

## Case Summary (English Translation)

**HKSAR v Wong Chi Lok (黃智樂)**

DCCC 1367/2025; [2025] HKDC 1986

(District Court)

(Full text of the Court's reasons for sentence in Chinese at

[https://legalref.judiciary.hk/lrs/common/ju/ju\\_frame.jsp?DIS=176900&currpage=T](https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=176900&currpage=T))

Before: HH Judge E Lin

Date of Reasons for Sentence: 15 December 2025

*Sentencing – conspiracy to commit secession, contrary to NSL 20 and ss. 159A and 159C of CO (Cap. 200) – guilty plea – Hong Kong Parliament (“HKP”) and Hong Kong Democratic Independence Union (“HKDI”) – D initiated the request to join HKDI and provision of practical advice and assistance on its operation – participated in chatgroup discussions and meetings – published posts and promoted HKDI’s unlawful objectives and HKP election with various social media accounts – conduct fell within the meaning of “organises, plans, commits or participates in acts with a view to committing secession or undermining national unification” – classified as an “active participant” – penalty for conspiracy to commit secession equivalent to that for secession – starting point of five and a half years for conspiracy to commit secession*

### **Background**

1. In the present case, D and two co-defendants were jointly charged with one count of conspiracy to commit secession, contrary to NSL 20 and ss. 159A and 159C of the CO (Cap. 200). D was convicted upon his own guilty plea and admission of the facts. (paras. 1-2)

## **Major provision(s) and issue(s) under consideration**

- NSL 20
- CO (Cap. 200) ss. 159A and 159C

## **Summary of the Court's reasons for sentence**

### **A. Background**

2. This case concerned Hong Kong Parliament (“HKP”) and Hong Kong Democratic Independence Union (“HKDI”). Both were unlawful organisations that advocated “Hong Kong independence” and mobilised to overthrow the Chinese regime under the assistance of foreign forces, and there was overlapping membership between both. (para. 3) HKP was an organisation founded by political activists and fugitives in 2022. Its objective was to establish an internationally recognised overseas parliament representing Hong Kong people, achieve Hong Kong independence by unlawful means and promote international resistance against the Communist Party of China (CPC). (para. 4) HKDI was an organisation whose establishment was announced by Keung Ka Wai on Facebook on 6 November 2024. Its initial party manifesto was to “liberate Hong Kong” whilst actively participating in HKP election to implement “self-determination of Hong Kong nationals” and even demanding a “ban on CPC and its related activities” in Hong Kong. (para. 7)

### **B. Sentencing**

3. The Court noted that under ss. 159C(1)(a) and 159C(4) of the CO, the penalty for conspiracy to commit secession is equivalent to that for secession under NSL 20. NSL 20 prescribes a three-tier sentencing framework for the offence of organising, planning, committing, or participating in acts with a view to committing secession or undermining national unification, based on individual participants’ degree of participation and significance of their roles: (para. 28)

(a) a person who is a principal offender or 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;

- (b) a person who actively participates in the offence shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years;
- (c) other participants shall be sentenced to fixed-term imprisonment of not more than three years, short-term detention or restriction.

4. NSL 33 also sets out three specific factual circumstances under which the court may impose a lighter penalty, reduce the penalty or exempt the penalty. The three circumstances include where the person: (para. 29)

- (a) in the process of committing an offence, voluntarily discontinues the commission of the offence or voluntarily and effectively forestalls its consequences;
- (b) voluntarily surrenders himself or herself and gives a truthful account of the offence;
- (c) reports on the offence committed by other person, which is verified to be true, or provides material information which assists in solving other criminal case.

5. The defence made no submission on the facts of this case falling under any of the above circumstances. Having carefully examined the facts of the case, the Court also found that none of the circumstances under NSL 33 were applicable to any of the agreed facts. Therefore, the Court had no grounds for exercising the power conferred by NSL 33 to give a special reduction in sentence. (para. 30)

6. The Court also cited the HKCFA's clear construction of the sentencing provisions in NSL and clear guidance on the sentencing procedure, as set out in the judgment of *Lui Sai Yu* [2023] 26 HKCFAR 36. (para. 31)

7. Having considered the agreed facts, the Court found D to be "a person who actively participated in the offence": (paras. 32-33)

