

NAVIGATING LIFELINES IN POST-ARTICLE 23 HONG KONG: THE NEED FOR LIFEBOAT SCHEMES IN THE EU

EXECUTIVE SUMMARY

After Beijing imposed the National Security Law in Hong Kong in June 2020, a number of national governments around the world stepped up to offer pathways to citizenship, permanent residency, or temporary safe haven for Hong Kongers. This includes the UK's British National (Overseas) visa scheme; Canada's lifeboat scheme for Hong Kongers; the Australian government's pathway to citizenship for students from Hong Kong; and the US's granting of Deferred Enforced Departure for Hong Kongers in the US.

Despite these needed lifelines, there are still an estimated 1.86 million Hong Kongers that continue to have no lifeline out of the city. Following the enactment of the Safeguarding National Security Bill in Hong Kong in March 2024, which marks a further deterioration of rights and freedoms, like-minded and democratic countries in the European Union should seriously and swiftly consider introducing lifeboat policies specific to Hong Kongers to offer the 1.86 million Hong Kongers with no exit a chance to flee from increasing repression.

This briefing recommends that EU member states should implement lifeboat schemes for Hong Kongers, as recommended in a number of European Parliament resolutions since 2020. This would recognise the high risk of persecution in Hong Kong, the gaps in the existing lifeboat schemes, and the large economic and cultural contribution that Hong Kongers would make in the EU. This may include EU member states expanding educational and work opportunities for Hong Kongers, as well as reviewing their asylum policies.

In addition to lifeboat schemes, the briefing also recommends that EU member states should suspend active extradition treaties with Hong Kong and the People's Republic of China to ensure that no Hong Konger who flees from persecution in Hong Kong or anyone else has to face extradition to Hong Kong or China, where the rule of law is severely compromised under both the National Security Law and the Safeguarding National Security Bill.

BACKGROUND ON ARTICLE 23

On 19 March 2024, the Hong Kong Legislative Council passed the Safeguarding National Security Bill,¹ which is implemented under ‘Article 23’ of the Basic Law of Hong Kong. Although the Basic Law does provide a pathway for the introduction of a legitimate domestic security law, the lack of oversight and safeguards, and the vague definitions and application, make it a tool for the Hong Kong authorities to violate fundamental rights and freedoms.

The new legislation targets five types of activities which the Hong Kong officials declare as ‘offences’, and contains broad provisions which criminalise the peaceful exercise of human rights and dramatically undermine due process and fair trial rights in Hong Kong.

This includes provisions for anyone convicted of offences with seditious intention to be liable for up to seven years in jail; a person who is found to have colluded with an external force to be liable for 10 years in jail; and a person who, without reasonable excuse, possesses a publication that has seditious intentions to be liable for three years’ imprisonment. There are also penalties of up to 10 years’ imprisonment for sedition-related offences and four new alleged crimes which will be punished by up to life imprisonment.

In addition, there are new restrictions which can ban an arrestee from speaking to a lawyer of their choice, detention without charge will be extended to up to seven days, more severe penalties for activists abroad will be applied, and all offences will apply to “anyone” outside of Hong Kong.

Article 23 is also likely to place pressure on the freedom of religion or belief, including on Catholic priests and other religious leaders to report information. In March 2024, Hong Kong Secretary for Justice Lam Ting-kwok indicated that priests should report individuals who confess to plans to commit acts that are criminalised under the security laws, in breach of the confidentiality of Confession. Failure to report a crime or a plan to commit a crime under the security law could result in imprisonment of up to 14 years. This undermines the vital principle of confidentiality of Catholic confessions and other religious practices, and explicitly threatens freedom of religion or belief in Hong Kong.

