PART III

OMBUDSMAN ACTIONS

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I. Introduction

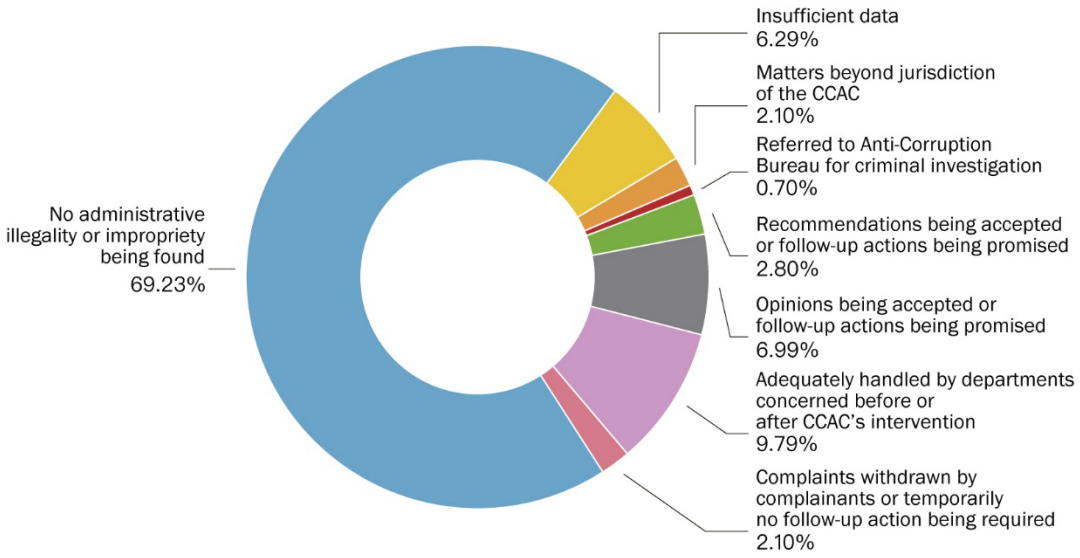
In 2024, the CCAC followed the content of the important speech made by the Secretary-General, Xi Jinping, at the 20th National Congress of the Communist Party of China, particularly under the guidelines of the importance of the construction of the rule of law highlighted in a separate chapter and the commitment to joint promotion of governance of the country in accordance with law and exercise of ruling and administration in accordance with law, as well as the fundamental concept of integrated construction of a country, government and society bound by rule of law with an aim to continuously fulfil the demand of full observance of law, strict enforcement of law and bringing all offenders to account and implement the governance objectives.

As regards ombudsman actions, in 2024, the CCAC initiated investigation of 146 new inquiry files and one comprehensive investigation file. Along with the cases carried forward from the previous year, the CCAC has to follow up a total of 288 inquiry files. The CCAC concluded investigation and archived a total of 143 inquiry files in the area of ombudsman actions, of which six were newly added to the list of "retrospective review" and seven were removed from the list upon retrospective review.

Among the cases concluded in 2024, 99 cases were archived due to no evidence of administrative illegality or impropriety, nine archived due to insufficient data, three archived due to their not falling within the jurisdiction of the CCAC, one case within the scope of the Ombudsman Bureau being referred to the Anti-Corruption Bureau for carrying out criminal investigation due to its investigation objective, four concluded due to recommendations being accepted or follow-up actions being promised, ten concluded due to opinions being accepted or follow-up actions being promised, 14 concluded due to the adequate handling by relevant departments before or after the intervention of the CCAC

and three concluded due to withdrawal of complaints by complainants or follow-up actions temporarily not being required and other situations.

Cases concluded by the Ombudsman Bureau in 2024



In 2024, the CCAC gave a total of seven suggestions which involved one comprehensive investigation case, and four recommendations. Most of them were accepted immediately by departments with follow-up actions being carried out or being promised.

In 2024, the cases received by the Ombudsman Bureau of the CCAC involved a single subject matter or various subject matters. According to statistics, three areas which covered the public service regime, municipal affairs and matters of land and public works accounted for half of the total number of cases. The public service regime remained the focus of attention, which took up 30% of the total number of cases, particularly involving the disciplinary matters of public service workers, management and operation of public services and personnel recruitment, among others. In addition, the total number of cases which fall within the areas of municipal affairs and land and public works took up more than 10% of the overall number. The area of municipal affairs mainly involved environmental hygiene, noise problems, administrative licenses,

occupation of public land and so forth. As to the area of land and public works, the issues mainly involved illegal works, land concession procedures and inadequate supervision on public works, among others. The CCAC will continue to uphold the principle of legality and will, in conjunction with the principles of adequacy and proportionality, strengthen the supervision of public affairs, so as to meet public expectations.

