

# 2

## **THE LEGAL SYSTEM AND THE JUDICIARY**



## **The Legal System and the Judiciary**

### **The Legal System**

Macao's legal system is founded on a strong tradition of adherence to the rule of law and judicial independence. Under the principle of "One country, two systems", the Macao Special Administrative Region has retained its pre-Handover legal system based on Continental European law. Judging by the actual situation, Macao's former legal system has come largely intact through the period following the establishment of the MSAR. The rule of law, human rights and judicial independence are fully guaranteed on paper and in practice.

### **Pre-Handover Laws Remain Largely Unchanged**

Almost all the laws, decrees, by-laws and other regulatory documents enacted in Macao before 20 December 1999 remain in effect. Only laws or portions of laws that conflicted with the Basic Law of the Macao Special Administrative Region were repealed. The principle that pre-Handover laws should remain essentially unchanged has been incorporated to ensure Macao's steady and sustained development.

Five resolutions and four annexes regarding the treatment of Macao's original laws were passed in accordance with the Basic Law of the Macao Special Administrative Region at the 12th Session of the Standing Committee of the 9th National People's Congress, which opened on 31 October 1999.

The resolutions resulted in the scrapping of 12 pre-Handover laws, decrees and regulatory documents that were found to conflict with the Basic Law of the Macao Special Administrative Region. Three more laws that contravened the Basic Law of the Macao Special Administrative Region were not retained but remained in effect as references under the principles of the Basic Law of the Macao Special Administrative Region, until replacement laws could be enacted. In total, 18 laws and decrees that were incompatible with the Basic Law of the Macao Special Administrative Region were repealed. The Standing Committee established guidelines for interpreting the nomenclature contained in pre-Handover laws, when used to explain or be made applicable to the laws of the MSAR.

Since the Reunification Law of December 1999 also accepts these guidelines, they have been included as integral parts of the law of the Macao SAR.

### **Improving the Laws of the Macao SAR**

Some of Macao's original laws needed to be revised, in order to conform to the Basic Law of the Macao Special Administrative Region and reflect Macao's new status as a special administrative region. The Legal Statute Research and Adaptation Working Group was established for this purpose in 2001. Composed of legal experts and specialists from the Government and Legislative Assembly, it is studying the laws that are currently in effect and proposing adaptations. It also recommends measures to ensure harmony and uniformity within the legal system.

In 2013, the Government completed a three-year project on the review and adaptation of the

existing laws in Macao as planned. The project involved the revision of the 2,123 existing laws and decrees that were promulgated from 1976 to 19 December 1999. About 40,000 provisions were analysed article by article to verify whether the laws were still in effect and, if not, indicate the reasons the laws were not in effect. In addition, laws and acts that were still in effect were adapted in accordance with the regulations stipulated in the Reunification Law. Recommendations for amendments were made for provisions that were incompatible with existing legislation, as well as inaccurate translations between the Chinese and Portuguese versions of the texts of existing laws and acts.

A list of relevant existing laws and decrees was compiled through active cooperation between different departments. There are 668 items of legislation that remain in effect (108 laws and 560 decrees) and 1,455 items that are no longer in force (232 laws and 1,223 decrees). The review and adaptation of the existing laws of Macao is fundamental work of the legal system of the MSAR. The results of the review serve as an important reference for planning and improving legislation.

## Laws of the Macao SAR

The laws presently in force in the Macao SAR are:

1. The Basic Law of the Macao Special Administrative Region;
2. National laws listed in Annex III to the Basic Law of the Macao Special Administrative Region;
3. Laws that were in effect before 20 December 1999 and which have been retained as laws of the Macao SAR by the Standing Committee of the National People's Congress; and
4. Laws enacted by the legislature of the Macao SAR.

The Penal Code, Criminal Procedural Code, Civil Code, Civil Procedural Code and Commercial Code, collectively known as the "Five Codes", form the authoritative framework of Macao's legal system.

National laws shall not be applied in the Macao SAR, except those listed in Annex III to the Basic Law of the Macao Special Administrative Region. Laws listed in Annex III shall be applied locally by way of promulgation or legislation by the Macao SAR. Currently, 11 national laws apply in the Macao SAR.

The Standing Committee of the National People's Congress may add to or delete from the list of laws in Annex III after consulting its Committee for the Basic Law of the Macao Special Administrative Region and the MSAR Government. Only those laws relating to defence, foreign affairs and other matters outside the limits of the Region's autonomy as specified in the Basic Law are to be listed in Annex III to the Basic Law of the Macao Special Administrative Region.

