

## **LegCo Panel on Security**

### **Progress Report on Developments relating to the Judgment of the Court of Final Appeal on the Ng Siu Tung, Sin Hoi Chu and Li Shuk Fan Cases**

#### **Introduction**

In LC Paper No. CB(2)2096/01-02(07) dated May 2002, the Security Bureau updated Members on the latest developments relating to the Court of Final Appeal (CFA)'s Judgment on the Ng Siu Tung, Sin Hoi Chu and Li Shuk Fan cases. This paper provides a progress report on developments since the last update.

#### **CFA Judgment**

2. The CFA handed down a judgment on the Ng Siu Tung cases, the Sin Hoi Chu cases and the single case of Li Shuk Fan on 10 January 2002. In that judgment, the CFA directed the parties to consult together for the purposes of drawing up and submitting to the CFA for approval draft formal orders to be made by the CFA for disposing the appeals in respect of each of the representative applicants and of each applicant represented by them in accordance with the judgment.

3. Among the some 5,000 applicants in the Ng Siu Tung cases, the cases of the majority applicants have been disposed of in accordance with the CFA judgment. Sealed orders have been made by the CFA on the cases of 4,854 applicants. Of these, cases of 164<sup>1</sup> applicants have been allowed, 414<sup>2</sup> withdrawn and

---

<sup>1</sup> Of the 164 applicants, 89 fell under the Government's Concession Policy; 67 applicants were recipients of the specified letters issued by the Legal Aid Department or Secretary for Security; and 8 arrived in Hong Kong during "Period 1" and were born after one of their parents had become a Hong Kong permanent resident. For details on the CFA's judgment on these issues, please see paragraph 7 of the paper the Administration prepared for the Panel meeting on 24 January 2002.

<sup>2</sup> These withdrawn cases involved 414 applicants who had already been issued with One-way Permits or Hong Kong identity cards on or before 24 January 2003.

4,276 dismissed. Cases of about 200 applicants with dispute on facts have been remitted to the Court of First Instance (CFI) for determination. The CFI has commenced hearing of these cases from March 2003.

4. The 43 applicants in the Sin Hoi Chu cases have all been disposed of - 2<sup>3</sup> have been allowed, 3<sup>4</sup> withdrawn and 38 dismissed. Li Shuk Fan's case has been allowed by the CFA.

5. Separately, as at the end of December 2002, about 9,400 ROA claimants had applied for leave to apply for judicial review against the Director of Immigration's decisions to remove them from Hong Kong. Leave applications by the majority of applicants had been refused by the CFI and about 7,600 applicants have subsequently filed appeals to the Court of Appeal. The Court of Appeal has disposed of appeals of 7,547 applicants, of which appeals of 7,545 applicants have been dismissed or withdrawn and 2 allowed. Hearing has yet to be arranged for about cases of 60 appeals.

## **Removal Action**

6. Upon the expiry of the grace period on 31 March 2002, the HKSAR Government resumed removal action against those ROA claimants with no right to remain in Hong Kong in accordance with the law. Between 1 April 2002 and mid-April 2003, we have repatriated over 3,000 ROA claimants. At present, we believe some 1,110 ROA claimants are still remaining in Hong Kong, including less than 600 who have absconded.

## **Exercise of Discretion by the Director of Immigration**

7. For individual cases with exceptional humanitarian or compassionate considerations, the Director of Immigration can, pursuant to sections 11, 13 and 19(1) of the Immigration Ordinance,

---

<sup>3</sup> The 2 applicants were accepted to benefit from the Government's Concession Policy.

<sup>4</sup> Of the 3 applicants of the withdrawn cases, 2 arrived on strength of One-way Permit affixed with Certificate of Entitlement and one arrived on strength of One-way Permit.

consider exercising his discretionary power to allow a person to stay in Hong Kong.

8. Between 1999 and 2002, the Director has allowed 546 Mainland residents (including 221 ROA claimants) to stay in Hong Kong on exceptional humanitarian or compassionate grounds. In January and March 2003, 46 Mainland residents (including 22 ROA claimants) have been allowed to stay on these grounds.

### **Way Forward**

9. The HKSAR Government will continue to handle all ROA cases in accordance with the law.

Security Bureau  
May 2003