

**PART III**  
**OMBUDSMAN**



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### OMBUDSMAN

#### I. Introduction

In 2016, the CCAC, as always, carried out its ombudsman duties in strict accordance with the *Organic Law of the Commission Against Corruption* and other legislations. Upon receipt of reports from the citizens or information of illegalities through other channels, investigation will be conducted based on the established procedures. When facts of administrative malpractice or illegality are found, the department involved or its supervisory body will be notified of the problems and relevant suggestions for improvement or recommendation will be issued.

Last year, the CCAC placed 658 administrative cases on file and handled 649 requests for help and consultation. In view of the longer time span, the increased complexity and concealment of the circumstances in the cases in recent years, the CCAC has made adjustments at the levels of human resources and internal operations to enable staff to be more focused on handling cases and to adopt more diversified investigative measures, so as to better carry out the work of ombudsman.

When it comes to targeted investigations, the CCAC completed two investigation reports, namely the “Investigation report on the land exchange case related to the site of Iec Long Firecracker Factory” and the “Investigation report on the granting of public car park management service by the Transport Bureau”. On the basis of the findings after investigating the land exchange event of the Iec Long Firecracker Factory and the event of granting of public car park management service, the CCAC made in-depth analyses from the legal point of view and pointed out the illegalities of the administrative procedures and administrative acts, and put forward the suggestions for improvement.

Although the background and contents of the two cases mentioned above vary and the legal provisions applicable to the relevant procedures are not the same, the two incidents have something in common, that is, the public servants who were in

charge of the relevant procedures ignored the legal provisions and seriously violated the “principle of legality”, the most basic bottom line that shall be observed by public servants in the course of performing their duties. As a result, the checks and balances established by law and the supervisory mechanism were totally ignored and they will give rise to the occurrence of criminal offences such as corruption.

Same as last year, the CCAC selected and summarised some cases that are considered representative to allow the public and the public departments to better understand the ombudsman cases followed up by the CCAC in the past year, so that public departments and the supervisory bodies can reflect upon the similar situations that they came across, and adopt and implement the corresponding improvement measures to avoid the occurrence of the same mistakes.

From the summaries, it can be seen that the cases are related to various issues such as the recruitment of personnel, the appointment of chiefs and leadership, public procurement and illegal outside employment; certain cases reflect the lack of accurate understanding of the administrative procedures and legislations that are applicable to public departments concerning their own duties and the laziness to carry out their duties; some other cases even revealed that certain departments, even though they clearly knew that such acts or procedures were with flaws, turned a blind eye to the existence of the illegal situation by justifying with plausible reasons. They were compelled to take corrective measures only when the CCAC rendered recommendations.

Over the past year, the CCAC has taken part in the revision of the *Electoral Law of the Legislative Assembly*. On the basis of summing up the past experience in law enforcement, the CCAC made a number of proposed amendments to the law and followed up the entire drafting process. The bill was scrutinised and passed by the Legislative Assembly at the end of 2016. The revision of the *Electoral Law of the Legislative Assembly* will provide the CCAC with more effective legal means and basis for the implementation of the duties of preventing, curbing and combating electoral corruption and other electoral illegalities.

## II. Investigations

### (1) “Investigation report on the land exchange case related to the site of Iec Long Firecracker Factory”

The CCAC pointed out in the report that the Iec Long Firecracker Factory covering an area of 28,340 m<sup>2</sup>, of which 21,668 m<sup>2</sup> was granted by way of lease to the two operators of the then Iec Long Firecracker Factory by the Portuguese Macao Government in 1950s, so that the two operators could utilise the land together with the 1,655 m<sup>2</sup> private land they owned and other land for the operation of the firecracker business.

Since the firecracker factory was basically in a state of shutdown, in 1986, the Portuguese Macao Government declared the termination of validity of the concession of the aforementioned 21,668 m<sup>2</sup> of land. The Portuguese Macao Government had continually received applications from the right holders of the Iec Long Firecracker Factory site for construction of commercial and residential buildings or exchange for another plot of land in that site. However, no agreement was reached.

In addition, there was also a dispute between the relevant right holders and the Government over the premium of concession of the BT27 parcel in Taipa. In 2000, the public works department decided to solve the said dispute of premium together with the land exchange case. After a number of negotiations, the public works department reached an agreement regarding the land exchange with the right holders.