## Fundamental Rights

The Basic Law of the Macao Special Administrative Region safeguards the fundamental rights of the people of Macao. These include: freedom of speech, freedom of the press, freedom of

association and assembly, freedom of procession and demonstration, the right to organise and join trade unions and to strike, freedom of religion, freedom to travel, and freedom to enter and leave Macao. Provisions applicable to Macao in the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and International Labour Conventions also remain in force.

Macao continues to comply with the main international conventions on human rights, including the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; and the Convention on the Elimination of All Forms of Discrimination against Women.

## **Judicial System**

### **Judicial Independence**

Under the Basic Law of the Macao Special Administrative Region, the Macao SAR enjoys independent judicial power, including the power of final adjudication. Courts of the Macao SAR exercise independent judicial power. They are subordinate to nothing but the law, and they are not subject to any interference.

Judges of the Macao SAR exercise judicial authority according to the law, and not according to any orders or instructions, except as prescribed in Article 19 of the Basic Law of the Macao Special Administrative Region. Judges are immune from legal action for discharging their judicial functions. The Macao Public Prosecutions Office likewise exercises the procuratorial functions vested in it by law, independently and free from any interference.

### **Judicial Organs**

Under the Basic Law of the Macao Special Administrative Region and the Macao SAR Judicial Organisation Framework Law, Macao has two independent judiciary bodies: one is the court system, which exercises judicial power; the other is the Public Prosecutions Office, which exercises the power of prosecution.

### **The Courts**

Designed in accordance with the Basic Law of the Macao Special Administrative Region and the Macao SAR Judicial Organisation Framework Law, Macao's three-level court system became fully operational following the formal establishment of the Macao SAR. This system's operations totally embody the independent judicial authority and final adjudication authority granted to Macao by the Central People's Government.

Courts are the only institutions vested with judicial functions. They seek to safeguard legally protected rights and interests, stop unlawful practices and settle public and private disputes. Each court hears legal proceedings belonging to its respective jurisdiction. Courts are not subject to interference by any other authority, and they do not abide by any order or instruction. This constitutes

the foundation of judicial independence, promotion of justice, guarantee of social stability and protection of civil rights.

## **The Court of First Instance**

With the establishment of the MSAR, two new courts came into being as constituent parts of the Court of First Instance. These new courts, the Lower Court and Administrative Court, obtain their judicial authority from the Basic Law of the Macao Special Administrative Region. The Basic Law of the Macao Special Administrative Region also permits the Lower Court to form specialised tribunals, as required, and to retain the Examining Magistracy created under the former Portuguese administration. The Examining Magistracy therefore functions as part of the Lower Court.

The President of the Court of First Instance is appointed by the Chief Executive from among the local judges of that level of court. The term of office of the President of the Court of First Instance is three years, and consecutive terms may be served. The current president is a judge of the Examining Magistracy. One of the duties of the president is to represent the Court of First Instance when dealing with other government agencies.

## **The Lower Court**

The Lower Court currently consists of an administrative centre, three Civil Courts, four Criminal Courts, two Examining Magistracies, one Court for Minor Civil Cases (commonly known as the Small Claims Tribunal), one Labour Court, and one Family and Juvenile Court. An Information Centre has been established to enable citizens and individuals involved in litigation to learn more about the workings of the courts, and to answer questions about legal documents issued by the courts.

Statutory claims limits of appeal cases of the Lower Court:

1. 50,000 patacas for civil cases regarding civil affairs and labour law;
2. Unlimited claims in criminal cases tried under criminal or labour law, or in cases concerning the educational and social protection system that fall within the jurisdiction of the juvenile judicial system.

As at December 2016, the Lower Court had 30 judges: eight presidents of Collegial Panels, 19 judges of Single-judge Benches, and three judges of the Examining Magistracy.

The Civil Court has the power to hear cases that are civil in nature, and which do not fall under the jurisdiction of other courts. It also hears cases of other types that do not fall under the jurisdiction of other courts or tribunals, including all the related matters and issues raised by such cases.

The Criminal Court has the power to hear criminal cases or misdemeanours that do not fall under the jurisdiction of other courts or tribunals, including all related matters and issues raised by such cases.

The Examining Magistracy hears criminal cases at various stages of investigation. It also conducts preliminary investigations and, based on the available evidence, decides whether a case should be brought to trial. This court also carries out judicial work related to imprisonment and detention.

