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The Permanent Mission of the Republic of Korea to the United Nations and other International Organizations in Geneva presents its compliments to the Secretariat of the United Nations (Office of the High Commissioner for Human Rights), and has the honor to refer to the Communication from Special Procedures(AL KOR 3/2018) dated 15 Nov 2018.

The Permanent Mission of the Republic of Korea to the United Nations and other International Organizations in Geneva has further the honor to submit, as attached, the information on actions taken by the Government of the Republic of Korea.

The Permanent Mission of the Republic of Korea to the United Nations and other International Organizations in Geneva avails itself of this opportunity to renew to the Secretariat of the United Nations (Office of the High Commissioner for Human Rights) the assurance of its highest consideration.

Encl.: as stated

Geneva, 30 January 2019

Office of the High Commissioner for Human Rights (OHCHR)
Palais des Nations

1211 Geneva 10



ROK Government's Response to Letter from Special Rapporteur on the Independence of Judges and Lawyers

I. Composition of the Fact-finding Committee and the result of its inspection

1. Composition

- On March 13, 2017, former Chief Justice YANG Sung-tae requested LEE In-bok, Chair Professor of the Judicial Research and Training Institute to lead the inspection on the judicial administrative power abuse scandal and delegated all of his authority to Professor Lee.
- Professor Lee selected 6 persons to compose the Fact-finding Committee from among judges recommended by the Conference of Judges of each court or by an individual.

2. Duration of inspection

- March 24, 2017. ~ April 18, 2017.

3. Scope of inspection

- Suspicion regarding preventing judges from joining multiple research groups
- Suspicion regarding appointing a judge to serve as a director at the National Court Administration (hereinafter referred to as 'NCA') and then withdrawing his appointment
- Abuse of judicial administrative authority with regard to the above incident and the way the NCA handled it
- Suspicion regarding keeping a check on certain research groups' activity and putting pressure to defer certain symposiums or reduce the number of certain symposiums to be held

4. Method of inspection

- Face-to-face inspection on 11 persons, inspection by paper review on 20 persons
- Only investigate into physical materials secured by voluntary submission

5. Result of inspection announced: April 17, 2017

- Suspicion regarding keeping a check on activities of the Research Group on International Human Rights Law and its sub-meeting called 'Group Meeting on Judicial System for Protection of Human Rights (hereinafter referred to as *Insamo*)' ➡ It is inappropriate to recognize that the NCA put pressure on or kept on check on those research groups unduly. (However, it is recognized that the words and actions of LEE Kyoojin, Standing Commissioner of the Sentencing Commission of Korea were inappropriate.)
- Suspicion regarding keeping a check on Joint Symposiums ➡ LEE Kyoojin, Standing Commissioner of the Sentencing Commission of Korea put pressure to defer Joint Symposium or reduce the number of such symposiums to be held. (The NCA cannot be immune from being responsible for this.)
- Suspicion regarding preventing judges from joining multiple research groups ➡ This is abuse of judicial administrative authority as it puts undue pressure on the Research Group on International Human Rights Law or Joint Symposiums in order to keep a check on them.
- Suspicion regarding appointing a judge to serve as a Director at the NCA and then withdrawing

the appointment ➡ It is inappropriate to recognize that the purpose of the appointment was to keep a check on the judge. It is also inappropriate to recognize that the withdrawal of his appointment was a sanction measure following the judge's rejection to undue direction of the NCA. (However, LEE Kyoojin, Standing Commissioner of the Sentencing Commission of Korea, did make undue direction to Judge LEE Tan-hee and intervened. Therefore, the NCA cannot be immune from being responsible for this.)

- Suspicion regarding existence of the so-called 'Judiciary's Blacklist' which analyzed personal tendencies of all judges ➡ No circumstances were identified that raise possibilities that such blacklist exists other than 2 documents on Joint Symposiums written by LEE Kyoojin, Standing Commissioner of the Sentencing Commission of Korea.

