

Courts upholding fair judiciary and Public Prosecutors safeguarding the rule of law



Numbers of cases admitted by the three-tier court system

2019	Court of Final Appeal	Court of Appeal	Base Court (including the Examining Magistracy)	Administrative Court	Total
Cases admitted	144	1,362	20,547	222	22,275
Cases concluded	172	1,491	20,720	206	22,589
Cases pending	48	596	12,384	119	13,147

The majority of the cases in the three-tier court system were criminal cases and criminal labour cases, which totalled 7,438 (excluding Examining Magistracy cases). Ranking second were civil and labour cases, which totalled 4,665. There were also 460 administrative cases, and 9,712 other cases.

Law promotion and legal consulting services

To strengthen the promotion of the law and foster transparency of the judicial system, starting from 9 October 2013, the court issues press releases about typical concluded cases, and publishes them on the websites of the court and the Government Information Bureau. Various media may republish and report on these cases, which can hopefully promote legal awareness and law abidance

in society, and inform the public regarding the judicial approaches and methods for settling various disputes. As at the end of 2019, an accumulated total of 645 articles had been released, 90 of which were released in 2019.

Summary of consulting services provided by the Base Court in 2019:

2019	Criminal Courts	Civil Courts	Small Claims Court	Total
Total number of inquiries	2,284	4,487	1,695	8,466
Number of cases	2,475	4,163	1,695	8,333
Number of cases directly handled by the information centre	2,402	3,790	1,695	7,887
Number of cases transferred to the Public Prosecutions Office	68	319	-	387
Number of cases transferred to other departments	5	54	-	59
Number of telephone inquiries	527	836	-	1,363

Legal assistance and enforcement

Regarding delivery of judicial writs and assistance in investigations and evidence collection in civil and commercial cases, in 2019 the Court of Final Appeal received 170 judicial writs from mainland China courts, and delivered 61 judicial writs to mainland China courts on behalf of courts in Macao.

In 2019, the Court of Appeal received 23 requests for reviewing and endorsing judgments made by mainland China courts or arbiters; four judgments endorsed by the Court of Appeal were sent to the Base Court for enforcement.

Declarations of assets and interests

In 2019, the Court of Final Appeal followed the stipulations in Law No.11/2003, which had been amended according to Law No.1/2013, in the process of receiving individuals for the declaration of assets and interests. It opened 177 individual dossiers, received 1,970 documents for the declaration of assets and interests that involved 1,676 people, and sorted and updated the contents of the individual dossiers according to the law.

According to the stipulations in the aforementioned Law No. 11/2003, the Office of the Court of Final Appeal has uploaded Part IV of the disclosure document of asset declaration to the website of the Courts of the Macao SAR, ensuring it is available in the public domain as required by law. In 2019, the disclosure documents (Part IV) of 366 individual dossiers involving 276 people were published online. There are a total of 3,122 accumulated disclosure documents, involving 749 people.

Summary of the work by and outlook for the MSAR courts

Mr. Sam Hou-fai, the President of the Court of Final Appeal, delivered a speech at the Opening Ceremony of the Judicial Year 2019/2020, giving a comprehensive summary of the work of the courts of the Macao SAR throughout the past 20 years following Macao's return to the motherland, as follows:

1. Ensuring normal and efficient functioning of the new judicial system - During the initial period after the Handover, apart from guaranteeing the independent and normal functioning of the judicial bodies, the judicial system also ensured a smooth transition in the judiciary. Moreover, the Government persisted in reforms and innovations, and providing timely responses to cope with the challenges posed by rapid social development.
2. Strictly fulfilling the constitutional responsibilities conferred by the Basic Law - The three tiers of courts of the Macao SAR have admitted a large number of cases related to the interpretation and application of the Basic Law, dealing with issues concerning the fundamental rights of Macao residents, land, permanent resident status, residence permits, housing allowances, the principle of equality, grading the effectiveness of International Conventions in Macao, and the implications of by-laws and the law-making power of the Chief Executive. In particular, the issue concerning the legality of the "by-laws", which affects the effective functioning of the political system, was fundamentally resolved.
3. Promoting judicial reform and enhancing judicial efficiency - The numbers of judges and judicial clerks were increased, to alleviate the manpower shortage in the courts; also, judicial reform was promoted, to increase judicial efficiency.
4. Safeguarding judicial independence and upholding a fair judiciary.
5. Strengthening communication with the public and promoting judicial transparency - Constant and extensive use of Chinese in judicial activities, setting up information counters for courts, launching court websites, and promptly publishing important judgments are platforms for the public to better understand the law and the courts, as well as to assist parties involved in litigations.
6. Consolidating judicial cooperation and promoting judicial exchanges. Judicial exchanges can mainly be driven on two levels. At the international level, communications with the judicial bodies of Portuguese-speaking countries and regions, as well as those of Asia-Pacific countries, have been consolidated. At the regional level, exchanges between the judicial bodies of the four cross-strait regions are crucial. Above all, taking part in exchanges with mainland China and related training courses have strengthened the judges and judicial clerks' understanding of China's historical, cultural and national situation, and increased their knowledge of the Constitution and the Basic Law. In terms of judicial cooperation, the courts participated in promoting various negotiations on judicial matters and judicial cooperation between the MSAR Government and other countries or regions. The courts had effectively implemented the agreements and arrangements that were already in force.