The Court for Minor Civil Cases, commonly known as the Small Claims Tribunal, deals specifically with litigation concerning monetary debts and consumer rights not exceeding 50,000 patacas in cash value. These include, but are not limited to, consumer credit, management fees, rentals, use of letters of credit, and instalment payments.

As defined by law, the Court for Minor Civil Cases has the power to hear litigation conducted in accordance with the special proceedings for minor cases, which include all the matters and questions raised by such litigation, as long as it does not prejudice other jurisdictions attributed by law.

The Labour Tribunal hears civil cases, minor violations, incidental matters and problems in relation to labour laws, to which the Code of Labour Procedure can be applied.

The Family and Minors Court mainly prepares and hears proceedings related to non-contentious matters between spouses; proceedings concerning property divisions and divorce litigations and the resulting proceedings related to property inventory and custody; litigations regarding the annulment or revocation of marriages; litigations and proceedings related to the provision of maintenance to spouses, ex-spouses and children; incidental matters and problems related to disputes regarding maternity and presumed paternity.

In 2016, the Information Office of the Lower Court and the Court for Minor Civil Cases continued providing an enquiry service to litigants, and handled 9,694 enquiries involving a total of 9,251 cases.

## **The Administrative Court**

Statutory claims limits of appeal cases of the Administrative Court:

1. 50,000 patacas for administrative litigation and requests concerning administrative disputes;
2. 15,000 patacas for taxation and customs disputes;
3. Unlimited claims for other disputes related to administration, taxation and customs; or for cases involving the assessment of the legality of regulations.

The Administrative Court currently has one judge, who also oversees the office of the Administrative Court and assumes the posts defined by Items 2 to 5 of Clause 4 of Article 33 of the Judicial Organisation Framework Law. Each post is occupied for a three-year term and is assumed on a rotation basis according to descending seniority.

## **The Court of Second Instance**

The Court of Second Instance has 10 judges, one of whom is appointed President by the Chief Executive. The President of the Court of Second Instance serves a three-year term, and represents the Court of Second Instance when dealing with other government and judicial authorities. He or she may serve consecutive terms. In addition to the routine responsibilities that accompany the positions of judge and president, the president must ensure that the Court of Second Instance functions effectively.

Statutory claims limits of appeal cases of the Court of Second Instance:

1. 1,000,000 patacas for civil lawsuits regarding civil affairs and labour law;

2. 1,000,000 patacas for administrative litigation and requests concerning administrative disputes;
3. 1,000,000 patacas for taxation and customs disputes; and
4. Unlimited claims for criminal cases regarding criminal and labour law; or for cases regarding the education or social protection systems that fall within the jurisdiction of the juvenile justice system; for legal actions stemming from disputes related to administration, taxation and customs; or for cases involving the assessment of the legality of regulations.

## The Court of Final Appeal

The Court of Final Appeal is the highest level of court in Macao.

The Court of Final Appeal has three judges. The President of the Court of Final Appeal is appointed by the Chief Executive from among the serving judges of that level of court, and shall be a Chinese citizen who is a permanent resident of Macao. The president serves three-year terms, which may be consecutive.

The President of the Court of Final Appeal acts as a representative of the Macao SAR courts and, besides fulfilling the general responsibilities of a judge and president, must ensure that the Court of Final Appeal and the Office of the President of the Court of Final Appeal function effectively.

In 2016, the President of the Court of Final Appeal visited Chongqing, Hebei and Guangdong, and attended the Second Summit on Chinese Judicial Studies.

## The Office of the President of the Court of Final Appeal

The Office of the President of the Court of Final Appeal is an autonomous institution that runs its own affairs, administration and finances. The office is responsible for coordinating the affairs of all levels of courts, and offers the courts technical, administrative and financial support. It is headed by the President of the Court of Final Appeal, and comprises the Judicial and Technical Support Department, the Translation Support Department, the Administrative and Financial Department, as well as the Judicial Affairs Division, the Organisation and Information Division, the Human Resources Division, the Finance and Property Division, and the General Services Division.

## The Judicial Council

The Judicial Council oversees the management and discipline of judicial officers and judicial support staff.

The Judicial Council is composed of the President of the Court of Final Appeal as its President; two prominent members of the community appointed by the Chief Executive on the recommendation of the Independent Committee for the Nomination of Judges; and two judges selected by judicial officers. Members of the Judicial Council serve three-year terms and may be reappointed at the end of their terms.

The President of the Judicial Council shall exercise his or her powers as defined in the General

Rules for Judicial Officers and the Internal Regulations and Rules of the Judicial Council.