In fact, to tie in with the measures to encourage self-confidence in administration, the CCAC always immediately gives its opinions and expresses its stance to relevant departments or entities during the investigation processes in order for the latter to have more room to carry out self-review and self-improvement and avoid passively waiting for the opinions or recommendations of the CCAC for subsequent follow-up actions. As such, the departments or entities can be encouraged to rectify and improve their operational mechanisms or system building more autonomously in accordance with the opinions given in advance.

II. Inquiry case summaries

(I)

"Inquiry report on Chief Executive Order no. 57/2024 (involving selling prices of independent units for economic housing projects located at Lots B4, B9 and B10 of New Urban Zone Area A)"

In April 2024, the CCAC received several complaints about the selling prices of the economic housing units at Lots B4, B9 and B10 of New Urban Zone Area A as well as the subsidy ratios published in the Chief Executive Order no. 57/2024. Upon analysis, the CCAC considered that the content of the complaints was not related to illegalities or improprieties of administrative procedures or administrative acts. It just involved regulatory acts or administrative measures of the Public Administration. Therefore, the CCAC carried out an inquiry into the matters within its jurisdiction.

Regarding the issues involving the pricing for economic housing projects located at the involved lots, after analysis, it was considered that in 2019, when

the Housing Bureau (IH) published the relevant application notice, the minimum limit of monthly total income earned by an applicant with a two-member household was MOP17,680 according to the Chief Executive Order no. 169/2019. This stipulation was just one of the requirements for vetting and approval of the applications. In 2024, when the selling prices of economic housing projects located at the involved lots were announced, the minimum limit of monthly total income earned by an applicant with a two-member household was MOP19,270 according to the Chief Executive Order no. 151/2023. Such limit was used for calculation of affordable mortgage repayment by an applicant, which served as one of the parameters of purchasing power of the applicant.

Provided that Article 32 of the *Economic Housing Law* revised in 2015 (hereinafter referred to as the "former *Economic Housing Law*") where the statutory selling prices are set forth is complied with, the Public Administration has the discretionary power to decide on the year from which the figures are used as the basis for calculation and there is no mandatory stipulation in the law. In the past, when the Public Administration announced all selling prices of economic housing units, it used to use the then minimum limit of monthly total income earned by economic housing applicants at the time when the selling prices were announced for calculation of affordable mortgage repayment by an applicant, which served as one of the parameters of purchasing power of the applicant. It never used the minimum limit of income effective during the periods of application or even earlier as the basis for calculation.

Regarding the fact that the minimum limit of income earned by economic housing applicants was set to be the same as the maximum limit of income earned by social housing applicants, the Public Administration considered that there should be no gap between them and the purpose was to comply with the principle of complementarity of economic housing enshrined in law and converge the policies of social housing, economic housing and private housing market.

According to the content of the complaints, it seemed that there was a confusion between the prerequisites for vetting and approval of applications such as the minimum limit of applicant's monthly income and the pricing criteria for economic housing. In fact, the two factors were not necessarily in line with each other in accordance with law, but the Public Administration only exercised its discretionary power in the implementation of the policies when considering the criteria of applicants' purchasing power. In general, the maximum limit of the monthly income of a two-member household of social housing or the minimum limit of the monthly total income of a two-member household of economic housing at the time when the selling prices were announced served as one of the parameters of the calculation.

Regarding the subsidy ratios of economic housing, the market price of an economic housing unit applied in the calculation is always determined based on the IH's comprehensive evaluation and the estimated prices suggested by three professional property valuation companies. In addition, the IH always clearly indicates the formulas to calculate the subsidy ratios of economic housing. The provision about the formulas to calculate the subsidy ratios in the case of re-selling economic housing units provided for in the former Economic Housing Law also did not necessarily stipulate how to choose the market price of the unit. This matter falls within the scope of discretionary power of the Public Administration. Therefore, the accusation that the Public Administration violated the regulations regarding the subsidy ratios was groundless and it was difficult to question the rationality of the relatively objective evaluation means adopted by the Public Administration when exercising its discretionary power.

Following a comprehensive analysis, it was concluded that the content of the Chief Executive Order no. 57/2024 accorded with the stipulations under the former Economic Housing Law in terms of its application. Facing the doubts about the selling prices of economic housing in society, the Public Administration and the relevant departments already clarified to the public the calculation methods of the selling prices and subsidy ratios of economic housing

in different ways immediately in order to verify the legality of the relevant calculation methods.