6. Follow-up measures

- On April 24, 2017, Chief Justice YANG Sung-tae requested the Supreme Court Judicial Ethics Committee to deliberate on the issue and present opinions ⇒ On June 27, 2017, the Supreme Court Judicial Ethics Committee announced a disciplinary action for LEE Kyoojin, Standing Commissioner of the Sentencing Commission of Korea, and issued warning advice to Justice KO Young-han.
- LEE Kyoojin, Standing Commissioner of the Sentencing Commission of Korea: On Aug. 4, 2017, disciplinary action (salary cuts for four months) was given to LEE Kyoojin.

II. Composition of the Additional Inspection Committee and the Result of Inspection

1. Composition

- On Nov. 3, 2017, Chief Justice KIM Myeongsu decided to order additional inspection in order to resolve division and confusion among the members of the judiciary and to resolve suspicions on the so-called 'Blacklist within the Judiciary'.
- On Nov. 13, 2017, Chief Justice KIM Myeongsu delegated all his authority to MIN Joongki, Presiding Judge of Seoul High Court by nominating him as Chair of the Additional Inspection Committee with regard to composition and activities of the Committee.
- On Nov. 15, 2017, Chair of the Additional Inspection Committee formed the Additional Inspection Committee (total 7 members including the Chair), with the members being those from the Fact-finding Committee and members from the Inspection Sub-committee of the Conference of Judges.

2. Development of inspection

- The inspection by the Additional Inspection Committee (Nov. 20, 2017 ~ Jan. 22, 2018) was carried out with the purpose as shown below and based on the principle as follows.
- Resolve suspicion regarding controversy on the so-called 'Judiciary's Blacklist'
 - Focused on material inspection and conduct inspection on 7 persons at the minimum level
- Persons subject to inspection and its scope
 - Materials subject to inspection: HDD and SSD (storage medium) that the following persons used with their business-use computers at the NCA: KIM Min-soo, Director of Planning 1 of the National Court Administration (NCA); LIM Hyo-ryang, former Director

of Planning 1 of NCA; LEE Kyoojin, Standing Commissioner of the Sentencing Commission of Korea; LIM Jong-hun, former Vice Minister of the NCA.

- Scope of timing of inspection: from November 2011 when the Research Group on International Human Rights Law was established to April 2017 when the activity of the Fact-finding Committee was completed.
- In consultation with the NCA, on Nov. 29, 2017 at around 21:00~24:00, preservation measures were taken for 3 HDD and 3 SSD (preservation measures¹ for the rest of the storage medium excluding HDD and SSD used by former NCA Vice Minister LIM Jong-hun)
 - On Dec. 1, 2017 at around 11:00~12:00, with regard to HDD and SSD used by former Vice Minister LIM Jong-hun, they were separated and sealed (the NCA kept them without any preservation measure)
 - Except for the storage medium used by former NCA Vice Minister LIM Jong-hun, inspection was carried out on the rest of the storage medium.

3. Result of the inspection announced: January 22, 2018

- Regarding *Insamo* and Joint Symposium ➡ Finding out about activities of certain judges who belong to certain research groups is an act beyond the power of the NCA. Restraining judges' research activities and discussing measures to keep a check on certain research groups on the ground that those judges are the ones that oppose to judicial policy of the NCA is not appropriate.
- Regarding election of Judges' Conference ➡ Finding out about personal background and activities of a candidate running for the chairmanship of Judges' Conference and coming up with measures to support other judge as a candidate, leave possibilities of inappropriate intervention in the Judges' conference, regardless of the plan being implemented or not.
- Regarding Judicial Administration Committee ➡ Drafting a list of judges and classifying them into categories such as main/marginal group, conservative/liberal group, radical/moderate based on such criteria as: whether the judge is a member of certain research group; his/her relative degree of intimacy with certain judges; his/her political orientation, cannot be deemed appropriate. It also has possibility to use such elements to specially treat or exclude certain judges who belong to a certain group or have certain values.
- Regarding finding out about activities of judges ➡ Given the fact that the document was written out of the need for personnel affairs or inspection, it can be deemed as act of abusing power. Also, continuously trying to find out about personal activities of judges and reviewing measures to induce judges to voluntarily shutdown an anonymous online website of judges were acts that cannot be considered reasonable or justified in terms of its means and method.
- Regarding finding out about activities of the court handling a specific case (case on WON Sei-hoon, former head of the National Intelligence Service on violation of the Public Official Election Act, etc.) ➡ The fact that the NCA exchanged sensitive information and opinions with regard to a specific pending case with outside institutions raises possibilities that judicial

¹ Preservation measure, also known as imaging, means hard-copying the storage medium by using reproducing equipment.

administrative authority can be exercised on court trials both directly and indirectly, or raises possibilities that such authority can have substantial influence on court trials. It also raises concern that such act can undermine fairness of court trials.