An administrative office belonging to the Judicial Council assists in the handling of daily affairs.

## **Appointment of Judges**

Judges at all levels of courts in Macao are appointed by the Chief Executive on the recommendation of an independent committee composed of local judges, lawyers and prominent members of the community. They are chosen on the basis of their professional qualifications, and qualified judges of foreign nationality may also be appointed.

## **The Independent Committee for the Nomination of Judges**

The Independent Committee for the Nomination of Judges is composed of seven Macao citizens appointed by the Chief Executive. It consists of one locally serving judge, one lawyer, and five prominent members of the community. All its members participate in the committee and perform their functions in a personal capacity.

The committee functions according to the provisions of the Internal Regulations of the Independent Committee for the Nomination of Judges. A chairman is elected by the members of the committee from among their own ranks and exercises authority according to the committee's internal regulations. The committee also has a secretary to assist in the handling of affairs of all kinds.

## **Public Prosecutions Office**

The Public Prosecutions Office is the only judicial organ in Macao that exercises a prosecutorial function. Its responsibilities include representing the Macao SAR in court, initiating criminal prosecutions, and safeguarding legality and legal rights. Moreover, under specific situations defined in the procedural laws, the Public Prosecutions Office oversees the implementation of the Basic Law of the Macao Special Administrative Region. The Public Prosecutions Office is an autonomous agency and exercises its functions independently and free from any interference. Its independence and autonomy are limited by the criteria of legality and objectivity of the Public Prosecutions Office, and the instructions and guarantees contained in other laws to which its officers must strictly adhere. Furthermore, the organisation, responsibilities and operations of the Public Prosecutions Office are clearly defined by law.

The Public Prosecutor-General is the head and representative of the Public Prosecutions Office and is appointed by the Central People's Government on the nomination of the Chief Executive. Judicial officers are nominated by the Public Prosecutor-General and appointed by the Chief Executive.

In 2016, the Public Prosecutor-General attended the Ninth Annual Conference and General Meeting of the International Association of Anti-Corruption Authorities (IAACA), the 14th Shanghai Co-operation Organization Prosecutors General Conference, and the 2016 Meeting of the Heads of Prosecution Service of the BRICS Countries.

## Responsibilities and Powers of the Public Prosecutions Office

Article 56 of the Judicial Organisation Framework Law stipulates the responsibilities and powers of the Public Prosecutions Office, including specific tasks involving criminal proceedings, civil proceedings, administrative proceedings and legal affairs. They fall into four areas, as follows:

### 1. Leading and monitoring criminal investigations

Criminal investigations are led by the Public Prosecutions Office and implemented by the criminal police authority, such as:

- Authorising the criminal police authority to conduct all investigations not falling under the exclusive powers of judges of the Examining Magistracy, and establishing specific guidelines for doing so;
- Recommending special investigative measures for the Examining Magistracy according to the law;
- Interrogating detained suspects, reviewing legality of detention, and advising on appropriateness of mandatory measures;
- Deciding whether investigations should be initiated in response to crime-related information; and
- Confirming the validity of detention by the criminal police authority.

### 2. Initiating and ensuring criminal proceedings

Upon completion of investigations, the Public Prosecutions Office will decide whether prosecutions should be made, and will carry out its legal duties in the subsequent proceedings. For example, the office will:

- Initiate prosecution when an investigation provides sufficient indication that a criminal offence has committed, and the identity of the offender(s) has been established;
- File cases without prosecution if evidence suggests no criminal activities, innocence of suspects, inability to conduct criminal proceedings according to the law, or lack of indications of a breach of law by the suspects, or occurrence of a crime for which the offender is unknown;
- Apply to the Examining Magistracy, under special circumstances, for suspension of proceedings or filing of cases due to penalty abatement; and
- File appeals to the Court of Second Instance with regard to the decisions, judgements or adjudications made by the judges of the Court of First Instance; provide written replies to the Court of Second Instance regarding appeals initiated by other parties involved in cases; and file appeals to the Court of Final Appeal within legal bounds.

### 3. Protecting civil rights

- Protect the legal rights of the MSAR and represent the MSAR in court;

- Safeguard the rights of a distinctly disadvantaged party in a litigation, represent incapacitated, unknown and missing persons;
- Monitor the legality of civil judgements;
- Protect civil rights of minors;
- Protect civil rights of workers; and
- Initiate civil litigation in collective or public interest.