The Economic Housing Law in force, which was revised and republished in 2020, replaced the criteria of purchasing power with the criteria of cost because the applicants' purchasing power, the location of the buildings and the orientations of the units involved a certain degree of subjectivity, which will make the selling prices not correspond to the real costs. After changing the criteria or factors for determining the selling prices of economic housing as the land premium, construction cost and administrative cost, there will be no consideration of and dispute over the applicants' purchasing power regarding the criteria for determining the selling prices of the economic housing projects in the New Urban Zone Area A in the future.

The CCAC reported to the Chief Executive on the results of the investigation according to law and it suggested the relevant departments paying more attention to the work of disseminating preliminary information and broadening the general public's knowledge of the legal regime of economic housing in order to enhance residents' knowledge of the purpose and role of construction of economic housing.

(II)

Appropriate supervision over absence due to illness

After the CCAC reported suspected cases of claiming false sick leave by customs officers in April 2024, the Public Administration was highly concerned about the incidents. The CCAC therefore commenced a comprehensive investigation and carried out investigation and analysis on the Medical Inspection Committee's operation and system in relation to sick leave of workers of the Public Administration in a holistic manner. After clarifying the practices of the committee as well as the actual problems encountered and inspecting the implementation of the relevant legal provisions, the CCAC put forward practicable recommendations at a regulatory and operational level.

After a comprehensive analysis of the *Statute of Personnel of the Public Administration of Macao* in force and in particular Articles 104 and 105 therein, and Article 33 of Decree Law no. 81/99/M in force and other legal provisions as well as relevant judicial opinions related to the Medical Inspection Committee, and after in-depth understanding of the practical operating procedures of the aforesaid Committee, the CCAC confirmed that the Health Bureau has already learned from the experience through some court decisions so as to improve the content of the opinions issued by the committee and the notification procedures, etc. In addition, it also reminded other departments to remind their employees to arrange their personnel to receive assessment of their health status by the aforesaid committee as soon as possible through the circulars issued by the Public Administration and Civil Service Bureau, so as to ensure compliance with the relevant legal requirements.

However, there is still room for improvement in terms of its operation. In particular, the Public Administration should strengthen the legal training for the members of the Medical Inspection Committee, restructure the composition of the personnel and reasonably increase the distribution of resources, so as to create conditions for the sound operation of the Medical Inspection Committee for the effective implementation of the duties conferred on it by law.

As regards the regime, the Public Administration may draw reference from the relevant legislative orientation from abroad (particularly Portugal) and make it compulsory, through the regime, for public services and workers subject to assessment of the conditions of illness to present, on their own initiative, medical reports, among other documents and information that may truly reveal the medical conditions. In addition, the duty of prior consent of workers subject to assessment of the conditions should be reinforced, and when necessary, the competence of the Medical Inspection Committee to consult information may be strengthened so as to ensure that it has sufficient conditions to promptly conclude the assessment of the medical conditions or the ability to return to work of these workers, which allows the committee to better fulfil its legal duties, thus

safeguarding the effectiveness and sound operation of the regime of absence due to illness.

In addition, the CCAC also submitted, in accordance with its powers, a proposal to revise the law on the measures and systems used to verify whether personnel who is absent from work due to illness is recovering from the illness at home.

After the results of the investigations and suggestions for improvement were presented by the CCAC to the Chief Executive, the cases received great attention from the Public Administration. The Secretariat for Administration and Justice and the Secretariat for Social Affairs and Culture agreed with and accepted the opinions and suggestions stated in the report, thus initiating the review of the regime of absence due to illness provided for in the *Statute of Personnel of the Public Administration of Macao* and carrying out review and improvement of the operation of the Medical Inspection Committee.

(III)

Procedures and forms should be decided according to law

The CCAC received a complaint claiming that the Cultural Affairs Bureau (IC) suddenly suspended the written consultation process for the activity entitled "2022 Christmas and New Year's Eve Concerts" without any justification and hired a private consultancy company to carry out the relevant procurement of goods and services on behalf of the IC, thus suspecting the existence of "under-the-table deals" and transfer of interest and requesting the intervention of the CCAC.

After investigation, it was found that in 2022, the IC and the six integrated resort enterprises in Macao cooperated and reached a consensus that the expenses for holding the "2022 Christmas and New Year's Eve Concerts" would be borne by the latter. Subsequently, the IC conducted a written consultation for the procurement of "stage performance" and "lighting and audio" services for the aforesaid activity. However, due to internal procedural issues, the consultation procedure had to be terminated. Despite that there was no evidence proving the

existence of unlawful acts in the case, the lack of clear written records and the failure to provide timely clarification to the companies invited under the said consultation caused the relevant procedure to give rise to various types of suspicion.

