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BULLETIN

Consequences of Hong Kong's National Security Law

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The National Security Law, imposed on Hong Kong by China on 30 June, has reduced protests against China's policy. The scale of the restrictions, including those potentially affecting foreigners, and China's supervision over the implementation of the law have already worsened the living conditions of Hong Kong residents and functioning of foreign companies. China's actions caused an international reaction, mainly from the UK, the U.S. and the EU. Concerned about the safety of its citizens, the EU recommends that Member States suspend their extradition agreements with Hong Kong.

On 30 June, the Chinese National's People's Congress passed the Hong Kong National Security Law. Its purpose is to criminalise attitudes and views critical of China's policy in the region. It also introduces *de facto* control of Chinese institutions over the prosecution and trial of people prosecuted under the law, which violates the legal sovereignty of Hong Kong guaranteed in the Sino-British declaration of 1984. Under the new regulations, foreigners may be prosecuted as well, including for the actions committed outside the region and outside China.

Consequences in Hong Kong. In early July, the first meeting of the body overseeing the implementation of the new law, the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region, was held. Pursuant to the law, the committee includes (as a nominee of the Chinese government) a representative of China's Liaison Office in Hong Kong, which confirms the growing dependence of the region's authorities, earlier formally independent, on China. Hong Kong's director of Public Prosecutions resigned from his position after he was excluded from proceedings under the new law. The Hong Kong authorities also gave additional powers to the police, including access to data from social media and the authority to conduct searches without a court order. Most IT companies (Facebook, Google and Twitter) have announced that they will not cooperate with the Hong Kong police.

The violation of Hong Kong's legal sovereignty (which means the end of judicial independence) and the new powers given to the police caused protests against China's policy to lose their momentum. On the day the law entered into force, 10 people were detained. In early July, the Hong Kong education bureau asked schools to remove from libraries books that could break the new law, such as those written by pro-democracy activists. Some academics involved in the protests against the new law and the extradition treaty were dismissed. Nathan Law, one of the founders of the Demosisto movement, which calls for Hong Kong's autonomy to be maintained after 2047 (the Sino-British declaration mentions that the region will remain autonomous for 50 years after its return to China) has left HK. Approximately 40–50% of the region's residents (according to the research by Hong Kong University and the University of California) are also considering leaving Hong Kong.

The new law is also relevant in the context of the elections to the Hong Kong Legislative Council originally scheduled for October. In July, prodemocratic parties held the primaries, and the high turnout (despite the pandemic) showed the mobilisation of the electorate. However, the authorities forbade the majority of the candidates selected during the proceedings from running in the elections. Taking advantage of the growing number of coronavirus infections in Hong Kong, Carrie Lam, Hong Kong's Chief Executive, started the procedure of postponing the elections for one year. She also stated that, after a good result in the elections by pro-democracy forces, their vetoing of Hong Kong's budget could be considered contrary to the new law.

The act increased the political risk of foreign entities running businesses in Hong Kong. Some financial companies (including HSBC, recently accused by the Chinese media of

involvement on the U.S. side in the China-U.S. rivalry) began to take into account their customers' attitudes towards the new law as an element of their creditworthiness. The Chinese authorities also forced the head of the Taipei Economic and Cultural Office to leave Hong Kong, making the extension of the his visa conditional on the signing of the "One China" declaration. The New York Times correspondent also lost his residence permit in Hong Kong, and the newspaper moved its office to Seoul.

International Reaction and Consequences. The U.S. reacted most assertively to the new law. In addition to restrictions on cooperation with Hong Kong financial institutions and the suspension of issuing visas for Hong Kong officials, the U.S. abolished the special economic status of the region, which made it economically separate from China. This means that Hong Kong will be placed under the same customs regime as China, which will reduce, albeit not dramatically, Hong Kongs economic importance to China.

The UK also reacted strongly. Its authorities decided to introduce visa and citizenship facilitations for those entitled to British National Overseas passports (around three million people in Hong Kong). Using the context of the new law as a factor, they also prohibited the use of Huawei equipment in construction of the 5G network from 2027. The British authorities are still considering the introduction of sanctions against Hong Kong officials. The President of the British Supreme Court has not ruled out the suspension of the appointment of judges to the Hong Kong Court of Final Appeal, which is the highest court in Hong Kong and includes judges from the United Kingdom.

The United Kingdom, Australia and the EU have declared that they will withhold exports to Hong Kong of equipment for law enforcement (such as smoke grenades) and devices used for surveillance (for example, for wiretapping radio transmissions or cyber-surveillance). In line with the unanimous decision of the EU Foreign Affairs Council of 28 July, the EU will also strengthen its support for pro-democratic forces striving to uphold the "one state, two systems" principle. This will be achieved by, among other things, new scholarships and cooperation with universities, aimed at strengthening the civil society in Hong Kong.

The United States, UK, Australia, Canada, New Zealand and Germany have also suspended agreements with Hong Kong that allowed the authorities there to apply for the extradition of people suspected of breaking the new law. France chose not to ratify a similar agreement signed with Hong Kong in 2017. The European Union recommended that Member States review their mutual assistance and extradition agreements with Hong Kong, in the context of the security of EU citizens.

Prospects and Conclusions. China's fast-track enactment of the law and its draconian content confirm that the Chinese authorities treat stabilisation of the situation in Hong Kong as a priority. They attach less importance to their international image and possible economic losses as a result of possible sanctions or the withdrawal of foreign companies. In this way, they want to prove to their own society the effectiveness of the policy of protecting territorial integrity, including in the regions which they deem "lost" and then recovered from Western powers, which is one of the sources of legitimacy of the Chinese regime. For these reasons, China will not repeal the law or suspend it. In response to international criticism, it will argue that it is an interference in China's internal affairs and that the law does not pose a threat to foreigners.

In Hong Kong, China will further unify the legal system, increase control over education, and limit the activities of pro-democratic groups. Public support for the opposition is currently high, which could lead to a good result in the elections to the Legislative Council. A decision of the Chinese authorities to postpone the election by a year can therefore be expected. In this context, EU and U.S. support for Hong Kong civil society, including monitoring the regime's activities and access to independent education and information in the region, will be particularly important.

Despite difficulties in the operation of foreign business entities, they will not withdraw from Hong Kong on a large scale. These would be costly decisions, especially in view of the economic crisis in many countries caused by the COVID-19 pandemic. Although companies are aware that the new law allows Chinese authorities to accuse companies of breaking the law, and that fair trials are increasingly unlikely, most will adapt to the reality of the new law. For economic reasons, mass departures of Hong Kong residents are also unlikely.

Due to the sanctions against foreigners provided for in the act (for example, for collusion and undermining the authorities), one can expect a strengthening of self-censorship in expert circles (including from outside Hong Kong), such as in analysis of the policies of China and Hong Kong. In conflict situations, following the example of relations with Canada, when the Chinese authorities detained two Canadian citizens after the arrest of Huawei's vice-president, neither the detention of foreigners in Hong Kong or China, nor extradition requests referring to the National Security Law can be ruled out. The suspension of agreements enabling it by all EU Member States, including Poland, would be a strong signal of opposition to China's policy.

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