#### **4. Monitoring enactment of laws**

- Participate in litigation in court to monitor proceedings of civil, criminal and administrative cases with the aim of maintaining legality, as well as to ensure proper enactment of the relevant litigation laws, and that the laws are properly interpreted and enforced;
- Monitor police investigations and ensure investigation procedures are carried out in accordance with the law;
- Defend the Government against administrative proceedings initiated by stakeholders, in order to maintain legality in accordance with the stipulations in the Administrative Procedural Law;
- Initiate judicial appeals against administrative actions by Government administrative officials that evidently contravene the law, and request the court to revoke or invalidate such administrative actions;
- Appoint representatives to attend opening of public tenders for works or service provision to the Government, to ensure that the tendering processes are conducted in a fair and lawful manner;
- Participate in the establishment of contracts in which the MSAR is a stakeholder, in accordance with the law or as requested by the Chief Executive; and
- Perform consultation duties or advise on the legality of specific issues as regulated by the law, or as requested by the Chief Executive or the president of the Legislative Assembly.

### **Operation of the Public Prosecutions Office**

Based on the stipulations of the procedural laws and the judicial tradition, the Public Prosecutions Office of Macao adopts a single organisational structure, with three levels of Public Prosecutors assigned to the Court of Final Appeal, the Court of Second Instance, the Court of First Instance and the Administrative Court. They perform duties on behalf of the Public Prosecutions Office.

To tie in with the operation of the Public Prosecutions Office and complement the performance of duties by Public Prosecutors, the Public Prosecutions Office of Macao has set up offices for the Court of Final Appeal, the Court of Second Instance, the Court of First Instance, the Administrative Court, and the Examining Magistracy under the Court of First Instance. Each office is manned by

Public Prosecutors, judicial clerks and administrative officers as appropriate.

## **Organisational Structure of the Public Prosecutions Office**

There are three types of Public Prosecutions Office personnel: judicial officers, judicial support personnel, and professional administrative officers.

### **Judicial officers**

According to the Basic Law of the MSAR, the Public Prosecutor-General shall be a Chinese citizen who is a permanent resident of the MSAR. He or she shall be nominated by the Chief Executive and appointed by the Central People's Government.

Public Prosecutors shall be nominated by the Public Prosecutor-General and appointed by the Chief Executive.

At present, there are 36 serving judicial officers in the Public Prosecutions Office, including one Public Prosecutor-General, nine Assistant Public Prosecutors-General and 26 Public Prosecutors. Their chief responsibilities include criminal investigations and prosecutions; participating as representatives of the Public Prosecutions Office in all levels of courts; and taking part in criminal, civil and administrative actions according to the law.

Judicial support personnel are mainly responsible for providing support to judicial officers in handling cases. They are categorised into supervisor and judicial clerk ranks. General Secretary, Assistant General Secretary and Chief Secretary belong to the supervisor rank, while Chief Clerk, Principle Clerk, Assistant Clerk and Junior Clerk belong to the judicial clerk rank.

Professional administrative staff includes supervisors, professional staff and assistant staff. Their main responsibilities are to assist the Public Prosecutor-General in commencing work, to provide professional advice, and perform personnel and financial management duties.

## **The Public Prosecutors Council**

As an independent body, the Public Prosecutors Council is responsible for the evaluation and discipline of prosecutors and judicial support personnel. Evaluations of professional skills and adherence to professional ethical standards of judicial officers and judicial clerks are conducted every two years. As required by law, evaluators and disciplinary investigators are assigned by the Public Prosecutors Council, and the results of all evaluations are subject to its examination and confirmation.

Member composition:

- The Public Prosecutor-General, who acts as President *ex officio*;
- A representative of the Assistant Public Prosecutor-Generals and a representative of the public prosecutors, both elected by voting; and
- Two members of the community, appointed by the Chief Executive.