III. Composition of Special Inspection Team and its result, regarding suspicion of abuse of judicial administrative authority

1. Composition

- As a follow-up measure to the result of inspection by the Additional Inspection Committee, on Jan. 24, 2018, Chief Justice KIM Myeongsu pledged to form an organization as soon as possible, which can supplement the result of the inspection and suggest measures from a fair point of view after discussing desirable direction.
- Chief Justice KIM Myeongsu instructed Minister of the NCA to form the above mentioned organization. On Feb. 12, 2018, Minister of NCA decided the name of the organization and formed the inspection organization, with the members being 6 judges, including the head of the organization.
- Regarding suspicion on abuse of judicial administrative authority, Chief Justice KIM Myeongsu delegated all of his authority to the organization, including who to investigate, the scope of inspection, and inspection method.

2. Duration of inspection

- Feb. 12, 2018. ~ May 25, 2018.

3. Issues subject to inspection

- Suspicion regarding seeking to find out about activities of *Insamo* and intervening in it
- Suspicion regarding intervening in the Research Group on International Human Rights Law and Joint Symposiums
- Suspicion regarding intervening to find out about personal tendencies of candidates and recommending candidates for the Judicial Administration Committee
- Suspicion regarding finding out about activities of ‘*Ipansapan Yadanbeopseok*’, an anonymous online bulletin board and inducing voluntary shutdown of the bulletin board
- Suspicion regarding trying to find out about personal tendencies of judges and their activities
- Suspicion regarding intervention in the election of the Chairperson of a conference of single-judges of Seoul Central District Court
- Suspicion regarding trying to find out about activities of the court in charge of handling the case about WON Sei-hoon, former head of the National Intelligence Service
- Suspicion regarding trying to find out about activities of the Cheong Wa Dae (the Blue House) with regard to en banc decision on the case on ordinary income²
- Suspicion regarding reviewing disciplinary action for the trial court’s decision on state compensation for emergency measures
- Other Suspicion regarding violating or undermining the independence of court trials

² Suspicions below are the issues subject to new inspection by the Special Inspection Committee.

4. Method of inspection

- Materials subject to inspection

- 2 data storage medium that the following persons each used with their business-use computers at the NCA: KIM Min-soo, Director of Planning 1 of the National Court Administration(NCA); LIM Hyo-ryang, former Director of Planning 1 of NCA; LEE Kyoojin, Standing Commissioner of the Sentencing Commission of Korea; LIM Jong-hun, former Vice Minister of the NCA.
- There were controversies over conducting inspection on materials without any consent during the Additional Inspection Committee's inspection. The Committee secured consent, cooperation and the password from the users of the PC to investigate such materials.
- Whole inspection was carried out into files with password. As for the file without password, a basic inspection was carried out by extracting the search word, 'abuse of judicial administrative authority'.
- 410 meaningful files were selected related to suspicion regarding abuse of judicial administrative authority ➡ Out of them, 90 files (actually, 174 files including overlapping files) were cited in the report. With regard to the rest 236 files, it was decided that they are out of the scope of inspection and, therefore, they were not cited in the report. However, at the timing of announcing the inspection result, with regard to 410 files, the name and the list of files were disclosed.

- Face-to-face inquiry

- Conducted inspection on persons to find out about: the writer of the documents on the abuse of judicial administrative authority; to whom they were reported; and the process such documents were written, so as to dispel suspicion and decide to take appropriate measures to those involved.
- Face-to-face inspection on 19 persons, inspection by paper review on 23 persons, inspection by visit for 2 persons (former Justice MIN Il-young, former Justice KO Young-han)
- As for the former Chief Justice YANG Sung-tae, request for inspection was denied due to the reason of him being overseas
- As for PARK Byung-dae, former Minister of NCA, request for inspection was denied due to the reason that such inspection can leave inappropriate precedence. He sent a letter, instead.

