

HCCC 147 of 2021

HCCC 51 of 2022

HCCC 52 of 2022

Press Summary

Of the Reasons for Sentence of the Court of First Instance

Handed down on 9 February 2026

(This Summary does not form part of the Reasons for Sentence)

Court: The Honourable Madam Justice Toh
 The Honourable Madam Justice D’Almada Remedios
 The Honourable Mr Justice Alex Lee

1. Eight defendants pleaded guilty to an offence of conspiracy to commit collusion with a foreign country or with external elements to endanger national security, namely, to request a foreign country or an institution, organisation or individual outside the mainland, Hong Kong, and Macao of the People’s Republic of China, to impose sanctions or blockade, or engage in other hostile activities (collectively referred to as “SBHA”) against the Hong Kong Special Administrative Region (“HKSAR”) or the People’s Republic of China (“PRC”), contrary to Article 29(4) of the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region in Schedule to the Promulgation of National Law 2020 (“NSL”) and sections 159A and 159C of the Crimes Ordinance, Cap. 200, in the committal proceedings in the Magistrates’ Court and were committed to the Court of First Instance for sentence. Those defendants who pleaded guilty were CHAN Tsz-wah (“Wayland”) and LI Yu-hin (“Andy”) in HCCC 147/2021; and CHEUNG Kim-hung (“Cheung”), CHAN Pui-man

(“**Chan**”), LAW Wai-kwong (“**Law**”), LAM Man-chung (“**Lam**”), FUNG Wai-kong (“**Fung**”) and YEUNG Ching-kee (“**Yeung**”) in HCCC 52/2022.

2. The defendants who were found guilty after trial were LAI Chee-ying (“**Lai**”), Apple Daily Limited, Apple Daily Printing Limited and AD Internet Limited (with the latter three collectively referred to as “**the Corporate Defendants**”) in HCCC 51/2022. Lai was found guilty of two offences contrary to Article 29(4) of the NSL (“**Count 2 and Count 3**”). The Corporate Defendants were found guilty of Count 2.

3. Lai and the Corporate Defendants were further found guilty of an offence of conspiracy to print, publish, sell, offer for sale, distribute, display and/or reproduce seditious publications, contrary to sections 10(1)(c), 159A and 159C of the Crimes Ordinance, Cap. 200 (“**Count 1**”).

4. Cheung, Chan, Yeung, Wayland and Andy gave evidence for the prosecution in HCCC 51/2022.

Count 2 and Count 3

5. As these two counts were more serious the Court started with consideration of the case of *HKSAR v Lui Sai Yu* (2023) 26 HKCFAR 332, in which the Court of Final Appeal laid down guidelines in order to determine the proper sentences for Count 2 and Count 3.

6. The penalty section under NSL 29¹ states: “A person who commits the offence shall be sentenced to fixed-term imprisonment of not

¹ Article 29 of the NSL.

less than three years but not more than ten years; a person who commits an offence of a grave nature shall be sentenced to life imprisonment or fixed-term imprisonment of not less than ten years.” The Court was of the view that it is the legislative intent that the engagement of a foreign entity in endangering national security is generally regarded as more serious and deserving of a more serious penalty.

7. In determining whether NSL 29 was of a “grave nature” the Court took into account the many factors laid down in the case of *HKSAR v Ma Chun Man* [2022] 5 HKLRD 246. The relevant factors with some adaptations for the present case would include:

- (a) the context including the society’s atmosphere in which the offence was committed;
- (b) the *modus operandi*, including the ways, acts, wording, media or platform adopted;
- (c) the frequency, duration and persistency of the offence;
- (d) the scale of the offence;
- (e) whether the offence was premeditated and if so, the scale and precision of the premeditation;
- (f) whether violence or threat of violence was involved and if so, the urgency and seriousness of the relevant violence or threat;
- (g) the number of people involved;
- (h) the target group(s) of the request for sanctions and the potential influence on them;

(i) whether the offence actually succeeded in resulting in foreign sanctions or the risk and imminence of such sanctions; and

(j) the actual or potential impact of the offence on the HKSAR and/or the PRC.

8. The Court stressed that the NSL does not have retrospective effect and the defendants are not to be punished for their pre-NSL activities nor for their political thoughts. What occurred prior to the NSL formed part of the background in which the offence took place.

9. Having considered the evidence of the offences, the Court was of the view that these offences were of a “grave nature” and the penalty should not be below ten years.

Sentences

10. The Court took into consideration the following when sentencing:

Count 1

11. Upon the Court’s assessment the conspiracy fell within the most serious category as the impugned articles were published in the printed form and on the online platform along with the number of articles and parties involved in their publication and the duration of the offence. Therefore, for Lai the Court adopted 21 months’ imprisonment as the starting point and for the Corporate Defendants, adopted a fine of \$4,500 as the starting point.