Article 23 was passed by the Legislative Council just 49 days after the Hong Kong government released the initial 110-page consultation document² for the bill. Within 49 days, there was also a 220-page consultation report,³ a 212-page draft bill,⁴ a 524-page Legislative Council brief,⁵ and 77 pages of revisions.⁶ This followed Hong Kong Chief Executive John

¹ <https://www.sb.gov.hk/eng/bl23/consultation.html>

² https://www.sb.gov.hk/eng/bl23/doc/Consultation%20Paper_EN.pdf

³ <https://www.legco.gov.hk/yr2024/english/panels/se/papers/seajlshs5120240306cb2-258-1-e.pdf>

⁴ <https://www.hongkongwatch.org/all-posts/2024/3/8/hong-kong-watch-condemns-bill-under-article-23-legislation>

⁵ https://www.legco.gov.hk/yr2024/english/brief/sb20240308_20240308-e.pdf

⁶ <https://www.legco.gov.hk/yr2024/english/bc/bc51/papers/bc5120240314-314-e.pdf>

Lee and other senior Hong Kong officials attending the “Two Sessions”⁷ meetings with Chinese Communist Party officials in Beijing in early March 2024, when Beijing issued directives that passing Article 23 should be at the top of the agenda in Hong Kong. Cutting the trip to Beijing short, the Hong Kong officials returned to Hong Kong to implement the directives “as soon as possible”.⁸ It is highly likely, therefore, that the bill’s introduction and truncated legislative scrutiny were both due to pressure from the central authorities in Beijing, demonstrating the extent to which Hong Kong’s political autonomy is little more than a legal fiction.

In 2020, Beijing imposed the National Security Law (NSL) in Hong Kong, leading to the mass arrests of journalists, opposition politicians, and human rights activists. The NSL criminalises alleged offences of secession, subversion, collusion with foreign forces and terrorism. The Hong Kong government claims that the new Article 23 legislation is necessary to cover offences not specified in the NSL. However, the new legislation further violates Hong Kong’s obligations under international human rights treaties, in addition to the obligations which have already been disregarded under the NSL.

EXISTING LIFEBOAT SCHEMES

Within one month of the implementation of the NSL on 30 June 2020, the UK government announced its plans to establish the British National (Overseas) (BNO) visa scheme in January 2021 to make it easier for BNO passport holders and their dependents to work and study in the UK as a pathway to citizenship.⁹ The BNO visa scheme allows Hong Kongers to apply for settlement in the UK after five years, and citizenship after an additional year. As of the final quarter of 2023, an estimated 200,250 Hong Kongers have applied for the scheme.¹⁰

Despite the success of the BNO visa scheme and other lifeboat schemes for Hong Kongers which offer pathways to citizenship, permanent residency, or temporary safe haven following the imposition of the NSL, Hong Kong Watch found in July 2022 that approximately **1.9 million** Hong Kongers did not have a viable route out of Hong Kong as they were ineligible for the lifeboat schemes being offered by the UK, US, Canada and Australia.¹¹ This includes the UK’s BNO visa scheme, the US’s deferred enforced departure (DED) policy, Canada’s lifeboat scheme for Hong Kongers, and Australia’s lifeboat scheme for Hong Kongers. At the time, the data was as follows:

⁷<https://www.aljazeera.com/news/2024/3/3/what-to-expect-at-chinas-two-sessions-amid-sagging-economy-party-drama#:~:text=Taipei%2C%20Taiwan%20%E2%80%93%20China's%20%E2%80%9Ctwo,%2C%20media%2C%20and%20the%20arts>

⁸<https://www.reuters.com/world/china/hong-kong-leaders-start-legislative-push-tighten-national-security-laws-2024-01-30/>

⁹<https://www.gov.uk/government/news/home-secretary-announces-details-of-the-hong-kong-bno-visa>

¹⁰<https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-december-2023/safe-and-legal-humanitarian-routes-to-the-uk#british-national-overseas-bno-route>

¹¹https://static1.squarespace.com/static/58ecfa82e3df284d3a13dd41/t/62c6cb7b57ff901262b00e61/1657195389696/The+Left+Behind_HK+W+Briefing_July+2022.pdf