On 10<sup>th</sup> January 2001, the Macao SAR Government, represented by the Director of the Land, Public Works and Transport Bureau, and the Baía da Nossa Senhora da Esperança Company signed a *Commitment* of land exchange, under which the government promised to grant a plot of land measuring 152,073 m<sup>2</sup> located at Baía de Nossa Senhora da Esperança in Taipa to the company. At the same time, the Baía da Nossa Senhora da Esperança Company promised that all the parcels composing the Iec Long Firecracker Factory site would be transferred to the Macao SAR

Government free of burden.

In March 2002, the Baía da Nossa Senhora da Esperança Company obtained approval to divide the land of Baía de Nossa Senhora da Esperança into two parcels with respective areas of 99,000 m<sup>2</sup> and 53,073 m<sup>2</sup> and the company transferred the first parcel to the Shun Tak Recreational Service Limited (Shun Tak Limited) under the price of HKD500 million. In 2006, the Shun Tak Limited declared to abandon a portion of land covering an area of 18,344 m<sup>2</sup> in the above parcel in order to exchange for a concession by lease of a parcel of land covering an equivalent area located at Outer Harbour New Land Reclamation Area.

After analysis, the CCAC believed that the signing process of the *Commitment* is in violation of the provisions of the *Land Law* concerning the requirements of competence, necessary forms and necessary procedures for disposition of land. Besides, since the Portuguese Macao Government declared the termination of validity of the concession of the 21,668 m<sup>2</sup> of land in the Iec Long site in 1986, the Baía da Nossa Senhora da Esperança Company did not have the right to make decisions for that parcel, let alone the right to promise to transfer all the parcels composing the entire Iec Long site to the Macao SAR Government. It was not necessary and not possible that the Macao SAR Government had to obtain from the Baía da Nossa Senhora da Esperança Company the other parcels within the Iec Long site that were State property in the first place.

The report pointed out that the value of the Iec Long site confirmed in the *Commitment* included not only that of the private land and the land on long-term leasehold but also that of the land on leasehold which has already declared invalid and the land without registered ownership. Moreover, the deduction of the value of the State-owned land from the amount of the premium paid for the land exchange is obviously in contradiction with the principle of “equal benefits” provided by the *Land Law*, which jeopardises public interest.

The report also pointed out that in the process of the land exchange deal, the

DSSOPT stated neither the criteria nor the reasons for making decisions with regard to matters including adjusting the amount of the premium to be returned to the concessionaire of the BT27 parcel, modifying the method of calculating the value of the Iec Long site and increasing the usable plot ratio of the residence to be built at Baía de Nossa Senhora da Esperança. Therefore, the “duty to state reasons” that is stipulated in the *Code of Administrative Procedure* was clearly violated.

The CCAC considered that the *Commitment* concerning the land exchange of the Iec Long site is null and it is not necessary for the Macao SAR Government to bear any “land debts”. The CCAC suggested the relevant departments of the Macao SAR Government should study seriously and handle properly the subsequent questions arising from the nullity of the *Commitment*, as well as the dispute on premium payment for the BT27 parcel in Taipa and the issues concerning the land concession to the Shun Tak Limited.

**(2) “Investigation report on the granting of public car park management service by the Transport Bureau”**

In April 2015, the CCAC cracked down a case in which the chief and his subordinates of the Transportation Management Division of the Transport Bureau (DSAT) colluded with the management companies and took advantages of their positions to manipulate the granting of service contracts of public car park management and from which illicit advantages were received. The sum involved totalled nearly MOP67 million and the illicit profit was about MOP19 million.

During the process of the criminal investigation, the CCAC found that in addition to the subjective criminal intent of the persons involved, the DSAT had serious defects in the outsourcing process and internal supervision mechanism of public car park management services, resulting in the failure of timely detection and curbing of the illegal acts, thus objectively served a pampering and facilitating effect on the occurrence of the case. Thus, the CCAC commenced investigation on this issue.

The report pointed out that according to the stipulations of the *Regulations of Public Car Park Services*, the Public Administration shall, through open tendering for the “operation contract”, outsource the management of a public car park to a private entity. Under an “operation contract”, the management company that operates the car park shall be self-financing and bear all the costs for running the car park, including the expenses on purchasing equipment. All the revenue shall go to the management company after an amount of it is paid to the Public Administration as “pecuniary returns”.