5. Announcement of the result of the inspection: on May 25, 2018.

- Suspicion regarding seeking to find out about activities of *Insamo* and intervening in it

- Already, since August 2015, there were discussions for responsive measures with regard to *Insamo* as directed by PARK Byung-dae, former Minister of NCA. In March, 2016, under the leadership of LIM Jong-hun, Vice Minister of the NCA, the Planning and Coordination Office of the NCA reviewed in depth about responsive measures with regard to *Insamo* under the comprehensive framework of 'renewing research groups on special field'. At this time, the NCA has completed reviewing detailed measures to take, with

regard to ‘measures to block judges from joining multiple research groups’. ➡ abuse of judicial administrative authority

- In a document written by Director of Personnel Affairs of the NCA on the responsive measures for the Research Group on International Human Rights Law, he wrote that it is necessary to make individual and careful approach, however, the document includes ‘imposing disadvantageous measures to certain members of the Insamo in personnel appointment and excluding them from being selected to study abroad as a visiting scholar or LL.M student’. ➡ Even if such measures were just ideas at the beginning of drafting the document, still it is inappropriate behavior to include such idea in the document, which can create suspicion over fairness of personnel affairs of the NCA.

- Suspicion regarding intervention in the Research Group on International Human Rights Law and Joint Symposium

- Since March 2016, through the Planning and Coordination Office of the NCA, LIM Jong-hun, then Vice Minister of the NCA reviewed preventing judges from joining multiple research groups in order to keep a check on certain research groups or as a responsive measure. As a result, in Feb. 2017, on the occasion of holding the Joint Symposium, the NCA blocked judges from joining multiple research groups. ➡ This is violation of judges’ freedom of participating in symposiums, therefore, this amounts to serious abuse of judicial administrative authority.
- Whether the action taken by the NCA to block judges from joining multiple research groups constitutes crime of abuse of official authority under the criminal law: with regard to whether this action amounts to a crime or not ① There were opinions that this action amounts to crime of abuse of official authority if the main purpose of such action was to keep a check on certain research group or to dissolve it. Then, the action could be assessed as unlawful and undue behavior both substantively and specifically. ② There were other opinions that the fact that relevant rules have not been applied for a long time does not mean such rules have lost their effectiveness. Given that policy decisions were made during a meeting presided over by Minister of the NCA to take relevant measures with regard to the rules, it is inappropriate to assess that such action was illegal and undue. However, there were opinions agreed by all that under the current circumstances, it is not sufficient to hold those people criminally accountable.

- Suspicion regarding intervening to find out about personal tendencies of candidates and recommending candidates for the Judicial Administration Committee

- In the process of recommending candidates for the Judicial Administration Committee and appointing persons as members of the Judicial Administration Committee, the NCA created a list and disclosed part of it to the person who makes recommendation for candidates. The list includes personal tendencies, his/her influence on other judges, his/her relations with certain research groups and other inappropriate information. This amounts to inappropriate exercise of judicial administrative authority.