- The total population of Hong Kong was around **7.5 million**.
- The UK government estimated that **5.4 million** out of 7.5 million Hong Kongers were theoretically eligible for the BNO visa scheme, which offers a pathway to citizenship.¹²
- Canada's immigration system is split into three distinctive components: young talents, asylum, and family reunification. It was estimated that at least **200,000** Hong Kongers could potentially be eligible to move to Canada to take up the young talents portion of the scheme, which provides Hong Kong students and their dependents with a pathway to Canadian citizenship.¹³ Canada also allowed Hong Kongers to apply for Open Work Permits (OWP) starting in February 2021,¹⁴ and established two additional pathways to permanent residence specific to Hong Kongers including 'Stream A' for in-Canada graduates and 'Stream B' for individuals with Canadian work experience in June 2021.¹⁵
- The US's DED policy, which was announced on 5 August 2021, allows Hong Kongers already in the US to stay in the US for 18 months, with extensions made at the discretion of the President. In March 2021, the Department of Homeland Security estimated that **3,860** Hong Kongers would be eligible for DED, which provides temporary safe haven.¹⁶
- Australia's lifeboat scheme for Hong Kongers, which opened on 5 March 2022, covers Hong Kong passport holders already present in Australia on temporary skilled, temporary graduate, and student visa holders, and was estimated to offer up to **8,800** Hong Kongers with a pathway to permanent residency.¹⁷
- At the very least, assuming that those eligible for one scheme are not eligible for another, the data showed there to be an excess of **1.9 million** Hong Kongers who would be left behind in Hong Kong without a route out of the city.

Since July 2022, the UK, US and Canada have expanded or extended existing lifeboat schemes for Hong Kongers.

In November 2022, the UK expanded the BNO visa scheme by allowing those born on or after 1 July 1997 and over the age of 18 with at least one BNO-status parent to apply to the scheme independently of their parent(s) to live, work and study in the UK.¹⁸ This change was estimated to increase the number of applications to the BNO scheme by 11,700, according to a UK Home Office analysis reported in the *South China Morning Post*.¹⁹ However, this extension does not alter the number of Hong Kongers theoretically eligible for the BNO

¹² https://www.legislation.gov.uk/ukia/2020/70/pdfs/ukia_20200070_en.pdf

¹³ <https://www.statistics.gov.hk/pub/B11201042016XXXXB0100.pdf>

¹⁴ <https://www.canada.ca/en/immigration-refugees-citizenship/news/2021/02/canada-launches-hong-kong-pathway-that-will-attract-recent-graduates-and-skilled-workers-with-faster-permanent-residency.html>

¹⁵ <https://www.hongkongwatch.org/all-posts/2021/6/8/hong-kong-watch-welcomes-the-announcement-of-new-pathways-for-hong-kongers-to-move-to-canada>

¹⁶ <https://crsreports.congress.gov/product/pdf/RS/RS20844>

¹⁷ <https://minister.homeaffairs.gov.au/AlexHawke/Pages/new-permanent-residence-visa-streams-hong-kong.aspx>

¹⁸ <https://www.hongkongwatch.org/all-posts/2022/11/30/bno-visa-expands-to-young-adults-from-hong-kong>

¹⁹ <https://www.scmp.com/news/hong-kong/society/article/3220490/more-1000-adult-children-bno-holders-apply-expanded-uk-citizenship-pathway-hongkongers-first-month>

scheme – it simply allows those who were previously eligible only as a dependent to make an independent application to the BNO visa themselves.

In January 2024, the UK also updated the relationship requirement for partners applying to the BNO visa scheme.²⁰ The change removed the need for partners to have been living together for at least two years prior to applying to make the BNO scheme more inclusive and enable couples who do not live together to be reunited in the UK. If a couple is not living together, the change requires them to provide evidence of an ongoing commitment to each other. This could include evidence that the partners communicate regularly, support each other financially, care for any children they might have together, and spend time together as a couple.²¹ There is no data related to the number of Hong Kongers in partnerships who may be eligible to be reunited under the updated relationship requirements for the scheme.