However, the CCAC found that the DSAT did not adopt the “operation contract” without providing sufficient justifications but repeatedly signed the “short-term management services contracts” with management companies instead through splitting the management services contracts of the car parks and outsourced them to the companies. From 2003 to 2016, among the 46 public car parks in Macao, the DSAT signed 341 “short-term management services contracts” for 39 car parks.

The CCAC considered that such practice of the DSAT obviously evaded the provisions of the *Regulations of Public Car Park Services* and Decree Law no. 122/84/M concerning open tendering and signing of notarial contract. As a result, the existing statutory systems and procedures were totally ignored and finally they were used by criminals as means of manipulating the grant of car park management service contracts for the purpose of gaining illicit advantages.

The report also pointed out that when the DSAT purchased the equipment or repair services of car parks, it always “passed the buck” to the management companies to submit quotations from other professional companies. The DSAT exempted the procedure of price inquiries without stating the reasons and directly granted the projects to the management companies which did not have the conditions of providing relevant equipment or works.

Moreover, the DSAT failed to effectively supervise the parking income that the car park management companies should pay to the government and the truthfulness

and accuracy of the amounts of the payments it had received. For some of the companies which always delayed the payments of parking income, the DSAT did not take effective measures to dun for the payments. It even paid those companies the management service fees promptly and granted the new contracts to them.

The CCAC believed that the problems found in the investigation including not acting in accordance with the law strictly and even deliberately evading the law or statutory procedures, as well as lax or formalistic internal supervision, were not exceptional among public departments. If these issues are not redressed promptly, they will give rise to corruption crimes.

The CCAC pointed out that violation of the “principle of legality” shall not be the cost for boosting administrative efficiency. Weakening the openness and transparency of procurement procedure not only makes it difficult for the Public Administration to choose the service of the best quality at reasonable price but also increases the risk of occurrence of corruption and power abuse. The Public Administration shall make adjustments to Decree Law no. 122/84/M and other related regulations according to the reality and social development in order to strengthen the relevant monitoring and rectification systems as well as simplify the public procurement procedures.

### **III. Summaries of cases**

#### **Case 1**

A complainant told the CCAC that a stall in the Taipa Market was closed for over one year and the license holder did not show up at the stall ever again. The stall was just used for keeping stock. Since the Civic and Municipal Affairs Bureau (IACM) has not made any prosecution over a long period of time, the complainant suspected that the Bureau’s supervision was inadequate.

During investigation, the CCAC found that there were indeed circumstances that a vendor did not do any business as normal and the stall was used for keeping



stock. The IACM stated in a reply letter to the CCAC regarding the mentioned circumstances that since there was not any law supervising the close-down of business for no reason in the markets in Taipa or Coloane, the IACM could only advise the vendor of the stall to keep his business open.

Before the handover of Macao to China, the former Macao Municipal Council and the former Municipal Council of the Islands managed the markets in Macao and in the Islands respectively. In order to handle the circumstances that some vendors of the stalls who did not do any business for a long time, the Executive Board of the former Macao Municipal Council made a resolution on 4<sup>th</sup> June 1999 that permission should be obtained if stall tenants of the markets would not do their business for a period of more than three consecutive days. If, without permission, the stall tenants of the markets did not do their business for 15 days, they had to give their explanation within seven days. Otherwise, their tenancy would be terminated. However, the former Municipal Council of the Islands did not set up any regulation governing the circumstance in which the stall tenant of the market closed down the business for no reason.

After Macao was returned to China, be it the former provisional Municipal Councils or the IACM which was established afterwards, the department has not unified the regulations that govern the management of the markets in Macao and in the Islands, resulting that the markets in Macao and Taipa have long adopted different criteria in management. Taking into account the current area of Macao and the number of markets in the region, it is totally unnecessary to preserve different management systems. Not only will such act bring difficulties to the management, it will also make the citizens feel that the enforcement is unfair and partial.

Currently, the IACM manages the markets in the Islands according to the *Code of Municipal Ordinances of the Islands* which was formulated in 1974. There is no doubt that the problems of outdated law and inadequate supervision appear. Moreover, even the markets in the Macao peninsula are managed according to the

*Regulations of Municipal Markets of the Macao Municipal Council* which was promulgated in 1960. Most of the content is seriously outdated and contradicts the reality. In 2015, the CCAC pointed out in the “Investigation Report on Municipal Ordinances and Municipal Regulations” that a considerable number of municipal ordinances and municipal regulations were outdated and needed to be revised as soon as possible in order to meet the demand of municipal management.