- NCA's reviewing of measures to control the Judicial Administration Committee on its will amounts to inappropriate exercise of judicial administrative authority
- Regarding suspicion that the NCA tried to find out activities of '*Ipansapan Yadanbeopseok*', an anonymous online bulletin board and induced judges to voluntarily shutdown it
 - Reviewing measures to induce voluntary shutdown of anonymous online bulletin board of judges has possibilities to violate judges' freedom of expression. Therefore, this amounts to exercising undue judicial administrative authority.
 - Former and current members of the NCA uploaded posting at the online bulletin board, as if they are members of the *Ipansapan Yadanbeopseok*, to induce the atmosphere of the bulletin board toward certain direction. This is abuse of judicial administrative authority
 - ▶▶▶ [Whether this act amounts to obstruction of business under the criminal law] When it comes to anonymous online bulletin board, the name of the person who uploaded posting on the bulletin board is not important. The person did not write postings by stealing other person's ID. It does not amount to obstruction of business because the person wrote sensitive posting, left it on the bulletin board for a certain period of time and wrote a posting again suggesting members to voluntarily delete their postings.
- Regarding suspicion that the NCA tried to find out about judges' personal tendencies and activities
 - Obtaining information about judges and monitoring their research activities and personal tendencies via informal channel are inappropriate exercise of judicial administrative authority.
 - Continuously reviewing responsive measures for certain judges' postings on the internal online bulletin board and newspaper contribution, and their property relation amounts to acts of conducting secret inspections into certain judges. Such acts are abuse of judicial administrative authority as they restrain judges' freedom of expression.
- Regarding the intervention on the election of chairperson of the Council of Single Judges of Seoul Central District Court
 - With regard to the election of chairperson of the Council of Single Judges at Seoul Central District Court in 2015, documents suggest that then-planning judge recommended certain judge for the chairperson or that the planning office played a pivotal role to discontinue the election of chairperson, which can be deemed that the person responsible for judicial administration made inappropriate intervention in the chairperson election process of the Council of Single Judges.
 - With regard to the election of chairperson of the Council of Single Judges at Seoul Central District Court in 2016, the planning judge and others involved examined the idea of establishing a group to support particular candidate, which is an inappropriate exercise of judicial administrative power whether the plan was put into practice or not.
 - The gathering of the recent information on particular single judges and providing the information to the NCA were inappropriate exercises of judicial administrative power.

- Regarding the allegation on WON Sei-hoon, the former Director of the National Intelligence Agency, for gathering information on trial panels
 - Intervention in the judicial administrative affairs during the first instance trial proceedings: not verified
 - Intervention in the judicial administrative affairs during the second instance trial proceedings: not verified
 - Intervention in the judicial administrative affairs during the final instance trial proceedings: not verified; however, though it is inappropriate that the reporting research judge received document written by judicial administration official and used it as a reference while examining the case in the initial phase, it can hardly be deemed that the reference document influenced the contents and direction of the review report.
 - Intervention in the judicial administration during the process of reversal and remand: not verified; however, it was inappropriate that the information on the process of proceedings, which was provided to the Director of Public Relations of the court for accurate press release, was included in the report on the NCA.
 - Collusion between the NCA and Cheong Wa Dae: Whereas LIM Jong-hun, then-Chief of Planning and Coordination Office, had talked with the Presidential Secretary for Legal Affairs over the phone before and/or after the court decision on WON Sei-hoon's appeal case to ask for understanding on the decision, it was not proven whether the telephone conversation influenced the trial proceeding.

- Regarding allegations on being conscious of Cheong Wa Dae on the Supreme Court en banc decision on ordinary wage case
 - LIM Jong-hun, then-Chief of Planning and Coordination Office, explained the background of the Supreme Court decision on the ordinary wage case to the Presidential Office for Civil Affairs through the Presidential Secretary for Legal Affairs and others concerned, and it is deemed that Lim has become aware of the internal view of the Presidential Office for Civil Affairs on the decision. Although his explanation was given after the delivery of judgment, the act itself was inappropriate and likely to gain suspicion over the impartiality of trial for making special explanation to Cheong Wa Dae and being aware of how the administration considers about the decision.

- Regarding the intention to impose disciplinary actions for the first-instance court decision on state compensation for emergency measures
 - Then-Deputy Minister LIM Jong-hun's directive to a director in Judicial Ethics and Inspection Division and a director in Planning and Coordination Office to find measures against a presiding judge of lower court, who made decision on the emergency measures case against the Supreme Court precedent, is considered as making plan to disadvantage the judge for the trial decision, which was an abuse of judicial administrative power that may undermine the independence of the trial.

