threat to the fundamental national interests of a State, such as a foreign threat to the national security of a State". Hence, if foreigners commit crimes abroad against a State that endanger its security or vital interests (such as government systems or functions), the State can adopt laws with extraterritorial effect to exercise prescriptive criminal jurisdiction.

The principle of "protective jurisdiction" is adopted in international conventions against terrorism such as the International Convention against the Taking of Hostages (1979), the International Convention for the Suppression of Terrorist Bombings (1997), and the International Convention on the Suppression of the Financing of Terrorism (1999).

Extraterritorial application is therefore a common feature of national security laws in many countries, including the member countries of the European Union. Attacking Hong Kong National Security Law for political reasons whilst turning a blind eye to the same extraterritorial effect of one's own countries' national security laws are simply double standards and sheer hypocrisy.

Political biases will not earn respect. Only rationality and facts will. Rationality and facts are the true Hong Kong story.

Yours sincerely,

A handwritten signature in black ink, consisting of a large loop followed by a series of smaller, connected loops and a final upward stroke.

(Joceline Chui)
for Secretary for Security