Taking into account the stalls of the markets in the Islands have been vacant for a long time, the CCAC believed that the resources of public services are not utilised properly. The supervision department is also helpless because there is a lack of means of law enforcement. Outdated laws which are related to livelihood affairs will finally affect the daily life of citizens. Therefore, the CCAC urged the IACM to complete the revision of relevant municipal ordinances and municipal regulations without delay. The IACM stated it agreed that the current provisions of municipal markets and the modes of supervision were imperfect. The Bureau promised to further improve the management of markets through revision of the laws and introduction of other technical means in response to the development needs of the society.

## Case 2

A complainant told the CCAC that someone, who was employed by the Cultural Affairs Bureau (IC) through the open recruitment of an officer in 2012, did not possess the academic qualification as required in the recruitment notice before the deadline of the application period of the recruitment. The complainant suspected that the IC violated the law of recruitment.

According to the investigation of the CCAC, before the deadline of the application period of the recruitment dated 16<sup>th</sup> April 2012, the applicant just submitted an “enrollment certificate” of a bachelor’s degree programme issued by a university to the IC instead of the copy of an academic qualification certificate as required in the recruitment notice. Only until the IC announced the provisional list

of candidates of the recruitment did the applicant submit the university's graduation certificate to the IC on 30<sup>th</sup> May 2012.

The CCAC believed that the law governing the public servants of Macao stipulates that academic qualification is a general requirement of taking up the post of a public servant. The applicant should possess the required document before the deadline of the application period as stipulated in the recruitment notice. Otherwise, the relevant appointment should be invalid. The applicant, who only possessed the academic qualification of the bachelor's degree after the deadline of the application period, did not meet the statutory requirement of academic qualification of holding the post of an officer. The IC's appointment of the applicant was therefore invalid due to breach of law.

During the investigation, the IC admitted that the jury had a misunderstanding about the applicant's possessing of the required document during application and believed that the applicant would be eligible for an examination when the academic certificate could be acquired in a short period of time. Therefore, the IC already revised the workflow and guidelines of the open recruitment and promised to improve the procedures of the open recruitment to ensure the legality of the recruitment procedures and avoid similar incidents from happening again. The applicant has already left the IC.

### Case 3

The CCAC found during its work that the appointment of two chiefs of the Cultural Affairs Bureau (IC) allegedly breached the law and thus commenced an investigation.

Suggested by the Director of the IC and approved by the Secretary for Social Affairs and Culture, the two staff members were appointed the Chief of Division of Human Resources and Administration and the Chief of Division for Research and Planning of the IC. Their appointment orders were published on the *Official*

*Gazette of the Macao SAR* on 6<sup>th</sup> January 2016. However, the CCAC found during the investigation that the two chiefs did not meet the statutory requirement of having at least five years' experience in relevant fields.

According to the investigation of the CCAC, the staff who was appointed the Chief of Division of Human Resources and Administration used to work as a secretary in the former Macao Municipal Council and the Civic and Municipal Affairs Bureau (IACM) from 1994 to 2010. After starting his services in the IC in 2010, he also carried out secretarial duties, which meant that he was not responsible for or participated in any public administrative work before taking up the post of the Chief. Thus, the CCAC believed that the staff did not meet the requirement of having work experience in human resources and administration for at least five years as required by the law.

Moreover, the staff who was appointed the Chief of Division for Research and Planning had worked in private companies previously. In July 2010, he was employed by the IC through acquisition of services and was later hired by the IC under short-term contracts in October of the next year. The CCAC believed that the “work experience in relevant fields” as stipulated by the law refers to the work experience gained in public work only. Experience in private departments or in public departments where the employee was hired through acquisition of services was not included. Thus, the work experience of public work of the staff should only be calculated from October 2011, meaning that he did not fulfil the statutory requirement of having at least five years' experience in holding the post of a Chief.

According to Law no. 15/2009 which stipulates the fundamental provisions of leadership and management of public departments, Article 4 provides that the employment of leadership and management “shall meet the criteria of legality, transparency and objectivity”. However, the employment procedure of the two chiefs of the IC was against the “principle of legality”. Therefore, the CCAC issued a recommendation to the IC, urging the Bureau to adopt appropriate measures to

handle the problem of which the appointment of the two chiefs violated the law. The IC accepted the recommendation of the CCAC and sought approval from the superior about the appointment of the two chiefs according to Administrative Regulation no. 26/2009.