In January 2023, US President Joseph Biden extended the DED policy for Hong Kongers to prevent the deportation of Hong Kongers who are in the US from the US until 5 February 2025. This extension applies to any Hong Kongers who arrived prior to or on the date of the announcement of the extension on 26 January 2023.²² According to the US Department of State, 7,173 Hong Kongers relocated to the US on non-immigrant visas from 1 October 2020 to 30 September 2021,²³ 17,170 from 1 October 2021 to 30 September 2022²⁴, and 42,984 from 1 October 2022 to 30 September 2023.²⁵ Combining the entire period from 1 October 2021 to 30 September 2022 (17,170), along with taking the average from two out of twelve months from 2020 to 2021 (1,196) and from four out of twelve months from 2022 to 2023 (14,328), there are an estimated 32,694 Hong Kongers who have arrived in the US between the initial announcement of DED for Hong Kongers on 5 August 2021 to the extension on 26 January 2023. This provides an estimated total maximum of 36,554 Hong Kongers who may be eligible for DED.

In July 2023, Canada expanded its Stream B Pathway for Hong Kongers by removing the education requirement for Hong Kongers who have moved to Canada under the Open Work Permit to gain permanent residency,²⁶ after expanding and extending its OWP for Hong Kongers in February 2023.²⁷ The latter expanded OWP eligibility to Hong Kongers who have graduated from a post-secondary education institution in Canada or overseas within the past 10 years, compared to the previous range of five years. The World Bank reports that 32,074 Hong Kongers studied abroad in 2013, 33,882 in 2014, and 36,272 in 2015,²⁸ for an average

²⁰ <https://www.gov.uk/government/publications/hong-kong-british-national-overseas-route>

²¹ <https://www.hongkongwatch.org/all-posts/2024/1/31/hong-kong-watch-welcomes-update-on-the-relationship-requirement-for-bno-visa-scheme>

²² <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/01/26/memorandum-on-extending-and-expanding-eligibility-for-deferred-enforced-departure-for-certain-hong-kong-residents/>

²³ <https://travel.state.gov/content/dam/visas/Statistics/Non-Immigrant-Statistics/NIVDetailTables/FY21NIVDetailTable.pdf>

²⁴ <https://travel.state.gov/content/dam/visas/Statistics/Non-Immigrant-Statistics/NIVDetailTables/FY22NIVDetailTable.pdf>

²⁵ <https://travel.state.gov/content/dam/visas/Statistics/Non-Immigrant-Statistics/NIVDetailTables/FY23NIVDetailTable.pdf>

²⁶ <https://www.canada.ca/en/immigration-refugees-citizenship/news/2023/07/canada-makes-it-easier-for-hong-kongers-to-stay-and-work-in-canada.html>

²⁷ <https://www.canada.ca/en/immigration-refugees-citizenship/news/2023/02/canada-extends-and-expands-open-work-permit-program-for-hong-kong-residents.html>

²⁸ <https://databank.worldbank.org/Tertiary-Education/id/2c670ebf>

of 34,076 Hong Kongers studying abroad per year from 2013 to 2015. Using this average as a sample and accounting for the impact on study abroad during the COVID-19 pandemic from 2020 to 2022, which falls within the previous five-year requirement, we estimate that up to an additional 167,540 Hong Kongers may be eligible under this extension.

Today, there are an estimated **1.86 million** Hong Kongers that continue to have no lifeline out of the city. The data is as follows:

