



中华人民共和国常驻联合国日内瓦办事处和瑞士其他国际组织代表团

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The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and Other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the latter's communication [OL CIIN12/2013], has the honor to transmit herewith the reply of the Chinese Government.

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and Other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 25 September 2023



Office of the High Commissioner for Human Rights  
**GENEVA**

Receipt is hereby acknowledged of the communication addressed by the United Nations Human Rights Council (ref. OL CHN 12.2023). The Chinese Government wishes to make the following reply:

1. With regard to the attention drawn to the proposals of the Government of the Hong Kong Special Administrative Region (HKSAR) for strengthening the regulation of crowdfunding activities and the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (hereinafter abbreviated as "the Hong Kong National Security Law") in the joint communication addressed to the HKSAR Government from the relevant special mechanisms of the United Nations Human Rights Council, China solemnly reaffirms that safeguarding national security is an inherent right and responsibility of every sovereign State. Maintaining national security and strengthening the regulation of crowdfunding activities are the internal affairs of China in Hong Kong, and China hopes that the special rapporteurs will fully respect this in the fulfilment of their mandates.
2. The communication refers to the various concerns and comments made by the special rapporteurs concerning the Hong Kong National Security Law in the past, and China will not repeat its specific responses in this regard. The Chinese side reiterates that the special rapporteurs, in commenting on the enactment and implementation of the Hong Kong National Security Law, must take account of the context at the time of its enactment, as well as of its practical operation and effectiveness. The social unrest in mid-2019 seriously jeopardized public safety and national security in Hong Kong. After the implementation of the Hong Kong National Security Law, Hong Kong society quickly and effectively restored stability and security, safeguarding the lives and property of its citizens and allowing them once again to enjoy their rights and freedoms in accordance with the law.
3. The rights and freedoms enjoyed by Hong Kong residents in accordance with the law have always been fully respected and guaranteed. In the HKSAR, the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (hereinafter abbreviated as "the Basic Law") fully guarantees fundamental rights and freedoms at the constitutional level, including freedom of speech, press, publication, association, assembly, procession, demonstration, as well as the right to form and join trade unions and to strike, the right to equality before the law, and the protection of private life, homes, communications and other related rights against arbitrary infringement. Article 39 of the Basic Law provides that the relevant provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as applied to Hong Kong, shall remain in force and shall be implemented through the laws of the HKSAR.
4. Article 4 of the Hong Kong National Security Law also clearly stipulates that human rights shall be respected and protected in safeguarding national security in the Hong Kong HKSAR, and that the rights and freedoms enjoyed by Hong Kong residents under the Basic Law and the relevant provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied in Hong Kong, shall be protected in accordance with the law.
5. At the local legal level, the provisions of the International Covenant on Civil and Political Rights applicable to Hong Kong have been implemented through the Hong Kong Bill of Rights Ordinance (Cap 383), which is binding on the Government. Accordingly, the relevant rights and freedoms of the International Covenant on Civil and Political Rights cited in the communication are guaranteed by the Hong Kong Bill of Rights as set out in section 8 of the Hong Kong Bill of Rights Ordinance.
6. We must point out that the relevant rights and freedoms of the International Covenant on Civil and Political Rights cited in the communication are not absolute. Reasonable and necessary restrictions may be imposed on the exercise of these rights for reasons such as national security or public tranquillity, public order and the rights and freedoms of others, as is generally practised internationally and permitted under the International Covenant on Civil and Political Rights.

7. The HKSAR Government issued a public consultation paper in December last year proposing to increase the transparency and accountability of crowdfunding activities to prevent wrongdoers from engaging in illegal acts in the name of crowdfunding, thereby harming the public interest or endangering public safety and national security. A total of 60 written opinions were submitted during the consultation period. The HKSAR Government is collating and analysing the views gathered and will take into account the risks involved in the nature of various crowdfunding activities and assess how to focus on the regulation of high-risk crowdfunding activities. The HKSAR Government will ensure that the rights and freedoms guaranteed by the Basic Law and the Hong Kong Bill of Rights Ordinance, as well as the principles of legality, proportionality, necessity, non-discrimination and legal certainty, are fully reflected in future recommendations. The HKSAR Government deeply regrets that the criticisms expressed in the United Nations communication do not reflect the fact that efforts to strengthen the regulation of crowdfunding activities are still ongoing.