#### Case 4

In 2015, the CCAC found that the Macao Government Tourism Office (MGTO) from 2013 hired a former chief that had retired according to the Provident Fund Scheme for Workers in the Public Services as an officer (with 600 salary points), under the contract for personnel outside the establishment. As the former chief did not hold a higher education degree or a bachelor's degree, the employment did not comply with the academic qualification requirements laid down in the legal systems governing public servants of Macao. Therefore, the CCAC issued recommendations and requested the Bureau to address the problem. The MGTO stated in a letter to the CCAC that it had terminated the said contract with the former chief.

Later on, however, the CCAC came to know that this former chief still remained in the MGTO after the said contract was terminated on 31<sup>st</sup> October 2015, and he continued to work there from 1<sup>st</sup> November 2015 under the services acquisition contract with a monthly remuneration of MOP65,000. The term of the services acquisition contract entered into between the MGTO and this former chief was two months and the contract was later renewed for the same term.

With the entry into force of Law no. 12/2015, which regulates public departments' employment of workers under labour contracts, the MGTO proposed to the Secretary for Social Affairs and Culture on 28<sup>th</sup> January 2016 that the said former chief be hired as a consultant under the labour contract with a monthly salary equaling to 660 points of the pay scale for public servants. The proposal was approved by the Secretary for Social Affairs and Culture on 11<sup>th</sup> February 2016.

During the investigation, the CCAC found that, judging from the content and

nature, be it under the services acquisition contract or the labour contract, the work performed by the former chief was not significantly different from his previous work at the MGTO. Therefore, it is evident that in spite of the CCAC's recommendations regarding its illegal employment with the contract for personnel outside the establishment, the MGTO still attempted to evade the statutory employment procedures, ignored the academic qualification requirements laid down in the relevant regulations and continued to employ the said person with a similar or an even higher salary.

According to the CCAC's investigation, although the MGTO suggested that the former chief be employed due to his expertise and experience in both engineering and tourism management, he never received any higher education or professional training on engineering and was incapable of solving the related technical problems independently. His usual job duties were to accompany the leaders to meetings or conferences, recheck and proofread meeting minutes, contact the subunits of the Bureau, attend meetings on behalf of the Bureau, brief and give opinions to the leaders on issues related to the meetings and so on.

According to Law no. 12/2015, only when professionals are in shortage or those to be employed are with special talents may the persons be hired as consultants or to perform professional skills under the labour contract. The CCAC believes that the said former chief did not have "special talents" as required by the law and his job duties were not significantly different from those of an ordinary officer or senior officer (i.e. he was not employed to perform duties of a "consultant" or "professional duties"). Therefore, the employment did not meet the conditions laid down in Law no. 12/2015.

Given the above analysis, the CCAC issued recommendations to the MGTO once again and requested the latter to address the said problems in relation to illegal employment. The MGTO replied in a letter that it agreed with the opinions of the CCAC and would, starting from 1<sup>st</sup> October 2016, hire the former chief as an assistant officer under the administrative appointment contract (with 480 salary points).

### Case 5

The CCAC received a report claiming that the University of Macau (UM) directly outsourced a few technical support services to a civil association successively in 2015. The report raised doubt over whether the UM had followed the procurement procedures in accordance with the law.

According to the CCAC's investigation, the Centre for Engineering Research and Testing (CERT) of the UM once directly outsourced to a civil association its quality assuring and testing services for public works for four times in a row. Each of the contracts entered into between the two parties was with a three-month term. However, according to information, when outsourcing the said services the UM already anticipated that the relevant public works would take a few years to complete, which means the actual period of execution of the contract would definitely be more than six months.

The CCAC found that, if the UM had determined the term of the contract for the outsourced services to be one year or even longer, the contractual price would have exceeded MOP750,000. In that case, public procurement procedures must be followed and a written outsourcing contract must be signed in accordance with the law. As there were no sufficient grounds to justify the establishment of short-term contracts, the practice of the UM to split the services to be procured into several parts was allegedly an attempt to evade the public procurement procedures and the signing of written contracts.

Moreover, the UM did not get price quotes from at least three entities on the grounds that technical cooperation agreements had been signed, the projects granted to it involved too much work and there had been a lack of personnel in the relevant fields. Instead, it outsourced the services to the said civil association directly. In the CCAC's opinion, there was no sufficient justification for the UM to have directly outsourced the relevant projects to be procured. Therefore, it was a violation of the law.