President Sam Hou-fai suggested that concerted efforts are required, to further improve the following aspects of the judiciary:

1. Improve the legislative framework and enhance judicial efficiency through the following measures:
 - Seek a breakthrough in judicial efficiency by reforming the litigation system;
 - Establish a diverse dispute resolution mechanism, to address the issue of disputes in Macao being usually resolved through a single channel;
 - Resolve contradictions between the drastic increase in legal proceedings and limited judicial resources, particularly by developing a mediation system other than arbitration through legislation, which suits the actual situation in Macao; and
 - Investigate the possibility of transferring some of the cases admitted by the courts to other departments, to reduce the burden on the courts.
2. Make progress in external judicial cooperation:
 - Strengthen judicial cooperation with Portuguese-speaking countries;
 - Enhance judicial cooperation with countries along the “Belt and Road”, particularly Southeast Asian nations;
 - Enhance judicial cooperation in criminal matters with countries whose nationals commit most crimes in Macao; and
 - Resolve legal conflicts and overcome legal obstacles encountered in the development of Guangdong-Hong Kong-Macao Greater Bay Area through innovation.
3. Improve court facilities and address the longstanding shortage of office space in the judiciary.



The operations of the MSAR's Public Prosecutions Office in 2019 are summarised as follows:

1. Fulfilled duties according to the law, and combated crimes. Maintained fairness, justice and public order to uphold the rule of law;
2. Strictly safeguarded national land resources in the Macao SAR, and the public interest; protected the legitimate rights of workers and other legal entities, in accordance with the principle of legality;
3. Provided professional opinions on the MSAR's legislation and law amendments, and regional and international judicial assistance agreements from the perspective of prosecutorial functions of the procuratorate, according to the rule of law;
4. Provided professional opinions to cross-departmental working committees from the perspective of prosecutorial functions of the procuratorate, in accordance with the law;
5. Strengthened the technical and administrative support of the Office of the Public Prosecutor-General, and judicial work of the Public Prosecutions Office; and
6. Strengthened the Public Prosecutions Office's information technology infrastructure for case management, thus deploying scientific means for improving the efficiency of prosecutions and convenience in judicial matters.

In 2019, the number of criminal cases initiated by the Public Prosecutions Office was 14,923, 3.5 percent more than the 14,418 cases in 2018. The number of cases concluded by the Examining Magistracy was 15,444, representing an increase of 6.86 percent; the number of prosecutions was 4,128, 3.19 percent less than the cases in 2018; the number of cases filed was 10,982, representing an increase of 10.86 percent; and the number of cases reopened due to discovery of new evidence was 246, representing a decrease of 6.46 percent.

Based on the above statistics, the case conclusion rate of the Examining Magistracy was 6.86 percent higher in 2019 than during the previous year. This reflects the fact that the magistracy had stepped up efforts to admit new cases and clear old cases.

The statistics indicate a 3.19 percent decrease in the number of prosecuted cases, and an increase of 10.86 percent in the number of filed cases. An analysis of the data reveals that the three major reasons for cases being filed were failure to identify offenders after investigations, victims of reported non-public crimes no longer wishing to hold the purported offenders accountable, and insufficient criminal evidence. Hence, it was not possible for legal proceedings to continue for the cases that were filed.

In 2019, the top five types of crimes with high numbers of investigations were:

1. 5,027 theft, robbery and property damage cases (up 1.8 percent year on year);
2. 1,824 fraud and extortion cases (up 23.01 percent year on year);
3. 1,456 offences involving physical assault (down 6.61 percent year on year);
4. 1,126 crimes related to traffic accidents (down 2.34 percent year on year); and
5. 1,022 illegal immigration and immigration-related crimes (up 11.69 percent year on year).