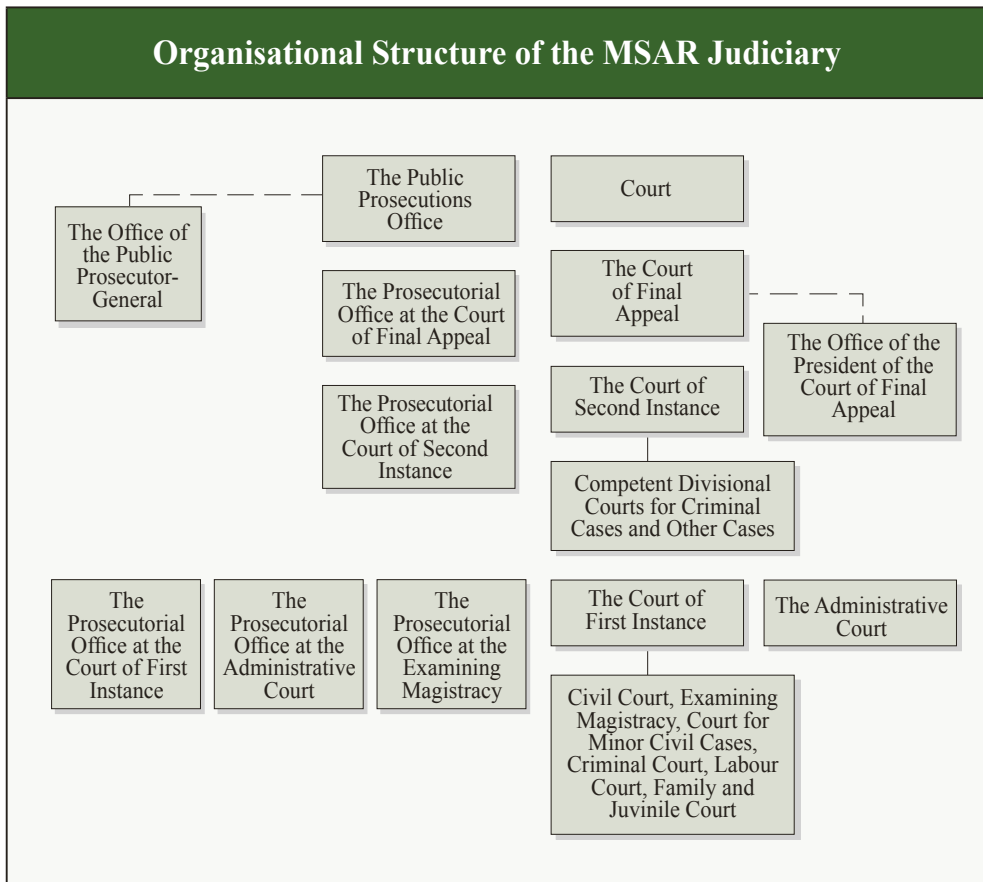
## Legal Aid

The Basic Law of the Macao Special Administrative Region provides that every resident of Macao shall have certain inalienable legal rights. These include the right to appeal to the law, the right to initiate a court action, the right to seek assistance from a lawyer in protecting his or her legitimate rights and interests, and the right to receive legal aid. Since not all residents are financially capable of paying court costs and lawyers' fees, the law also provides a legal aid system that assists residents who are less financially able to fully exercise their legal rights.

According to the General System of Legal Aid, legal aid includes the exemption of advance payment; exemption of litigation fees; appointment of a lawyer in the court and the payment of lawyers' fees.

All residents of Macao, including temporary residents, can apply for legal aid if they meet certain legal requirements. Legal aid can be applied for at any stage of a legal action.

The Legal Aid Committee has the right to make decisions on approval of legal aid and other relevant matters according to the law.



## **Training of Legal and Judicial Officers**

### **Faculty of Law of the University of Macau**

Since its foundation in 1988, the Faculty of Law of the University of Macau has nurtured many local legal professionals. Most of Macao's incumbent judicial officers either graduated from the faculty or have enrolled in its programmes. The majority of Macao's Chinese judges, public prosecutors and lawyers are graduates of the university's Faculty of Law.

The faculty offers Bachelor of Law programmes in Portuguese, Bachelor of Law day and evening programmes in Chinese, and a five-year Bachelor of Law programme taught bilingually in Chinese and Portuguese; these essentially follow the Romano-Germanic education system. In addition to the Master of Law Programmes in Portuguese, a Master of Law Programme in Chinese is offered. A Master of Law programme in International Business Law and Master of Law programmes in European Union Law/International Law and Comparative Law, Master of Law programme in legal translation and a Master of Law programme in Macao legal practice have been recently introduced, and taught in English. Postgraduate courses including Introduction to Macao Law, Legal Practice and Legal Terminology are also available. Doctor of Philosophy (Law) programmes in Chinese, Portuguese and English commenced in 2007.

During the 2016/2017 academic year, 124 students were enrolled in undergraduate law programmes, 122 graduate students were studying for Master's degrees, 21 students were enrolled in postgraduate certificate programmes, and 18 students were studying for doctorates.

### **Faculty of Law of the Macau University of Science and Technology**

Established in 2000, the Faculty of Law of the Macau University of Science and Technology offers programmes leading to a Bachelor of Law degree, a Master of Law degree and a Doctor of Law degree.