The UM agreed with the opinions of the CCAC and guaranteed that it would follow the procurement procedures in accordance with the relevant legislation in the future. In addition to planning to enhance its personnel's understanding of the relevant legislation, it would also provide more professional and technical training for its technical workers so that fewer of its technical support services would be outsourced.

### Case 6

In 2016, the CCAC received a few complaints over public servants who allegedly violated the law by engaging in private businesses. The CCAC carried out investigations according to the law.

A report was lodged to the CCAC in November 2015. It was found after investigation that an assistant officer of the Public Security Forces Affairs Bureau, who also held a license to practice Chinese medicine, applied to the then Secretary for Security in 2009 for approving his concurrent position as a licensed operator in a clinic. The application was approved and the assistant officer was permitted to hold the concurrent position for one year. However, after one year's time, the assistant officer continued to operate the clinic without renewing the application for the department's permission.

Another report was lodged to the CCAC in February 2016. It was found after investigation that a teacher of the Education and Youth Affairs Bureau, without first applying to the Bureau for permission to take up outside work, served as referee twice for a sports federation in competitions for reward in 2015 and 2016.

The CCAC also received a report in July 2016. It was found after investigation that a driver of the Land, Public Works and Transport Bureau, without first applying to the Bureau for permission to take up outside work, worked for a tour and travel agency for reward in his spare time to provide transport service for casino workers.



According to the *Statute of Personnel of the Public Administration of Macao*, persons who exercise public functions shall observe the principle of exclusivity, which means public servants may engage in private businesses only in exceptional cases and when permission is granted. Otherwise, the act will be a disciplinary offence.

After investigations, the CCAC verified that the above-mentioned public workers had engaged in private businesses without permission from their departments and their acts allegedly constituted disciplinary offences. The CCAC therefore notified the relevant departments of the said cases for follow-up action. Later on, the relevant departments informed the CCAC that disciplinary procedures had been undertaken against the personnel involved.

### Case 7

The CCAC received a report alleging that a person, when applying for the recruitment of officer of the Marine and Water Bureau (DSAMA), submitted a bachelor's degree certificate granted by a private university in China which was not recognised by the Ministry of Education of China. Thus it did not meet the requirement for tertiary education background mentioned in the notice of the recruitment. Therefore, it was suspected that the DSAMA hired the person illegally.

The complainee applied for the recruitment of officer of the DSAMA in the area of maritime registry in 2013 and was employed as his score was the second highest. Under the order issued by the Secretary for Transport and Public Works on 24<sup>th</sup> July 2014, the complainee was employed as 2<sup>nd</sup> grade officer of 1<sup>st</sup> rank under the contract of personnel outside the establishment with 350 salary points.

The CCAC found in the investigation that when applying for the open recruitment process, the complainee submitted to the DSAMA a bachelor's degree certificate granted by a private university in China in 2011. However, it was not until 2014 that the university was allowed by the Ministry of Education to provide undergraduate

education and grant bachelor's degree certificates. For the effectiveness of the complainee's bachelor's degree certificate, the Tertiary Education Service Office replied to the CCAC that the act that an organisation (including tertiary education institution) carries out outside or beyond its competence is considered null according to the law.

The CCAC considered that according to the *Statute of Personnel of the Public Administration of Macao*, educational qualification is one of the ordinary requirements for public posts. The candidates shall meet the requirement and prove it with appropriate, effective and legal documents before the deadline for application mentioned in the notice of the recruitment process. Otherwise, the appointment will be null. The DSAMA finally accepted the CCAC's views and considered that the bachelor's degree certificate submitted by the complainee failed to meet the requirement of the recruitment and employment and the appointment was terminated due to its nullity.

### Case 8

The CCAC received a report alleging that the Director of the Meteorological and Geophysical Bureau (SMG) sub-delegated his powers, which had been delegated by the Secretary for Transport and Public Works, to the Deputy Director through an internal order, but the order was not published in the *Official Gazette of the Macao SAR*. Therefore, it was suspected that the act was not approved by his superior and thus constituted administrative illegality.

The CCAC found in the investigation that the Secretary for Transport and Public Works delegated the powers of internal management of the SMG to the Director through Order no. 64/2009 issued in 2009. On 28<sup>th</sup> November 2014, the Director issued Internal Order no. 13/2014 to sub-delegate some of the powers to the Deputy Director, but the internal order was neither approved by his superior nor published in the *Official Gazette* according to the law.

