

Part III

Ombudsman



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I. Foreword

In 2009, the CCAC continued to play its important role as the ombudsman by overseeing the **legality** and **rationality** of administrative procedures carried out by public departments; and enhancing administrative efficiency and **legal administration**. Although there are still rooms for improvement, it is believed that due to improvement of systems, accumulation of experiences and enhancement of personnel's quality, the CCAC can strengthen its ability to handle administrative complaints, enhance and implement the policy of "legal administration" and advance the standard of governance in a comprehensive way.

This report analyzes and summarizes the CCAC's efforts in the area of ombudsmanship in 2009 mainly in the following aspects:

- (1) Number and nature of requests for help and consultation;
- (2) Cooperation with other public departments, especially in the aspect of review on operation;
- (3) Seminars and exchange programmes;
- (4) Cooperation with institutions outside Macao SAR.

II. Number and Nature of Requests for Help and Consultation

In 2009, the CCAC handled:

- Consultations: 566
- Complaints: 155

In 2009, the CCAC received 566 requests for help and consultation, a decrease of 11% over 2008. The requests mainly involved legal system governing public services, traffic offences, illegal constructions, municipal affairs and labour disputes. However, there is a dropping tendency for the number of enquiries on illegal constructions, traffic offences and traffic affairs.

The decrease of requests for help and consultation regarding illegal constructions is directly related to the enhanced promotion regarding the procedure and standard of handling illegal constructions carried out by the Land, Public Works and Transport Bureau (DSSOPT). Therefore, citizens did not need to consult the CCAC. As for traffic offences, due to the entry into force of the *Road Traffic Law*, the disclosure of law enforcement standard and promotion of penalizing procedure, citizens' enquiries on related issues have also decreased.

It should be noted that the consultations on code of conduct (e.g. public servants' part-time employment, conflict of interests and operation of public departments or formulation of code of conduct) experienced a double-digit growth. The consultations included many questions brought out by public departments in the course of formulation of internal codes of conduct and the initial phase of implementation of these codes.

Meanwhile, the CCAC launched a hotline¹ for request for help and consultation and report/complaint in the area of ombudsmanship, which has reduced the chances of duplication for citizens and public servants to call the Headquarters and the Branch Offices respectively for the same requests. This measure has strengthened the front-line service of ombudsman and more effectively responded to citizens' questions and solved their problems.

¹ The phone number is 28286606.

Requests for help and consultation in the area of ombudsmanship in 2009 were classified as follows:

Issues	Caseload
Legal system governing public services (personnel rights and interests, recruitment, discipline and declaration of incomes and properties)	124
Traffic offences	47
Code of conduct	43
Labour disputes	31
Illegal constructions	26
Municipal affairs	25
Tax affairs	17
Authority and function of the CCAC	15
Traffic affairs	14
Medical and health care	14
Economic and social housing	14
Social Security Fund	13
Public procurement	11
Illegal employment	10
Social welfare	8
Supervision on usage of property	7
Right of abode	6
Noise	5
Education	4
Privacy	4
Irregularities in other administrative procedures	37
Beyond the competence of the CCAC (private sector or other criminal cases and lawsuits)	91
Total	566

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Administrative complaints were related to the following issues:

Issues	Caseload
Legal system governing public services (personnel rights and interests, recruitment, internal management and discipline)	41
Social/economic housing	13
Illegal constructions	11
Supervision on usage of property	11
Public procurement	7
Access to information/information supply	7
Municipal Affairs	6
Labour disputes	6
Social Security Fund	5
Tax affairs	5
Traffic offences	5
Education, medical and healthcare	4
Illegal business	4
Property registration	4
Right of abode	3
Irregularities in other administrative procedures	23
Total	155

In 2009, the CCAC received 155 cases of administrative complaints, with 62 cases carried over from 2008; by deducting 15 cases of duplicate issues not included in the statistics, the Commission handled a total of 202 administrative complaints, while 184 amidst were closed upon completion of analysis. The filing percentage is 91%, which is higher than that of 2008 (77%). 176 of them were handled with a simple method, which was to solve the problems through examination on documents and rendering improvement measures directly.

