

Response to Liberal International resolution on wiretapping in Taiwan

The ROC Ministry of Justice is obliged to set the record straight regarding a resolution passed by the Executive Committee of Liberal International. Based on allegations by the Democratic Progressive Party to the effect that the Special Investigation Division of the Supreme Prosecutor's Office abused its authority by conducting telephone surveillance on the speaker of the Legislative Yuan, opposition whip and Legislative Yuan switchboard, the resolution calls on "all parties and leaders in Taiwan to . . . respect the principle of separation of powers, and in particular that the executive branch must not interfere in the proper functioning of the legislative branch."

These allegations are unfounded.

I. President, executive agencies have never interfered with judicial process or legislative branch

The SID has never conducted telephone surveillance on the speaker of the Legislative Yuan; neither the president nor any executive agency has ever requested that the SID wiretap a legislator's phone.

On October 19, during the 191st Executive Committee meeting of Liberal International in Antigua, Guatemala, the DPP made the abovementioned accusations—for which it has yet to produce any

evidence—to an audience of foreigners who have little understanding of the ROC judicial system, thereby slandering our judicial system and tarnishing our national image. This state of affairs is most regrettable.

II. SID did not wiretap legislature

The “wiretapping of the legislature” referred to in news reports in fact stems from an SID investigation into corruption involving Legislator Ker Chien-ming, in the course of which a Legislative Yuan switchboard number in a format closely resembling that of a cell phone was mistaken for a personal cell phone number. The SID obtained a court-issued wiretapping warrant on this number through the proper legal procedures, but because the technical settings for surveillance on a regular number do not work on a switchboard number, no conversations were recorded.

The case, therefore, involved not illegal wiretapping, nor wiretapping of the legislature, but merely errors in wiretapping procedures making the surveillance ineffective. The DPP allegations at Liberal International are thus groundless. The text of the MOJ explanation of all related events, released at an October 11 news conference, is available on its website.

III. SID surveillance on opposition whip entirely legal; based on his possible involvement in corruption

Details of the investigation into a corruption case three years ago

required that the SID wiretap the DPP whip's phone, and a court-issued wiretapping warrant was duly obtained. In the course of surveillance, it was found that the whip asked the speaker of the Legislative Yuan to use his influence to prevent the appeal of a not guilty verdict for the whip in another case, resulting in the not guilty verdict being confirmed.

In most democratic countries, attempting to influence the judiciary constitutes the felony of obstruction of justice, for which prison terms are long. However, it is not yet a crime in Taiwan. But the MOJ Guidelines for Prosecutorial Agencies Handling Criminal Procedures require prosecutors, as officials representing the public interest, to report administrative illegalities uncovered in the course of an investigation to the proper authorities to be handled in accordance with the law.

IV. Strict regulations of Communication Security and Surveillance Act in line with international standards

Regulations for wiretapping under the Communication Security and Surveillance Act are very strict, requiring (1) serious offenses involving national security or social order, (2) involvement in a specified felony (carrying a sentence of over three years imprisonment), (3) indication that the communications to be recorded are related to the crime, (4) that the measures taken are not excessive and (5) that no other means is available for acquiring the evidence sought.

Prosecutors must provide proof of meeting these requirements in their application to a court for a wiretapping warrant. The act also stipulates detailed procedures for wiretapping and the use and handling of information obtained through wiretapping, in accordance with international, democratic standards, thereby ruling out any violation of human rights.

The government calls on foreign observers and international organizations concerned about the democratic development of the ROC to understand and respect our democracy and rule of law, and hopes that the people of Taiwan will cherish the democratic achievements we have all worked so hard for. No one should willfully manipulate the facts to tarnish the nation's image for their own selfish purposes.