- The total population of Hong Kong remains around **7.5 million**.
- The total number of Hong Kongers theoretically eligible for the BNO visa scheme remains consistent with the UK government's previous estimate of **5.4 million** out of 7.5 million Hong Kongers.
- Together with the estimated 3,860 Hong Kongers eligible for DED following the initial announcement on 5 August 2021, the 32,694 Hong Kongers who have arrived in the US on non-immigrant visas from 5 August 2021 to 26 January 2023, combine to an estimated maximum of **36,554** Hong Kongers being eligible for DED, which provides temporary safe haven.
- Together with the at least 200,000 Hong Kongers who could potentially be eligible to move to Canada to take up the young talents portion of Canada's immigration system, the additional 167,540 Hong Kongers that may be eligible for an OWP in Canada account for a total of up to **367,540** Hong Kongers with a pathway to Canadian citizenship or permanent residence.
- There have been no changes to Australia's lifeboat scheme for Hong Kongers, which continues to cover Hong Kong passport holders already present in Australia on temporary skilled, temporary graduate, and student visa holders, and is estimated to offer up to an estimated **8,800** Hong Kongers a pathway to permanent residency.
- At the very least, assuming that those eligible for one scheme are not eligible for another, the data shows there to be an excess of **1.86 million** Hong Kongers who would be left behind in Hong Kong without a route out of the city.

	July 2022	April 2024
Total Hong Kong population	7.5 million	7.5 million
UK BNO visa scheme	5.4 million eligible Hong Kongers	5.4 million eligible Hong Kongers
Canadian lifeboat schemes	200,000 eligible Hong Kongers	367,540 eligible Hong Kongers
US DED policy	3,860 eligible Hong Kongers	36,554 eligible Hong Kongers
Australia's lifeboat scheme	8,800 eligible Hong Kongers	8,800 eligible Hong Kongers

RECOMMENDATIONS

Lifeboat schemes

In line with the UK, US, Canada and Australia, EU member states should swiftly implement lifeboat schemes specific to Hong Kongers to provide the estimated 1.86 million Hong Kongers with no lifeline out of Hong Kong the opportunity to leave. The creation of additional lifeboat schemes is particularly important given the increased and severe threats to human rights and freedoms under Article 23 and the NSL.

EU member states introducing lifeboat policies which would expand educational and work opportunities for Hong Kongers would recognise:

- The high risk of persecution if they stay in Hong Kong.
- The gaps that exist in the aforementioned lifeboat schemes.
- The large economic and cultural contribution they would make in the EU.

Following the imposition of the National Security Law in 2020, the EU Foreign Affairs Council adopted conclusions that included member states reviewing “asylum, migration, visa and residency policy” for Hong Kongers and “exploring possibilities for stepping up and

coordinating scholarships and academic exchanges involving Hong Kong students and universities”.²⁹

At the same time, the European Parliament issued a resolution calling “on the Council and the Commission to consider the creation of a ‘life boat’ scheme for the citizens of Hong Kong in the case of any further deterioration of human rights and fundamental freedoms”.³⁰ In July 2022, the European Parliament passed a resolution on Hong Kong urging EU member states to prepare “concrete responses to the possible extraterritorial effects of the NSL and the implementation of a ‘lifeboat scheme’ for Hong Kong pro-democratic activists and political leaders, including facilitating the issuing of emergency visas and providing temporary shelter in the Member States.”³¹ It is time to implement the European Parliament’s consistent four-year call to implement lifeboat schemes for Hong Kongers in the EU.

In response to the enactment of Article 23, EU member states should adopt measures to create pathways for the Hong Kongers who are studying and working to make the EU their home. Depending on the country, these measures could include:

- Reviewing international student policies for Hong Kongers wishing to study in the EU, including expanding academic and training opportunities within the Erasmus programme for students and young graduates from Hong Kong.
- Allowing Hong Kong graduates from European universities and Hong Kongers with one year work experience the opportunity to apply for work visas to continue to work and live in EU member states.
- Creating a new work visa category or adding to an existing work visa category to provide pathways specific to Hong Kongers. This could include Hong Kongers committing to working in a sector with a skilled labour shortage and learning the relevant language and culture.
- Expanding the number of Hong Kongers who are able to take up working holiday opportunities in EU member states.
- Reviewing the asylum system.

Any of these measures could start with a pilot lifeboat scheme which would trial the arrival of as few as 100 Hong Kongers to a given country for up to one year.