- (a) The core tenets of HKDI and HKP were to advocate “Hong Kong independence”, exclude the influence of CPC in Hong Kong and international setting, and solicit foreign forces, with the ultimate aim of secession. HKP was even one of the tactics to facilitate “Hong Kong independence”, which aimed to establish an unlawful organisation with international recognition that could adequately represent Hong Kong citizens, thereby advancing “Hong Kong independence” and opposing China;
- (b) D not only actively participated in, promoted, discussed and made proposals about the developments of the unlawful organisations, but also assisted with the clerical work, enabling HKDI and HKP to operate and achieve their objective of “Hong Kong independence”;
- (c) D initiated contact with HKDI’s founder Keung Ka Wai, offered himself to be a member, and implied that his purported abilities could assist HKP to achieve the objective of “Hong Kong independence”. He further proposed establishing an intelligence department, and advised on its name and party emblem design, internal operation, regulations and practical functioning;
- (d) D was appointed as “secretariat” and “senate member”, who had discussions among members of social media groups, and offered opinions on the governmental structure, future policies, foreign affairs, and handling of Chinese investments in Hong Kong after achieving “Hong Kong independence”;
- (e) During HKDI’s daily operation, D opened up discussions and regularly sent out meeting agenda for members’ reference in the secretariat chatgroup while he himself also participated in six meetings; and
- (f) D even set up social media accounts to promote “Hong Kong Independence” as well as the manifestos and specific actions of HKDI, published draft party emblems and propaganda for the HKP election, and endorsed participating HKDI members.

8. In analysing D’s degree of participation and significance of role, the Court emphasised that viability or success prospects of such political acts

as HKDI and HKP election, albeit with a view to committing secession, was not a consideration for the Court. Despite the absence of evidence to suggest a comprehensive plan behind, D's proposals were specific ones tailored to HKDI's operation, which assisted HKDI in carrying out the unlawful secessionist activities. Moreover, D was not an ordinary member of HKDI; besides participating in discussions across chatgroups, he even performed administrative work and launched propaganda on social media. D's role went beyond mere verbal participation to include offer of advice and actual assistance for implementing activities of HKDI and the Hong Kong Parliament. Hence, there was actual active participation on his part, and his conduct fell within the meaning of "organises, plans, commits or participates in acts with a view to committing secession or undermining national unification" under NSL 20. He was classified as an "active participant", with his culpability towards the more serious end of that band, just below that of HKDI's founder Keung Ka Wai. Whilst the social atmosphere had somewhat eased by then, there remained those who had managed to leave Hong Kong in time to evade liabilities yet continued to stir up havoc outside Hong Kong in an attempt to perpetuate such secessionist acts. D's participation served to assist those lawbreakers. Having considered the overall circumstances, the Court held that the starting point for sentencing should be five and a half years. (paras. 34-36)

9. In determining whether to grant a sentence reduction, the Court considered the following circumstances: (paras. 37-40)

- (a) D was aged 15 only and educated up to Form 3 at the time of offence. He was suspended from school due to arrest for this case. Both parents were well-educated professionals but had separated. D had been residing with his father since 2013. His father, uncle, church, and fellowship members all submitted letters speaking highly of him;
- (b) Due to D's medical history of Autism Spectrum Disorder (ASD), the Correctional Services Department (CSD) did not recommend him for training at the Training Centre;
- (c) The psychologist was of the view that he was clear-minded and emotionally stable, and not a political fanatic with extreme or

rigid ideas. His commission of this offence might be attributable to his ASD and exposure to online remarks;

- (d) The psychiatrist concluded that D's condition was stable. Taking D's background as a whole, the only factor relevant to sentencing was D's mere age of 15 at the time of offence. However, his conduct demonstrated great lucidity and maturity of mind. He did not just zealously and blindly espouse political ideals that he deemed viable, but actually thought the matter through, boasted his special talents that could be of assistance, and indeed provided practical help and advice. Despite D's young age, his various acts revealed that he was not participating out of youthful inexperience or mere pursuit of vague ideology; and
- (e) Subsequent to his arrest, D attempted to evade criminal liability during a video-recorded interview by giving specious justifications for his acts. Furthermore, no evidence in this case indicated that D had been misled. Accordingly, the circumstances of this case warranted no leniency under any of the scenarios specified in NSL 33.

10. As regards D's autism, his counsel further submitted that the Court might disregard CSD's opinions but asserted autism as a ground for mitigation by contending that D's psychological condition did not affect his academic performance or behaviour. The Court disagreed that D could, on the one hand, seek a sentence reduction for his autism but, on the other hand, consider his mental condition fit enough for receiving services provided by CSD. In any event, given the Court's finding of D's role as an "active participant", there existed no discretion in this case to fix a sentence term outside the statutory framework. (para. 41)

11. Having considered the overall circumstances, the Court took the view that the proper sentence on D could be adjusted down to 44 months to reflect his guilty plea. Given D's youth and clear record, the Court exercised discretion to further reduce the sentence by two months, making a total sentence of 42 months' imprisonment. (para. 42)