The Bachelor of Law degree programme spans four years, the Master of Law degree programme two years, and the Doctor of Law degree programme three years.

The Bachelor of Law degree curriculum covers Macao's legal system, mainland China law, major legal systems worldwide, and international law. Master's degree programmes include a Master of Law degree programme (covering five specialised subjects: jurisprudence, comparative law, constitutional and administrative law, civil and commercial law, and criminal law), a Juris Master programme, a Master of International Economic Commercial Law degree programme, a Master of Criminal Justice degree programme, and a Master of International Arbitration programme. The doctorate degree programme currently offers doctorates in nine areas of study: jurisprudence theory, legal history, civil and commercial law, criminal law, constitutional law and administrative law, economic law, international law, procedural law, and environmental protection and resources conservation law.

During the 2016/2017 academic year, a total of 553 students enrolled in Bachelor of Law degree programmes, of whom 471 came from overseas and 82 were local residents. There were 218 students working towards a Master of Law degree, and 96 towards a Doctor of Law degree.

## Legal and Judicial Training Centre

The Legal and Judicial Training Centre is an autonomous public institution that offers vocational training courses in judicature and law.

The training centre is responsible for induction training for judicial officers of the Public Prosecutions Office and the courts. It is also responsible for offering continued training to judicial officers.

According to the law, all judges and public prosecutors must complete a two-year training course and practical training provided by the training centre. Since the establishment of the MSAR, the centre has completed four training sessions for 37 local judicial officers (20 judges and 17 public prosecutors) for the MSAR. The 5th training session began in September 2015, and will end in September 2017.

As for continued training courses for judges and public prosecutors, the centre organised joint programmes with the Department of Treaty and Law of the Ministry of Foreign Affairs of China, the National Judges College, the National Prosecutors College of China, the Centre for Judicial Studies of Portugal and the National School for Magistrates of France. The centre also hosted training programmes featuring legal experts and other professionals in Macao as major speakers.

The training centre launched three one-year judicial clerk induction programmes, from which a total of 235 participants have been appointed as judicial clerks in the courts or the Public Prosecutions Office. To fill 58 vacancies for judicial clerks of courts and the Public Prosecutions Office, an admission examination for judicial clerk induction programmes was initiated in 2016. The preparatory procedures for the examination will be completed in 2017, and an induction programme will be organised.

As per requests from the Office of the President of the Court of Final Appeal and the Office of the Public Prosecutor-General, since 2007 the centre has completed 15 promotion preparation programmes for judicial support staff of the courts or the Public Prosecutions Office. In September 2016, the Appointment Preparation Programme for Chief Secretary and the Promotion Preparation Programme for Principal Clerks of Court were organised for the Public Prosecutions Office. The two programmes ended in March and May 2017, respectively.

Another important task of the training centre is to provide training on general legal knowledge for civil servants. In 2016, the centre organised numerous training activities to promote the skills of public administrators and foster the development of the MSAR. The courses covered legal drafting, legal language training, MSAR law consultancy training, and in-depth study of international laws. The centre has continued to organise training for public administrators covering the Basic Law, civil service laws and regulations, laws regarding disciplinary measures, administrative procedures, regulations and laws on administrative contracts, laws regarding administrative discipline, laws on procurement and provision of services, and public financial management systems.

Moreover, the centre continued to organise training courses for trainee lawyers, at the request of the Macau Lawyers Association.

## **Lawyers and the Macau Lawyers Association**

Lawyers fulfil a vital role in Macao's legal and judicial system, especially with regard to ensuring the ability of residents to seek legal recourse and have access to the courts. No resident should be denied access to the courts due to financial difficulty or any other reason. Lawyers have an obligation to help residents exercise the right to litigate, and they are obliged to accept court-appointed legal aid cases.

The Lawyers' Statutes (Decree-Law No. 31/91/M) stipulate that the Macau Lawyers Association is a public corporate institute representing the legal profession. Its professional ethics and practices are defined by the Association's regulations.

The Macau Lawyers Association is composed of a Presidency, Executive Committee, Supervisory Committee and Higher Council of Lawyers. The Higher Council of Lawyers exercises exclusive disciplinary jurisdiction over lawyers and trainee lawyers, and is responsible for monitoring their discipline, professional ethics, and moral ethics.

Individuals who wish to practise law in Macao and who hold a Bachelor of Law degree from the University of Macau must register with the Macau Lawyers Association and undergo a period of practical training of no less than 18 months. Trainee lawyers must register as practising lawyers within 60 days of internship completion.