Hong Kongers who immigrate to the EU would uphold democratic values, bring assets and create businesses, and are unlikely to need financial assistance from EU member states. In the first nine months (from July 2020 to March 2021) after the UK announced the BNO visa scheme, Hong Kongers bought £959 million (€1.12 billion) worth of homes in London, accounting for 4% of all homes sold in London in that period.³²

²⁹<https://www.consilium.europa.eu/en/press/press-releases/2020/07/28/hong-kong-council-expresses-grave-concern-over-national-security-law/>

³⁰<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020IP0174&qid=1668760164288>

³¹https://www.europarl.europa.eu/doceo/document/B-9-2022-0358_EN.html

³²<https://www.scmp.com/business/article/3131263/hong-kong-residents-buy-us-13-billion-worth-homes->

The Financial Transactions and Reports Analysis Centre of Canada recorded that capital outflows from Hong Kong to Canadian banks reached their highest levels in 2020, with C\$43.6 billion (€29.7 billion) in transfers.³³ A study by Bank of America found that Hong Kongers leaving the city could trigger capital outflows of HK\$280 billion (€33.6 billion) in 2021.³⁴ These experiences and projections from the UK and Canada demonstrate that Hong Kongers would materially benefit the EU.

Hong Kongers would also significantly contribute to the EU's job market. Research by the University of Hong Kong found that many Hong Kongers wanting to leave the city are overwhelmingly middle class, under the age of 30, and university educated.³⁵ This would particularly benefit EU member states given the EU's declining birth rate³⁶ and ageing population.³⁷

Hong Kongers would bring high-quality, in-demand technical and academic skills to the EU. A UK government-funded research survey by the Welcoming Committee for Hong Kongers found that BNO visa applicants are over-represented in professional occupational groups, with more than six out of ten respondents having a degree at graduate (36%) or postgraduate (23%) level, compared to just over a third (34%) of the UK population as a whole.³⁸ The overwhelming majority of recent graduates in Hong Kong hold degrees in science, technology, engineering, and mathematics (STEM) subjects, in which there is a shortage in EU member states.³⁹ Hong Kong's universities, including The University of Hong Kong, The Chinese University of Hong Kong, The Hong Kong University of Science and Technology, City University of Hong Kong, and The Hong Kong Polytechnic University, were ranked in the top 100 in the World University Rankings in 2024.⁴⁰

Hong Kongers would also help further develop the EU's understanding of Hong Kong and China, from cultural, economic and political angles. While there is not a clear estimate of how many Hong Kongers live in the EU today, especially as some EU universities continue to record Hong Kong students as part of the total number of Chinese international students studying abroad, there is a small but strong Hong Kong community across the EU that continues to preserve and share Hong Kong's culture.

³³ <https://globalnews.ca/news/7720628/hong-kong-canada-money-china/>

³⁴ <https://www.reuters.com/article/uk-hongkong-finance-outflows/hong-kong-emigration-to-britain-could-mean-36-billion-capital-outflow-id-USKBN29J0WM>

³⁵ <https://www.bloomberg.com/graphics/2019-angry-hong-kong-protesters-are-future-workforce/>

³⁶ https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Fertility_statistics

³⁷ https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Population_structure_and_ageing#:~:text=On%201%20January%202023%2C%20the%20aged%2065%20years%20and%20over.&text=On%201%20January%202023%2C%20the%20median%20age%20of%20EU's%20population%20reached%2044.5%20years.

³⁸ <https://static1.squarespace.com/static/628b740a6ac4ac36ed7dd1b7/t/655615ea356bc245b542759e/1700140534691/HK+to+UK+report.No+v23.Final.pdf>

³⁹ <https://www.euractiv.com/section/digital/linksdossier/the-future-for-stem-in-europe/>

⁴⁰ <https://www.timeshighereducation.com/world-university-rankings/2024/world-ranking?page=1#>

At this critical juncture in the erosion of fundamental freedoms, human rights, the rule of law, and international laws and obligations in Hong Kong, EU member states should seriously consider introducing lifeboat schemes for Hong Kongers to honour the 2020 EU Foreign Affairs Council conclusions and previous European Parliament resolutions. The creation of new policies would send a clear and needed signal that the EU stands with Hong Kong and is open to offering vulnerable Hong Kongers a lifeline out of the city.