The internal order clearly indicated that the Deputy Director was sub-delegated to exercise the powers delegated by the Secretary for Transport and Public Works in Order no. 64/2009. Paragraph 2 of the internal order stated that “The Deputy Director, X, is hereby sub-delegated the power to exercise the following duties”, including “to approve the applications for annual leave according to the law” and “to approve the limited service provided under the regulations of overtime or shift work”. Paragraph 3 even stated that “With my approval, the Deputy Director may sub-delegate to management staff the powers deemed appropriate for smooth operation”.

On 28<sup>th</sup> April 2016, the Director of the SMG admitted in the written response to the CCAC’s enquiry about the complaint that he did sign the internal order in 2014, but he thought that the order aimed to clarify the Deputy Director’s competence provided by the organic law of the SMG. Therefore, he denied having sub-delegated the powers to the Deputy Director and stated that the applications for annual leave and overtime work made by the personnel of the subordinate units under the Deputy Director were approved by the Director himself.

The CCAC was amazed at the above statement made by the Director of the SMG, because the internal order was a typical sub-delegation order as far as the contents and form were concerned. Even an ordinary person can come to a conclusion that the Director sub-delegated the powers to the Deputy Director through the order. Moreover, the CCAC discovered in a subsequent in-depth investigation that the Director also issued similar sub-delegation orders in 2000 and 2012 and they were neither approved by his superior nor published in the *Official Gazette* in accordance with the law as well.

Order no. 02/2000 signed on 23<sup>rd</sup> February 2000 stated that “In order to maintain smooth operation of the leadership and not to make any change to the current structure, it is necessary to sub-delegate some of the powers following a meeting with the management staff of the SMG” and that “I hereby sub-delegate to the Deputy Director, X, to lead the Meteorology Division, the Aeronautical Meteorology Centre, the Equipment and Maintenance Division and the Meteorological Observation

Centre in order to carry out the following duties: to approve applications for annual leave, to approve overtime service and to sign documents”.

Moreover, although the Director said that the applications for annual leave and overtime work made by the personnel of the subordinate units under the Deputy Director were approved by the Director himself, after viewing the related documents given by the SMG, the CCAC proved that the applications for overtime work made by those personnel were approved by the Deputy Director in general. However, for the approval of the applications for annual leave, sometimes it was done by the Director but sometimes by the Deputy Director.

Since the sub-delegation orders issued by the Director of the SMG were neither approved by the Secretary for Transport and Public Works nor published in the *Official Gazette* according to the law, the act of issuing the orders constituted administrative illegality. Moreover, the decisions made by the Deputy Director according to the relevant orders were also illegal. On 2<sup>nd</sup> December 2016, the Director sent a letter to the CCAC, stating that he agreed on the CCAC’s views and had already ratified the acts of the Deputy Director and would revise the relevant internal order.

The CCAC considered that facing the investigation carried out by supervisory agency or doubts of the general public or media, the public departments should act with pragmatism, explain what should be explained and clarify what should be clarified. When the doubts have already been cleared up and the evidence has been verified but the public department still insists in its perception, refuses to admit its mistake and even makes up excuses, the mistake cannot be corrected promptly and a waste of administrative resources will be caused. For example, in this case, whether the sub-delegation of powers existed is easily seen. However, since the SMG denied the facts, the CCAC has requested for over 800 pages of documents and spent around eight months to conclude the investigation.

## IV. Statistics

In 2016, the CCAC received a total of 658 administrative complaints. The statistical data are presented as below:

Issue	Caseload	
<b>Systems related to public service positions</b>		
▪ Discipline	56	186
▪ Internal management	56	
▪ Rights and interests of personnel	45	
▪ Personnel recruitment	29	
<b>Municipal affairs</b>		
▪ Environmental hygiene	16	40
▪ Occupation of public land	7	
▪ Hawkers	6	
▪ Administrative licenses	4	
▪ Others	7	
<b>Land and public works</b>		
▪ Illegal construction	20	33
▪ Land concession	9	
▪ Others	4	
<b>Traffic affairs</b>		
▪ Vehicles / Driving licences	20	42
▪ Traffic planning	11	
▪ Public transportation	11	
<b>Labour affairs</b>		
▪ Labour dispute	15	23
▪ Non-resident employees	6	
▪ Illegal labour	2	
<b>Public procurement</b>		20
<b>Meteorological analysis</b>		80