In line with relevant regulations, Bachelor of Law degree holders who graduated from a university recognised by Macao and wish to become practising lawyers in Macao must take certain orientation courses. After completing the courses, such persons must undergo an internship before they may practise law.

At the end of 2016, there were 358 practising lawyers and 102 trainee lawyers in Macao.

## **The Legal Affairs Bureau**

According to By-law No. 26/2015 on Organisation and Operation of the Legal Affairs Bureau, the Legal Affairs Bureau merged with the Law Reform and International Law Bureau on 1 January 2016, with corresponding adjustments to departmental functions.

The Legal Affairs Bureau is a public department of the MSAR. It conducts research into judicial policy and centralised legislative coordination, and provides technical support; implements policies relating to legal drafting and translation, international and regional legal affairs, and promotion of laws; coordinates and supports registries, notary public offices and private notaries; and supports the operation of the general legal aid system.

The Legal Affairs Bureau is also responsible for providing technical, logistical and administrative assistance to the Law Reform Consultative Committee, the Legal and Judicial Training Centre, the Legal Aid Committee, the Treasury for Legal Affairs, the Registration and Notary Committee, the Committee for the Protection of Victims of Violence, and other organisations. It is also responsible for monitoring the legality of the establishment and continuance of voluntary arbitration institutions, managing the database of legal officers, and performing other duties as assigned by law.

The Legal Affairs Bureau also supervises registries and notary public offices, including the Real Estate Registry, the Commercial and Movable Goods Registry, the Civil Registry and the notary public offices.

### **Real Estate Registry**

The Real Estate Registry is responsible for the registration of property in Macao, and publishing the legal status of real estate through the registration of acquisitions, mortgages and transfers, to ensure the security of transactions.

### **Commercial and Movable Goods Registry**

The Commercial and Movable Goods Registry is responsible for the registration of businesses, motor vehicles and aircraft in Macao, and publishing the legal status of companies and their owners, motor vehicles and aircraft, to provide legal protection and security for transactions.

### **Civil Registry**

The Civil Registry is responsible for the civil registration of births, parentage, adoption and custody, marriages, marriage agreements, deaths and the legal deaths of missing persons, and for issuing relevant certificates.

### **Notary Public Offices**

The three notary public office – the First Office of the Notary Public, the Second Office of the Notary Public and the Islands Office of the Notary Public – are authorised to act as notaries, especially in the verification of signatures and documents, and the issuing of certificates, warranties, letters of authorisation, notarial testaments and notarial deeds.

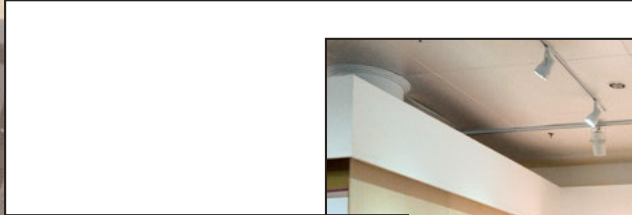
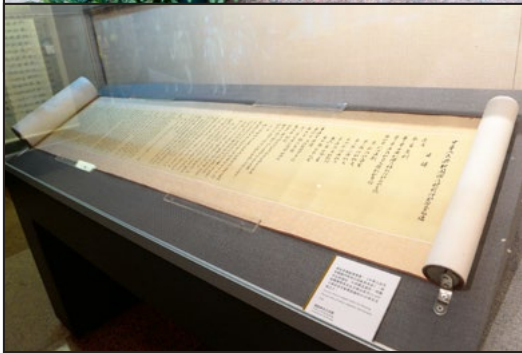
### **Private Notaries**

Macao's Private Notary system was established to undertake part of the work previously handled by the Notary Public Offices. The Legal Affairs Bureau is responsible for coordinating and supervising licensed private notaries. At the end of 2016, there were 55 private notaries in Macao.





**Commemorative Gallery of the Macao Basic Law**





To better promote the Basic Law of the Macao Special Administrative Region of the People's Republic of China, the Government made a decision in 2007 to hold a permanent photo exhibition in the Exhibition Hall of the Macao Forum. In 2013, the Exhibition Hall was further expanded to become the Commemorative Gallery of the Macao Basic Law, showcasing the successes and milestones of the Basic Law. The gallery aims to provide local residents and tourists with an opportunity to better understand Macao's success in implementing the principle of "One country, two systems", through an exhibition of historical relics and precious artefacts.