

HKSAR Government confiscated criminal proceeds of absconders endangering national security in accordance with the law

The Court of First Instance yesterday (February 17), upon application by the Department of Justice (DoJ), issued the confiscation order under section 9 of Schedule 3 of the Implementation Rules for Article 43 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (Implementation Rules), concerning the confiscation of proceeds Hui Chi-fung obtained from committing offences endangering national security. The Hong Kong Special Administrative Region (HKSAR) Government has noted the unfounded smear and malicious attacks online regarding the actions taken by the Court in accordance with the law. The HKSAR Government strongly condemned and opposed this, and it is necessary to rebuke and to set out the following facts to set the record straight.

An HKSAR Government spokesman stressed, "Hong Kong is a society underpinned by the rule of law and has always adhered to the principle that laws must be obeyed and lawbreakers be held accountable. Amongst others, it is a common and effective practice to make an application to the Court for a confiscation order to prevent offenders from benefiting from their criminal acts. In fact, laws and mechanisms for confiscation of crime proceeds are common around the world. They cover the crime proceeds from commission of any serious offence, including offences endangering national security."

"Hui Chi-fung has committed numerous heinous crimes, with a number of criminal charges being laid against him. He conspired with foreign politicians in 2020 to forge documents and deceive the court with false information in order to obtain the court's permission to leave Hong Kong while he was on bail, and jumped bail and absconded overseas. Afterwards, Hui Chi-fung was suspected to have committed offences endangering national security overseas. On August 12, 2021 and June 21, 2023, two magistrates issued warrants against Hui Chi-fung for allegedly committed crimes of 'inciting secession', 'inciting subversion of state power', and 'colluding with foreign or external forces to endanger national security'. Hui Chi-fung is currently a wanted person with reward notice by the Police, and specified as relevant absconder by the Secretary for Security under sections 89(1) of the Safeguarding National Security Ordinance."

The spokesman stressed, "The application for and issuance of the confiscation order must comply with the strict conditions specified in Schedule 3 of the Implementation Rules, including that the Court must first be satisfied that the absconded defendant could have been convicted of the relevant offence and must determine whether the defendant has benefited from that offence. The Court must also ascertain the value of the proceeds of the offence endangering national security and the amount that might be realised

at the time the confiscation order is made. Therefore, there is absolutely no situation in which private property could be 'confiscated at any time' or 'arbitrarily'. "

The spokesman pointed out, "Before and after Hui Chi-fung absconded from Hong Kong, he transferred nearly \$2.5 million Hong Kong dollars in personal assets as gifts to his mother and wife. The Court is also satisfied with the relevant transaction evidence submitted by DoJ."

According to the law, if a defendant benefits from committing an offence endangering national security and makes a gift at any time from six years before the date of prosecution onwards, the property held by the recipient of the gift may be regarded as the defendant's realisable property and confiscated. Mechanisms are in place worldwide to prevent criminals from transferring their criminal proceeds to others to evade confiscation.

"The value of the criminal proceeds ordered for confiscation by the Court is determined strictly based on evidence and in accordance with the law. The value of the criminal proceeds attributed to Hui Chi-fung was calculated based on the relevant evidence to establish a reasonable value."

The spokesman reiterated that endangering national security is a very serious crime. The HKSAR Government will do everything possible and use all legal means to pursue and combat criminals who endanger national security as well as to hold them accountable, thereby safeguard national security.