● Other allegations that infringed or undermined the independence of trials

- Plan to make interference in filing litigation against local council member of the Unified Progressive Party (UPP)
 - It was highly inappropriate action of the NCA to make plans to have the head of local autonomous government to institute administrative lawsuit to disqualify a local council member and further to examine the candidate jurisdictions to file the lawsuit.
 - It was serious abuse of judicial administrative power through making interference with the trial that the judges in charge of judicial administrative affairs requested the presiding judge to provide particular reasons in the decision in consideration of the relationship with the Constitutional Court; and made contact with the presiding judge to request for postponing the sentencing date based on political judgment and learned about the decision on the case over the course of the communications.
 - It was inappropriate that the official in charge of judicial administration reviewed whether it is appropriate to refer the pending final appeal case to the full bench trial of the Supreme Court.
- Other matters
 - Document on "Review on the suspension of execution of the effect of disposition on outlawing the Korean Teachers and Education Workers Union": With regard to the considerations on whether to allow retrial at the appeal court and the time to accept the appeal, the document describes, after examination of the Cheong Wa Dae's position, that it will be beneficial to allow the retrial in order to legislate the law to establish a third-instance court of appeal and for other objectives and that the appropriate time should be before the Constitutional Court delivers decision on the dissolution of the Unified Progressive Party to maximize the advantages that the Supreme Court can take.
 - Document on "Analysis on the impact of 'SUNG Wan-jong's list and the corresponding measures": The document was composed while the inspection was in progress on the SUNG Wan-jong's list, examining the adverse implications that the case can carry in establishing the legislation for the court of appeal, suggesting to maintain cooperative and amicable relationship with Cheong Wa Dae by 'adequately issuing warrants for cooperation' and 'actively maintaining unofficial channel of communication to discuss the related pending cases,' and explaining the necessity to carefully review the directions of and the appropriate times to dispose the cases on former Director of National Intelligence Service Won Sei-hoon and on the outlawed teachers' union.
 - Document on "Strategy for the relationship with Cheong Wa Dae for the establishment of the court of appeal": The document raises suspicion where it sets out inappropriate demands or requests made by LEE Byung-ki, then-Chief Presidential Secretary, for the cases on the Chief of Sankei Shimbun Seoul Bureau and on WON Sei-hoon.
 - Documents on "Plans to persuade Cheong Wa Dae to establish the court of appeal" and "Strategy for effective negotiation with Cheong Wa Dae to grant the legislation for the establishment of court of appeal: The document contains 'examples of the judiciary's cooperation for the administration of the government' that provides the cases of the judiciary's cooperation for the president's administration. So-called 'suspicions on trial transaction' include cases on (1) WON Sei-hoon, the former

Director of National Intelligence Service, (2) Unified Progressive Party, (3) outlawed teachers' union, (4) KTX employee status recognition, (5) invalidation of Ssangyong Motors' dismissal of employees, (6) ordinary wage, and (7) state compensation for emergency measures.

- ➡ Despite whether the above documents for the establishment of court of appeals were put into practice or not, composition of the above documents undermined the constitutional value of the independence of trials as the judges responsible for judicial administrative affairs self-abandoned the value of the independence of trials and made efforts to establish inappropriate ties and cooperative relationship with Cheong Wa Dae, which was abusive exercise of judicial administrative power.

6. Follow-up measures

- [May 28, 2018] Follow-up notice of the Director of Judicial Ethics and Inspection on the inspection result
 - Explained the background of making the notice on the inspection result.
 - Disclosed 410 document files to the public and explained the position of the Special Inspection Team on criminal measures.
- [May 31, 2018] Chief Justice made official statement of apology
 - While the judiciary will demand accountability on those related to the incidents, it will also provide systemic measures to prevent the abuse of judicial administrative power.
 - The criminal measures on the people concerned with the issues will be determined after gathering opinions from various circles.
- [June 5, 2018] Minister of National Court Administration announced "Disclosure of computer files containing suspicious contents on the abusive exercise of judicial administrative power"
 - Disclosed 98 files including 90 files (total 174 files including the duplicate files) cited in the inspection report.
 - Need further review to disclose the remaining files to the public.
- [June 15, 2018] Chief Justice made official statement on the "Follow-up measures on the inspection result"
 - Referred 13 judges including 4 high court presiding judges to the disciplinary procedures: some of the people concerned with the incidents are positioned to or extended the period at judicial research posts to exclude them from conducting trials.
 - Ordered permanent preservation of the face-to-face and physical inspection materials obtained by the Special Inspection Team.
 - The Chief Justice, as a person responsible for an institution that should make final decision, is unable to take measures such as filing accusations or requesting for investigation; however, if a prosecutorial investigation starts based on the accusations already made, the judiciary will make full cooperation through legitimate procedures by providing all face-to-face and physical inspection materials as well as undisclosed documents retained by the Special Inspection Team.

