

For Information

LegCo Panel on Security

Manpower and Legal Expenses Incurred by the Administration in Dealing with Appeal Cases on Right of Abode

Introduction

At the meeting of the Security Panel of 16 January 2004, the Administration was requested to provide information on the manpower deployed and legal expenses incurred in dealing with the outstanding court cases on right of abode after the judgment of the Court of Final Appeal (CFA) of 30 July 2002, the number of such outstanding cases and the number of appellants involved.

Background

2. On 10 January 2002, the CFA handed down its judgment on *Ng Siu Tung, Sin Hoi Chu and Li Shuk Fan* cases which involved about 5,000 applicants. 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. We last updated Members on the developments on the outstanding right of abode cases in May 2003 (Paper No. CB (2)2084/02-03). As at May 2003, the majority (4,854) of the 5,000 cases had been disposed of in accordance with the CFA judgment. The CFA remitted about 200 cases with dispute on facts to the Court of First Instance (CFI) for determination. The CFI commenced hearing of these cases in March 2003. So far, the CFI has completed hearing 22 of these outstanding cases. As at the end of March 2004, the total number of outstanding cases that have not been heard or disposed of by a formal court order is 192.

Manpower deployment and legal expenses

Immigration Department

4. The Immigration Department has formed a small, temporary project team through internal re-deployment to handle the outstanding cases. Apart from right of abode litigation, the team is also responsible for other duties such as assessing whether individual cases fall under the Concession Policy, handling of written representations and petitions lodged by right of abode claimants, assessing applications from claimants seeking to stay in Hong Kong on humanitarian/compassionate grounds. The size of the project team is adjusted from time to time having regard to the prevailing workload, the schedule of court hearings and resources available. At present, there are 17 officers working in the project team.

Department of Justice

5. At present, one Senior Government Counsel is responsible for overseeing these outstanding cases in addition to handling other duties. Extra manpower is provided to assist the officer having regard to the workload which varies from time to time.

6. So far, legal expenses incurred in engaging one Senior Counsel and one Junior Counsel in the private sector for attending direction hearings and trials before the CFI and CFA, settling affirmations filed on behalf of the Director of Immigration and giving legal advice in respect of the outstanding cases amount to about \$5 million.

Security Bureau
May 2004