

22 February, 2021

Editor
Sunday Territorian
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Dear Editor,

I refer to your article "Hong Kong law change fears" published on 14 February 2021 regarding the Immigration (Amendment) Bill 2020 in Hong Kong (the Bill). Please allow me to provide the following background information.

As explained by a spokesman for the Security Bureau of the Hong Kong Special Administrative Region (HKSAR) Government on 13 February 2021, the proposed provision in the Bill to empower the Secretary for Security to make regulations in relation to the provision of passenger information by carriers is intended for fulfilling the international obligation of the HKSAR under the "Convention on International Civil Aviation".

In 2018, the International Civil Aviation Organization (ICAO) updated the "Convention on International Civil Aviation", including imposing a new mandatory requirement for its members to put in place the Advance Passenger Information (API) system. According to the requirements, airlines need to provide passenger and crew member information to immigration authorities of the destination port before flight departure. So far, over 90 countries already have the API system in place, including the Member States of the European Union, the United States of America, Canada and Australia.

Introduction of the API system by ICAO is to enhance international civil aviation safety and also to facilitate the immigration authorities around the world to implement more effective control. Implementation of the said requirements will not only allow faster passenger clearance at control points, but will also enhance the enforcement capability of the Immigration Department (ImmD), thereby help strengthen measures to prevent potential non-refoulement claimants from entering Hong Kong. ImmD is formulating the operational details of the system, and in the process it will make reference to the relevant guidelines from ICAO and the implementation experience of other countries. Relevant stakeholders will also be consulted on their views in due course.

The freedom to travel and the right to enter or leave Hong Kong of Hong Kong residents are guaranteed under Article 31 of the Basic Law and Article 8(2) of the Bill of Rights under the Hong Kong Bill of Rights Ordinance (Cap. 383). The proposed API system is intended to require the provision of passenger information on flights heading to Hong Kong, rather than departing flights. The right of Hong Kong residents to enter or leave Hong Kong is not affected. The HKSAR Government will ensure that the operation of the API system will conform with the Basic Law and the Hong Kong Bill of Rights.

For further information, please visit the press release:
<https://www.info.gov.hk/gia/general/202102/13/P2021021300565.htm>

Thank you very much.

Yours sincerely,
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Director
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