In 2009, the administrative complaints were handled as follows:

Reasons for cases archived	Number
No signs of administrative illegality or irregularity	108
Properly handled by respective departments (following formal or informal interventions of the CCAC)	50
Lack of information	15
Beyond the competence of the CCAC	2
Others	9
Total	184

III. Formal Investigation, Recommendation and Suggestion

Among the cases of which the CCAC conducted in-depth investigation in 2009, 3 were investigated and analyzed completely and recommendations were rendered in 2008. These cases were archived due to relevant public departments' acceptance of recommendations in the first quarter of 2009. (Please refer to the Appendix of the Annual Report 2008.)

As to the case concerning the Macao Foundation and the Science and Technology Development Fund, the suggestions were accepted by the related entities and the former also adopted the measures regarding improvement of operation in 2008. Therefore the case has been archived.

Another case which was commenced for formal investigation in 2008, investigated and analyzed completed in 2009 involved supervision on economic housing, with 2 other cases involving economic housing (application and allocation and sale procedures) which were filed for investigation, investigated and analyzed completely in 2009, have been archived by the CCAC since the recommendations and suggestions rendered by the CCAC has been accepted by the competent authorities. The summary can be found in the Appendix.

Moreover, the CCAC has completed the investigation and analysis of "Legality of Establishment of Intermediate Storage of Petroleum Gas" and "Exhibition of Achievements of the 10th Anniversary of Macao SAR (Beijing)" and has rendered

recommendations to relevant authorities. The recommendations have been accepted and therefore the follow-up works have been completed.

IV. Review on Operation

In 2009, the CCAC continued to cooperate with other public departments to supervise the operation of related entities and suggested a number of measures to enhance efficiency.

(1) Identification Bureau (DSI)

- i. The CCAC and the Department of Residents Identification of the DSI conducted a conjoint review on the operation of works regarding “right of abode and nationality”. Finally, a consensus on the measures of improvement (listed below) was reached and implemented in July 2009.

Right of abode:

- 1) To improve the internal guidelines regarding the criteria for assessment of certificate of right of abode; to include typical cases for “presuming” applicants’ frequent habitation in Macao according to practical experiences;
- 2) To provide more information about the assessment of certificate of right of abode to applicants, including specifying that the documents submitted are not sufficient to prove the entire or part of the applicant’s declared period of residence in Macao;
- 3) To adjust the information on the website to precisely explain the statutory requirements that holders of “permanent residence permits” need to fulfil if they want to obtain Macao SAR Permanent Resident Identity Cards;
- 4) All enquiries involving specific cases (on phone and in person) should be recorded in computer system;
- 5) Minors who obtain Macao SAR Permanent Resident Identity Cards under Item 10, Section 1, Article 1, Law No. 8/1999 shall maintain the status of being permanent resident without making a “Statement of Having Taken Macao as the Place of Permanent Residence”.

Moreover, the DSI should notify in correspondence to the people re-

ferred to in Item 9 and 10, Section 1, Article 1 of the abovementioned law that *“the right of abode shall be extinguished if the person has not frequently resided in Macao for over 36 consecutive months.”*

- 6) To indicate in the “Guidelines of Application” for the Certificate of Right of Abode and the bureau’s official website that *“If the people of both Chinese and Portuguese descents who ordinarily reside in Hong Kong possess Macao SAR Passports, they shall show the related certificates and documents when applying for the right of abode.”*

Nationality:

- 1) To clearly specify, in written form, the criteria for the assessment of nationality and Chinese and Portuguese descent;
 - 2) In cases that require criminal records, to amend the instruction on the application forms, the leaflets, the official website and the working guidelines as *“If the applicant for naturalization had lived in another place for 6 months or longer before s/he settled in Macao, s/he must also submit a certificate of criminal record issued by relevant authorities of the place”*.
- ii. With regard to the operation of the Division of Criminal Record, the CCAC and the DSI reached an agreement of improvement measures, including reinforcement of publicity of information regarding application for criminal record to the public, improvement of procedure of issuance of criminal record/minor’s special record, revision of guidelines for storage period and destruction of relevant documents and improvement of mechanism of storage of information and documents, etc.