Count 2 and Count 3

12. The conspiracies were not only well planned but were premeditated and involved the use of online platforms reaching both local and overseas audience. Also the activities of the parties in Count 3 took place in and outside Hong Kong. The call for SBHA, both overt and subtle, did contribute to foreign governments imposing SBHA against the HKSAR as well as against officials of the governments of the HKSAR and the PRC. The Court adopted a starting point of 15 years' imprisonment for each conspiracy in Count 2 and Count 3. As for the Corporate Defendants, the Court adopted a fine of HK\$3 million as the starting point in Count 2.

Sentence of Lai

13. The Court found that as Lai was the mastermind and driving force behind these conspiracies, the starting point was enhanced by the following:

(a) 2 months' imprisonment in addition to the 21 months' starting point of Count 1, making a provisional sentence of 23 months' imprisonment; and

(b) 3 years' imprisonment in addition to the 15 years' starting points of Count 2 and Count 3, making a provisional sentence of 18 years' imprisonment for each of the charges.

14. Having considered the mitigation, the Court accepted that the combination of Lai's old age, health condition and solitary confinement would cause his prison life to be more burdensome than that of other inmates. The Court deducted:

- (a) one month from the sentence of Count 1; and
- (b) one year for each of the sentences in Count 2 and Count 3.

Totality

15. After considering the serious and grave criminal conduct of Lai, as noted in the Reasons for Verdict, applying the totality principle, the Court was satisfied that the total sentence for Lai in the present case should be 20 years' imprisonment. Thus the Court ordered that:

- (a) 1 year of the sentence in Count 1 is to be served consecutively to the sentence in Count 3;
- (b) 2 years of the sentence in Count 2 is to be served consecutively to the sentence in Count 3; and
- (c) the remaining terms in Counts 1, 2 and 3 are to be served concurrently to each other.

Thus making a total of 20 years' imprisonment.

16. It was noted that Lai was currently serving a term of imprisonment of 5 years and 9 months for DCCC 349/2021. However, the Court bore in mind that the offence was of a totally different nature to the present offences, also unrelated to the present case. Thus applying the totality principle, the Court further directed that 18 years of the present terms of imprisonment in this case should be served consecutively to Lai's sentence in DCCC 349/2021.

Corporate Defendants

17. The Court was unable to see any cogent mitigating factors which might reduce the penalties for the Corporate Defendants.

18. Therefore, each of the Corporate Defendants was fined as follows:

(a) Count 1: HK\$4,500

(b) Count 2: HK\$3 million

thus making a total fine of HK\$3,004,500.

Accomplice Witnesses

19. As noted in the Reasons for Verdict, each of the accomplice witnesses, Cheung, Chan, Yeung, Wayland and Andy not only pleaded guilty but also gave evidence for the prosecution in HCCC 51/2022. They were each found to be truthful witnesses and their evidence had significantly contributed to the conviction of Lai and the Corporate Defendants. The Court was, therefore, satisfied that NSL 33(3) was engaged in respect of each of them so that a lighter and reduced penalty than the starting point could be imposed.

20. However, having considered all the materials, the Court did not accept that any of the accomplice witnesses fell within the “supergrass” category.

21. For Wayland, his evidence was found by the Court to be crucial in the conviction of Lai for Count 3, especially about the Taiwan meeting and to connect Lai with Andy and Finn Lau. It was also noted

that Wayland was born and educated in the UK and may have concerns about returning there, especially when some co-conspirators are still at large there. Therefore, in light of the mitigating factors, he was given a total discount of 8 years and 9 months.

22. For Cheung, the Court accepted that in 2020 he made a one-off donation of about HK\$5 million to the Apple Daily Charitable Foundation. Subsequent to that, he was regularly and voluntarily involved in its work and other charities. He had also made other charitable donations of HK\$1.8 million to HK\$1.9 million in total. Thus, the Court found he had a positive good character and together with the other mitigating factors he was given a total discount of 8 years and 3 months.

23. For Chan, the Court noted her contribution to the work of the Apple Daily Charitable Foundation as a factor to be considered as a demonstration of her positive good character and together with the other mitigating factors gave her a total discount of 8 years.

24. For Andy, the Court accepted that he fully co-operated with the law enforcement authorities after his return to Hong Kong on 22 March 2021. He gave detailed and important evidence of the work and activities of “Stand with Hong Kong Fight for Freedom” (“SWHK”) and the Inter-Parliamentary Alliance on China (“IPAC”) from an insider’s perspective. He was given a total discount of 7 years and 9 months.

25. For Yeung, he was given a discount of 7 years and 6 months in view of his timely plea of guilty and assistance to the prosecution. Additionally, on humanitarian grounds due to his family circumstances he

was given an additional discount of 3 months thus the total discount granted to him was 7 years and 9 months.

26. Therefore, the sentences for the accomplice witnesses were as follows:

Cheung: 6 years and 9 months' imprisonment

Chan: 7 years' imprisonment

Yeung: 7 years and 3 months' imprisonment

Wayland: 6 years and 3 months' imprisonment

Andy: 7 years and 3 months' imprisonment

Law, Lam and Fung

27. As they did not give evidence or assist the prosecution, they were only entitled to the customary one-third discount for their timely plea, so each of their sentences was reduced to 10 years' imprisonment which was the statutory minimum.