- [July 3, 2018] Minister of National Court Administration announced "Statement on the investigation of the alleged abuse of judicial administrative power"
 - Made clarifications on the suspicions on degaussing the hard disk drives used by former Chief Justice YANG Sung-tae and former Justice PARK Byoung-dae.
 - Explained the progress of coordination with the prosecutors for the investigation cooperation such as providing files in the hard disk drives.
- [July 31, 2018] Minister of National Court Administration announced "Disclosure of additional computer document files related to the inspection report of Special Inspection Team"
 - Disclosed 196 files (excluding 32 duplicate files) while making 3 of them remain undisclosed in consideration of the personal information, private matters, etc. contained therein.
- [August 10, 2018] "Statement on the additional disclosure of document on Judge CHA Seong-an"
 - In response to the demand for disclosure of Judge CHA Seong-an's computer file, the Supreme Court disclosed one additional file on Judge CHA Seong-an out of the three undisclosed files.
- [December 27, 2018] Disciplinary actions on judges related to the incidents
 - The result of the deliberation for disciplinary measures made by the Judicial Disciplinary Committee on December 17, 2018 was to impose: reprimand on 3 judges; salary reduction on 4 judges; suspension on 1 judge; discontinuation of disciplinary procedure on 2 judges; and acquittal on 3 judges.
 - The Chief Justice took disciplinary actions on the 8 judges upon the decision of the Judicial Disciplinary Committee made on December 27, 2018.
- Plan for the establishment of Committee for the Independence of Judges
 - The judiciary needs an institutional tool to take proper and corrective actions when the independence of trial judges is undermined.
 - The ninth Judicial Advancement Committee meeting adopted a resolution to create Committee for the Independence of Judges that is to be established by legislation.
 - The legislation process is in progress.

IV. Progress on the Cooperation for the Prosecutorial Investigation

1. NCA's cooperation with regard to the prosecutors' request for the submission of evidentiary materials

- The public prosecutors' office received 28 written accusations with regard to the incidents.
- [June 19, 2018] Public prosecutors' office requested for the submission of evidentiary materials including hard disk drives.
- [June 26, 2018] The NCA provided materials that require investigation including the face-to-face and physical inspection materials obtained by the Special Inspection Team. However, the NCA responded to the prosecutors' office that it cannot provide materials that are irrelevant to the incidents and contains personal information, communications secrets and official secrets,

without having prepared with the concrete measures to be responsible for managing such information.

- Since July 5, 2018, the prosecutors' office has made 120 submission requests for additional materials from the bureaus and offices of the NCA, and the NCA is providing as many materials as possible within the lawful extent upon due legal examinations. However, the NCA responded to the prosecutors' office that it cannot provide materials containing communication secrets (emails, etc.), official secrets (extensive personnel information), agreement reached in trials (reports of research judges), etc. as they are beyond the scope allowed by the law to provide others at the NCA's own discretion.

2. Digital forensic investigation on computer hard disk drive is in progress as agreed

- [Background] The NCA proposed a concrete investigation method to be responsible for managing electronic information and reached agreement with the prosecutors as below:
 - Prosecutors make forensic investigation into the hard disk drives in a designated place provided in the Supreme Court
 - Officials of the NCA will be in presence to observe the entire process of the digital forensics
 - Only the data that the NCA agrees to provide will be submitted by its discretion
- Conducted forensic investigation on 12 hard disk drives used by the incumbent and former ministers of the NCA and the incumbent Chief of Planning and Coordination Office of the NCA where the key information of the NCA is saved.
- Since the commencement of investigation on July 9, 2018, prosecutors are making continuous requests for voluntary submission of files related to the allegations among the 900,000 files saved in the above hard disk drives that were made accessible to the prosecutors at any time.
- As of September 20, 2018, the prosecutors' office made requests for voluntary submission for approximately 2,700 files and the NCA has provided 1,400 document files that are considered relevant to the cases. (approximately 51%)

3. A series of forensic investigations are in progress for the additionally submitted digital storage media

- [August 30, 2018] The NCA made discretionary submission of two digital storage media and emails of former Justice KO Young-han.
- [September 11, 2018] In addition, the NCA is making voluntary submissions of the computers used by former Director General for Judicial Procedure, former Director of Judicial Policy, former Secretary-General of Sentencing Commission, etc., shared laptop and shared tablet PCs by using the methods agreed with the prosecutors, such as running search by only using the related words or setting specified period.