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(2) Land, Public Works and Transport Bureau (DSSOPT)

The CCAC continued to follow up the review on operation of the Inspection Division of the Urbanization Department of the DSSOPT initiated in 2006. To facilitate the authority’s initiative to conduct research on the execution and revision of the regulations on the usage of urban building and real estate, application of rules of assessment on construction projects, formulation of criteria for exemption from fire safety requirements, and the creation of a system of consultative tender for public works (including the central database of contractors of consultative tender for pub-

lic works), the CCAC has rendered suggestions for improvement of the abovementioned.

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(3) Health Bureau

The CCAC followed up the items of review on operation, especially the implementation of the electronic system of personnel's attendance management, application for and expedition of doctor's reference and medical reports, emergency medical service waiting system and formulation of "consent on operation" and "informed consent".

V. Integrity Management Plan

Integrity Management of Public Departments/Institutions

In late August 2007, the CCAC launched the 2-year Integrity Management Plan – Protocol of Collaboration which all government departments/institutions have already joined and has achieved expected outcomes. The first stage of the plan has been completed, as the departments and institutions have fulfilled the most basic requirements of the plan – formulation of internal codes of conduct. Some of them furthered the improvement based on their initial experiences and reflection after a certain period of time. Moreover, some of them have formulated guidelines regarding procurement procedure or routine works.

Overall, many departments have increased the transparency of operation and working procedures and the mechanism of information handling and access. Public servants' awareness of prevention of conflict of interests and alert to acceptance of advantage have also been enhanced remarkably. The CCAC will establish the objectives of the second phase of Integrity Management Plan based on the achievement of the first phase and will work on it gradually.

VI. "Research Awards on Comparative Studies of Ombudsman Systems in Asia"

Two of the research reports of the "Research Awards on Comparative Studies of Ombudsman Systems in Asia" co-organized by the Macao Foundation and the CCAC have been completed. In late 2009, the two reports, entitled "In Search of a

Future Path for Macao's Ombudsman System – A Comparative Study of Ombudsman Systems in Asia” and “Comparative Study of Ombudsman Systems in Asia: Review of Systems in Macao, Korea and India” were published in Chinese and English.

VII. Seminars and Workshops

Hosted by the CCAC and co-organized by the Ministry of Supervision of the People's Republic of China and the ICAC of Hong Kong, the conference entitled “Prevention and Suppression of Corruption in the Private Sector: Reality and Foresight” took place during 9th and 10th November in Macao. The conference gathered around 200 attendants, including members of related supervisory agencies and representatives of enterprises in the three places, members of the Legislative Assembly of Macao, and academic staff of universities and research institutes, aiming to thoroughly reflect on the current situation and the effect of prevention and suppression of corruption in the private sector in the three places and express the expectations for the future.

In 2009, the CCAC continued to organize seminars and workshops on “Professional Ethics and Conduct”, “Public Procurement” and “Ombudsmanship” for public servants. Moreover, due to the approval of the law *Prevention and Suppression of Bribery in the Private Sector* effective from 1st March 2010, the CCAC carried out promotional and preventive works jointly with different sectors by explaining the highlights of the law during seminars and workshops in order to enhance the awareness of law observance and integrity in the private sector in Macao.

VIII. Personnel Training and External Exchange

As to personnel training, the CCAC dispatched staffs to the course on studies of internal affairs of China organized by the China National School of Administration exclusively for the CCAC and the course co-organized with the Chinese People's Public Security University. Moreover, internal training regarding the approved law *Prevention and Suppression of Bribery in the Private Sector* was conducted.

As to external exchange, the CCAC continued to attend the seminars and conferences held by the International Ombudsman Institution and other international corruption prevention organizations.