In addition, the Public Prosecutions Office initiated relatively high numbers of investigations of the following crimes:

- 853 cases of illegal gambling and related crimes (up 4.41 percent year-on-year);
- 529 cases of forgery (up 3.93 percent year-on-year);
- 383 cases of crimes against personal freedom (up 16.06 percent year-on-year);
- 306 crimes against public authority (down 22.53 percent year-on-year); and
- 292 computer crimes (down 17.05 percent year-on-year).

During the year, the Public Prosecutions Office initiated investigations of 48 money laundering cases, four percent less than 50 such investigations in 2018; and 209 investigations of drug-related crimes, 10 percent more than 190 such investigations in 2018. These figures revealed success in prevention of money laundering in 2019. However, there was an increase in the number of drug-related crimes. In recent years, especially, foreign criminal syndicates have manipulated teenagers and people with financial difficulties, so they have committed drug trafficking in Macao. The upward trend requires attention.

Each year since 2015, the Public Prosecutions Office has referred an average of over 4,000 prosecutions to the Base Court. In 2019, among the ongoing criminal case trials and executing cases, the judicial officers of the criminal division of the Public Prosecutions Office admitted 74 judicial appeals lodged upon the first instance, and 440 replies to appeals.

The judicial officers of the Civil Labour Division of the Public Prosecutions Office also handled litigation regarding civil cases and civil labour cases, and carried out pre-litigation procedures for specific cases according to the law, to fulfil the responsibility of upholding and monitoring the impartiality of the judiciary.

When processing labour cases, in order to promptly protect the rights of the relatively disadvantaged working class to the greatest extent, the Public Prosecutions Office aimed to first pursue mediation to resolve disputes for civil labour cases, in accordance with the Labour Procedure Code; in 2019, the Public Prosecutions Office was involved in 618 cases in the Labour Court, as follows:

- 408 newly initiated cases involving labour accidents and occupational diseases; 396 cases were successfully mediated, and 39 cases required litigation due to failure to agree on mediation; and
- 210 ordinary labour litigation cases were newly initiated; 215 cases were successfully mediated, while further litigation was required for four cases.

During 2019, 611 workers were involved in the successful mediation procedures conducted by the Public Prosecutions Office, and 43 workers were involved in the cases initiated following failure to achieve mediation.

In addition, to protect the interests of minors and disadvantaged groups and the public interest, the Public Prosecutions Office admitted civil cases involving minors, missing persons and incapacitated persons. In 2019, the office investigated 53 maternity or paternity cases, and initiated

117 court actions for minors (16.42 percent less than the 140 such actions in 2018); and processed 618 proceedings concerning interdiction, disqualification, custody, litigation fees, bankruptcy, mandatory property inventories and settlement of unpaid taxes on behalf of the Finance Services Bureau (representing an increase of 9.57 percent over 564 proceedings in 2018).

Also, the Civil Labour Division of the Public Prosecutions Office initiated 1,267 civil and labour pre-suit cases (administrative cases) in 2019, 2.34 percent more than the figure of 1,238 cases in 2018, prior to commencing civil and labour legal proceedings.

During the year, the Public Prosecutions Office also followed up 234 cases of claims involving land concessions forfeited by the Government, 444.19 percent more than the figure of 43 cases in 2018.

In 2019, the Office of the Administrative Court at the Public Prosecutions Office received 95 judicial appeals, 13 litigation cases and 15 cases involving urgent procedures. Meanwhile, the Public Prosecutions Office participated in 99 litigation procedures and completed 559 pleadings.

The Office of the Administrative Court at the Public Prosecutions Office followed up 81 cases of claims involving land concessions forfeited by the Government, compared to only one claim in 2018. The office also processed three cases involving claims related to public projects undertaken by the Government.

In 2019, the Public Prosecutions Office before the Court of Final Appeal and the Court of Appeal participated in 1,395 criminal, civil and administrative proceedings of the Court of Appeal, in the Court of Appeal. They issued 1,446 opinions on appeals and replies to appeals, handled 158 cases of the Court of Final Appeal, and issued 107 opinions on appeals and replies to appeals.

The Public Prosecutions Office before the Court of Final Appeal and the Court of Appeal processed 107 cases related to land concessions, issued 101 opinions on appeals, processed 23 cases related to public projects, and issued 24 opinions on appeals.