4. Continuous cooperation for the investigation

- The NCA has been making cooperation with the prosecutors' investigation in its area of judicial administration. However, since the NCA is responsible for the management of documents, it had to make discretionary submissions within the scope allowed by the law, limiting the extent of cooperation for the investigation.
- Since the Chief Justice clearly made the directive to fully cooperate for the investigation on

September 13, 2018, the NCA plans to examine the room for improvement and make the utmost effort to provide substantive cooperation for the investigation with the discretionary submission requests of the prosecutors' office while fulfilling the responsibility for document management.

V. Measures and follow-up plans adopted by the ROK Government to ensure accountability for violation of the law pertaining to this case

The ROK Prosecution is currently investigating key officials involved in allegations that the former Chief Justice and officials of the National Court Administration (hereinafter referred to as 'the NCA') conducted surveillance on judges who had expressed opposing views on key policies of the NCA, attempted to manipulate public opinion, and/or interfered with politically sensitive trials that were of key interest to the executive. Prosecutors charged the former Vice-Minister of the NCA with the abuse of authority and the leakage of classified information, and the case is currently on trial in court. The prosecutor's office is continuing its investigation on this case, including requesting the court to issue arrest warrants for two former Ministers of the NCA and investigating the former Chief Justice.

VI. Measures taken by the ROK Government to guarantee the independence of the judiciary and judges' independent trials

Pursuant to Article 101 of the Constitution, the judicial power is exclusively vested in courts composed of judges. To guarantee the independence of the judiciary, Article 108 of the Constitution invests the Supreme Court with the authority to establish regulations pertaining to judicial proceedings and internal discipline and regulations on administrative matters of the court within the scope of the laws. Also, the relevant legislations state that important issues including the appointment of judges or their serving consecutive terms are to be decided by the Chief Justice of the Supreme Court following a decision by the Supreme Court Justices' Council.

The judicial independence of individual judges is explicitly guaranteed under Article 103 of the Constitution. In order to guarantee that judges rule independently based on their conscience, their status is strongly protected. According to Article 106 of the Constitution, no justice can be removed from office except in cases of impeachment by the National Assembly or a sentence of imprisonment without penal labor or heavier punishment. They are also protected against unfavorable treatments such as suspension from office or reduction of salary except in cases where formal disciplinary action was taken through legally specified procedures, including the Judicial Disciplinary Committee's decision.

VII. Measures taken by the ROK Government to guarantee the exercise by members of the judiciary of the rights to freedom of expression, assembly and association in line with the International Covenant on Civil and Political Rights

The rights specified in Article 19 (freedom of expression), Article 21 (right of peaceful assembly), and Article 22 (freedom of association) of the International Covenant on Civil and Political Rights (hereinafter referred to as 'the Covenant') are guaranteed to all citizens in

accordance with the Covenant and the Constitution of the Republic of Korea. As people of the Republic of Korea, members of the judiciary are equally entitled to the exercise of such rights.

Nevertheless, justices are state public officials, and as such, the exercise of their rights is, if necessary, limited by law to ensure that their authority is exercised fairly in the interest of the public. For example, like other state public officials, justices cannot get involved in the creation of a political party or other political organizations, or become a member thereof. Also, the State Public Officials Act restricts justices and other state public officials from engaging in activities in support of or in opposition to certain political party or candidate in an election, and, in principle, restrains them from engaging in a collective activity unrelated to public service.

However, unless otherwise specified by the law, justices are guaranteed freedom of expression, freedom of peaceful assembly, and freedom of association under the Constitution as citizens of the Republic of Korea. Also, as stated in the above paragraph, the status of justices is strongly protected by the Constitution.