Suspension of extradition treaties

EU member states should also suspend active extradition treaties with Hong Kong and the People's Republic of China (PRC) to ensure that no Hong Konger who has relocated or decides to relocate overseas, or anyone else, has to face extradition to Hong Kong or China.

After Beijing imposed the NSL on Hong Kong in 2020, many countries responded by suspending their extradition treaties with Hong Kong to protect exiled Hong Kongers from the NSL's claim to worldwide criminal jurisdiction over overseas activism, its punitive sentencing, and its creation of special bodies, hand-picked judges, and no jury trials to prosecute alleged crimes under the NSL. They also did so in part "out of fear that China will use Hong Kong as a way-station to extradite individuals from other countries".⁴¹

On 3 July 2020, Canada suspended the Canada-Hong Kong extradition treaty. Canada's Foreign Affairs Minister François-Philippe Champagne commented that this move would serve to "protect human rights and the rule of law across the world".⁴² For the same reasons, Australia suspended their extradition agreement with Hong Kong on 9 July 2020,⁴³ the UK on 20 July 2020,⁴⁴ New Zealand on 28 July 2020,⁴⁵ Germany on 31 July 2020,⁴⁶ and the US on 19 August 2020.⁴⁷

At the same time, the Council of the European Union adopted conclusions calling for a review of "the implications of the national security legislation on the operation of Member States' extradition and other relevant agreements with Hong Kong".⁴⁸ In June 2023, the European Parliament echoed this conclusion, reiterating "its call on all EU Member States to suspend extradition treaties with the PRC and Hong Kong".⁴⁹ The European Parliament also issued resolutions in July 2022⁵⁰ and July 2021,⁵¹ urging EU member states to suspend applicable extradition treaties with Hong Kong and China.

⁴¹ <https://academic.oup.com/irap/article/24/1/101/7136001>

⁴² <https://www.canada.ca/en/global-affairs/news/2020/07/canada-takes-action-following-passage-of-national-security-legislation-for-hong-kong.html>

⁴³ <https://www.foreignminister.gov.au/minister/marise-payne/media-release/extradition-treaty-hong-kong>

⁴⁴ <https://hansard.parliament.uk/Commons/2020-07-20/debates/b7de9c20-2b5c-4f84-a215-9fcf0c238a35/CommonsChamber>

⁴⁵ <https://www.beehive.govt.nz/release/new-zealand-suspends-extradition-treaty-hong-kong#:~:text=The%20New%20Zealand%20Government%20has.Affairs%20Minister%20Winston%20Peters%20says.>

⁴⁶ <https://www.auswaertiges-amt.de/en/newsroom/news/maas-postponement-elections-hong-kong/2372740>

⁴⁷ <https://apnews.com/article/virus-outbreak-asia-pacific-1db7c8fd0d17352f34b26d3d51931206>

⁴⁸ <https://www.consilium.europa.eu/media/45222/council-conclusions-on-hong-kong.pdf>

⁴⁹ https://www.europarl.europa.eu/doceo/document/RC-9-2023-0276_EN.html#:~:text=Urges%20the%20Hong%20Kong%20Government.2.

⁵⁰ https://www.europarl.europa.eu/doceo/document/TA-9-2022-0291_EN.html

⁵¹ <https://eur-lex.europa.eu/legal-content/EN/TEXT/PDF/?uri=CELEX:52021IP0356>

Still, Portugal and Czechia continue to have active extradition treaties with Hong Kong. Romania, Belgium, Lithuania, Portugal, Bulgaria, France, Italy, Spain and Cyprus maintain active extradition treaties with the PRC.⁵²