8. The HKSAR Government will continue to work steadfastly to fully and accurately implement the Hong Kong National Security Law and, in accordance with the law, prevent, suppress and punish acts and activities that endanger national security so that Hong Kong can move steadily towards “prosperity through governance”.

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联合国人权理事会特别机制发送的 OL CHN 12/2023 号来文确认收悉，中国政府答复如下：

1、就联合国人权理事会有关特别机制联合来文中对香港特别行政区政府（特区政府）提出加强规管众筹活动建议相关事宜及《中华人民共和国香港特别行政区维护国家安全法》（《香港国安法》）的关注，中方在此严正重申，维护国家安全是每个主权国家的固有权利和责任，而维护国家安全及加强规管众筹活动事宜，均属中国内政的香港事务，希望特别报告员履行其任务时，充分尊重这一点。

2. 来函提及特别报告员过往就《香港国安法》所提出各种关注和评论，中方不会在此一一重复回应。中方重申，特别报告员在评论《香港国安法》的制定和实施时，必须考虑该法订立的背景，以及该法的实际操作和成效。2019 年中发生的社会暴乱，严重危害香港的公共安全和国家安全。《香港国安法》实施后香港社会迅速和有效地恢复稳定和安全，市民的生命和财产得到保障，并再次依法享有他们的权利和自由。

3、香港居民依法享有的权利与自由一直受到充分尊重和保障。在香港特区，《中华人民共和国香港特别行政区基本法》（《基本法》）在宪制层面充分保障基本权利和自由，包括言论、新闻、出版、结社、集会、游行、示威自由，以及组织和参加工会、罢工的权利和自由；在法律面前一律平等的权利；及保障私生活、住宅、通讯等免受任意侵犯的相关权利。《基本法》第 39 条规定，



《公民权利和政治权利国际公约》和《经济、社会与文化权利的国际公约》等适用于香港的有关规定继续有效，通过香港特区的法律予以实施。

4、《香港国安法》第4条亦明确规定香港特区维护国家安全应当尊重和保障人权，依法保护香港居民根据《基本法》和《公民权利和政治权利国际公约》《经济、社会与文化权利的国际公约》适用于香港的有关规定享有的权利和自由。

5、在本地法律层面，适用于香港的《公民权利和政治权利国际公约》条文已通过《香港人权法案条例》（第383章）实施，《香港人权法案条例》对政府具有约束力。因此，来函所引述的《公民权利和政治权利国际公约》的相关权利和自由都受《香港人权法案条例》第8条载列的《香港人权法案》所保障。

6、我们必须指出，来函所引述《公民权利和政治权利国际公约》的相关权利和自由并非绝对。为维护国家安全或公共安宁、公共秩序及他人权利和自由等理由，可对这些权利的行使施加合理和必要的限制，此乃国际普遍做法，也为《公民权利和政治权利国际公约》所允许。

7、特区政府去年12月发出公众咨询文件，提出建议增加众筹活动的透明度和问责性，以防范不法之徒借众筹名义从事诈骗、损害公众利益、或危害公共安全以至国家安全等违法行为，咨询期内共收到60份意见书。特区政府正整理及分析收集到的意见，并会考虑各类众筹活动的性质所涉及的风险，评估如何聚

焦规管高风险的众筹活动。特区政府会确保日后制定相关建议时，会全面反映《基本法》及《香港人权法案条例》所保障的权利和自由，以及合法性、相称性、必要性、非歧视性及法律确定性的原则。由于有关加强规管众筹活动工作仍在进行中，联合国来文的批评并不反映事实，特区政府对此表示极度遗憾。

8. 特区政府会继续坚定不移全面准确实施《香港国安法》，依法防范、制止和惩治危害国家安全的行为和活动，令香港可以稳步迈向“由治及兴”。