<b>Disciplined services management and their law enforcement</b>		37
<b>Economical / Social housing</b>		27
<b>Building management</b>		19
<b>Government subsidy</b>		16
<b>Health care</b>		13
<b>Environmental protection</b>		9
<b>Personal privacy</b>		8
<b>Education</b>		7
<b>Social assistance / security</b>		7
<b>Public service monitoring</b>		5
<b>Water seepage from premises</b>		5
<b>Financial regulation</b>		5
<b>Supervision of gaming sector</b>		4
<b>Provision of data</b>		4
<b>Identification documents</b>		3
<b>Postal services</b>		3
<b>Tax</b>		3
<b>Sports</b>		3
<b>Illegal hotels</b>		2
<b>Other irregular procedures</b>		24
<b>Matters beyond the competence of CCAC</b>		
▪ Criminal matters	9	
▪ Judicial matters	8	30
▪ Private law issues / Personal disputes	13	
<b>Total</b>		<b>658</b>

In 2016, the CCAC received a total of 649 requests for consultation. The statistical data are presented as below:

Issue	Caseload	
<b>Systems related to public service positions</b> <ul style="list-style-type: none"> <li>▪ Rights and interests of personnel</li> <li>▪ Discipline</li> <li>▪ Internal management</li> <li>▪ Personnel recruitment</li> <li>▪ Obligations of public service positions</li> </ul>	<p style="text-align: center;">48</p> <p style="text-align: center;">39</p> <p style="text-align: center;">23</p> <p style="text-align: center;">11</p> <p style="text-align: center;">9</p>	130
<b>Code of conduct</b>		18
<b>Discipline services management and their law enforcement</b>		64
<b>Municipal affairs</b> <ul style="list-style-type: none"> <li>▪ Environmental hygiene</li> <li>▪ Occupation of public land</li> <li>▪ Administrative licenses</li> <li>▪ Hawkers</li> <li>▪ Public facilities</li> <li>▪ Others</li> </ul>	<p style="text-align: center;">31</p> <p style="text-align: center;">4</p> <p style="text-align: center;">4</p> <p style="text-align: center;">3</p> <p style="text-align: center;">2</p> <p style="text-align: center;">7</p>	51
<b>Labour affairs</b> <ul style="list-style-type: none"> <li>▪ Labour dispute</li> <li>▪ Non-resident employees</li> </ul>	<p style="text-align: center;">22</p> <p style="text-align: center;">7</p>	29
<b>Public procurement</b>		18
<b>Land and public works</b> <ul style="list-style-type: none"> <li>▪ Illegal construction</li> <li>▪ Land concession</li> <li>▪ Public works</li> <li>▪ Others</li> </ul>	<p style="text-align: center;">13</p> <p style="text-align: center;">5</p> <p style="text-align: center;">2</p> <p style="text-align: center;">4</p>	24
<b>Traffic affairs</b> <ul style="list-style-type: none"> <li>▪ Public transportation / car park</li> <li>▪ Vehicles / Driving licenses</li> <li>▪ Traffic planning</li> </ul>	<p style="text-align: center;">15</p> <p style="text-align: center;">13</p> <p style="text-align: center;">9</p>	37

<b>Economical / Social housing</b>		27
<b>Health care</b>		20
<b>Education</b>		12
<b>Government subsidy</b>		12
<b>Building management</b>		11
<b>Tax</b>		7
<b>Social assistance / security</b>		6
<b>Public service monitoring</b>		5
<b>Identification documents</b>		5
<b>Environmental protection</b>		5
<b>Fire safety</b>		5
<b>License of real estate activities</b>		5
<b>Financial regulation</b>		4
<b>Personal privacy</b>		4
<b>Supervision of gaming sector</b>		2
<b>Water seepage from premises</b>		2
<b>Consumer rights</b>		2
<b>Meteorological analysis</b>		2
<b>Right of abode</b>		2
<b>Sports</b>		2
<b>Competence and function of CCAC / Legislation</b>		26
<b>Other irregular procedures</b>		19
<b>Matters beyond the competence of CCAC</b>		
▪ Criminal matters	35	93
▪ Judicial matters	25	
▪ Private law issues / Personal disputes	33	
<b>Total</b>		<b>649</b>