Particularly after the enactment of Article 23, which is likely to increase transnational repression against Hong Kongers, it is crucial that these countries immediately suspend active extradition agreements with Hong Kong and the PRC. Already under the NSL, there were concerning extradition cases in Poland, Italy, Sweden and Spain in which the PRC sidestepped provisions in place to prevent political persecutions by requesting extradition for alleged financial crimes, targeting overseas activists and dissidents of fraud.⁵³

In the case of *Liu v. Poland* in October 2022, the European Court of Human Rights ruled to prevent a man from Taiwan arrested in Poland for alleged telecommunications fraud from being extradited to China under the Convention for the Protection of Human Rights and Fundamental Freedoms. The judgment states that “he would be at risk of torture and inhuman and degrading treatment; moreover, he would be denied a fair trial” should he be extradited.⁵⁴ This followed an alarming collaboration between Spanish and Chinese law enforcement agencies to arrest telecommunications employees at Spanish firms accused of alleged fraud, leading to the arrest of 219 Taiwanese individuals in 2016. In 2017 and 2018, Spain extradited 208 of these individuals to China.⁵⁵

Following the *Liu v. Poland* ruling which went into effect in January 2023, Italy rejected an extradition request from China in May 2023 for a former Chinese business executive wanted for alleged economic crimes out of fear that they would be at risk of torture or inhuman and degrading treatment if extradited.⁵⁶ Sweden similarly denied China’s extradition request for a former Chinese official accused of alleged embezzlement due to concerns of political persecution in July 2019.⁵⁷

Even with the European Court of Human Rights ruling in the *Liu v. Poland* case, it is necessary for EU member states to suspend extradition agreements with Hong Kong and the PRC to provide absolute certainty to activists, dissidents and advocates abroad that there is no chance or fear of arbitrary or unlawful repatriation to Hong Kong or the PRC. This is an important complement for the introduction of lifeboat schemes specific to Hong Kongers, as EU member states should assure Hong Kongers of their internationally-guaranteed rights to exercise fundamental freedoms should they decide to make the EU their home.

⁵² <https://safeguarddefenders.com/en/extradition-center/extradition-law-treaties-international-law>

⁵³ <https://www.hongkongwatch.org/all-posts/2021/4/28/meps-call-on-10-eu-member-states-to-suspend-extradition-treaties-with-the-prc>

⁵⁴ <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-219786%22%7D>

⁵⁵ <https://www.taipeitimes.com/News/front/archives/2022/11/06/2003788361>

⁵⁶ <https://safeguarddefenders.com/en/blog/italys-highest-court-denies-china-extradition>

⁵⁷ <https://www.reuters.com/article/idUSKCN1U40R6/>

CONCLUSIONS

An estimated 1.86 million Hong Kongers continue to have no lifeline out of Hong Kong. Under the NSL and now the new security legislation under Article 23, EU member states should introduce lifeboat schemes specific to Hong Kongers to bridge the gap between the existing lifeboat schemes and those who may wish to seek refuge abroad. Specifically, EU member states should:

- Recognise the high risk of persecution in Hong Kong, the gaps in existing lifeboat schemes, and the large economic and cultural contribution Hong Kongers would make in the EU by adopting measures to create permanent pathways for Hong Kongers to work and study in the EU. This could include:
 - Reviewing international student policies for Hong Kongers wishing to study in the EU, including expanding academic and training opportunities within the Erasmus programme for students and young graduates from Hong Kong.
 - Allowing Hong Kong graduates from European universities and Hong Kongers with one year work experience the opportunity to apply for work visas to continue to work and live in EU member states.
 - Creating a new work visa category or adding to an existing work visa category to provide pathways specific to Hong Kongers. This could include Hong Kongers committing to working in a sector with a skilled labour shortage and learning the relevant language and culture.
 - Expanding the number of Hong Kongers who are able to take up working holiday opportunities in EU member states.
 - Reviewing the asylum system.
- Suspend active extradition treaties with the People's Republic of China and Hong Kong to ensure that no Hong Konger who has relocated or decides to relocate overseas, or anyone else, has to face extradition to Hong Kong or China.