However, following the investigation, it was found that there was no written agreement as such on the cooperation between the IC and the six integrated resort enterprises, and therefore there were no express provisions on such aspects as the concrete work to be performed and the distribution of responsibilities between the two parties. This means that the application of the provisions of the *Administrative Procedure Code* on administrative contracts in the establishment of cooperation relations with private individuals was neglected in this case. Later on, as regards the work related to the procurement of services, which should originally be carried out by the six integrated resort enterprises or coordinated by a consultancy company hired by them for this purpose, the IC directly hired a consultancy company for the six integrated resort enterprises under the regime of procurement of goods and services provided for in Decree Law no. 122/84/M and provided support in the respective procurement and award procedures in the name of that company. This demonstrates that the private procurement activity was wrongly treated as a public activity. At the same time, representatives of the six integrated resort enterprises were allowed to form, together with the IC, an evaluation committee to select and evaluate the proposals. Moreover, there was a lack of regulation of the means of appeal in the procedure of procurement of goods and services concerned. All of these demonstrate the non-compliance with the legal provisions in force.

Given the above situations, the CCAC issued recommendations to the IC urging it to conduct a thorough and serious review of the decisions and actions taken in relation to the activity in question. In particular, it should appropriately choose the form of the cooperation agreement, correctly define the various legal relationships involved and ensure the legality and reasonableness of the procedure for the procurement of goods and services.

The IC accepted the CCAC's recommendations and set up an interdepartmental internal working group to conduct a thorough analysis of the content of the recommendations. After a comprehensive review of the coordination work and the procedures, the IC stated that, when organising events in the future, it will clearly define the objectives and grounds for organising them in the relevant proposals, and that when an event involves co-organisation by other parties, a written agreement will also be established in which the rights and responsibilities of all parties involved will be clearly defined and different legal regimes and administrative procedures will be applied depending on specific situations.

(IV)
Sports training should be carried out in accordance with the principle of proportionality

The CCAC received a complaint stating that members of a sports team of the disciplinary forces did not need to report for duty when training for and playing in the competitions organised by the relevant local general sports association and the time spent on such activities was counted as working hours, thus giving rise to suspicions of administrative illegality and injustice to the personnel who were not the members of the team.

It was discovered in the investigation that the police officers who joined the Sports Group of the Public Security Police Force (CPSP) did not work at the police stations for 10 to 15 hours every week due to training for the competitions, but such hours were still considered as working hours. As 44 hours of weekly work are the minimum required for receiving additional renumeration, the time spent on regular training alone already occupied 23% to 34% of the statutory weekly working hours. On competition days, the time spent for this purpose (including the time before and after the competition) was seven to nine hours, which were also counted as working hours and, therefore, the number of hours of training sessions and competitions per week increased to 17 to 22 hours, taking up 40% to 50% of the total number of weekly working hours.

Following a legal analysis, the CCAC considered that participation in competitions organised by local general sports associations does not fall within the scope of the exemption from performing duties provided for in Article 18 of Decree Law no. 67/93/M. unless there is information that demonstrates and confirms that the activity is of an official nature, counting the relevant time as working hours will give rise to suspicions of administrative illegality. In addition, the significant number of hours spent on training sessions and competitions compared to the number of working hours also implies a violation of the principle of proportionality. Furthermore, as police work involves many instant practical tasks, the police officers' participation in sports training or competitions not only caused inconvenience due to the need of replacing their posts but also gave rise to possible conflicts between co-workers.

The CPSP accepted the recommendations rendered by the CCAC. In addition, the competent entity issued an instruction following a review of the issues of public security personnel's participation in sports training and competitions, which stipulates the participation in sports competitions or activities under the name of a department or the welfare association of a department, in principle, is not considered as carrying out duties assigned by the superior and the case of exemption from exercise of duties, unless they represent Macao in the competitions as provided for in Article 18 of Decree-Law no. 67/93/M or participate in the sports competitions against the counterparts outside the Region and the relevant training. However, in the latter case, the number of training hours shall not exceed the required maximum. Eventually, the relevant departments adopted measures in accordance with the instruction.

(V)

Training of speech training personnel should be under proper supervision

The CCAC received a complaint indicating that the Education and Youth Development Bureau (DSEDJ) had organised short-term courses to train a lot of speech trainers over the years, while the speech training services provided by them at social service organisations were similar to the professional services

provided by speech-language therapists, which was unfair to the speech-language therapists who had bachelor's degrees and licenses to practise the profession.

Following an investigation, the CCAC verified that the DSEDJ used to organise courses to train speech trainers due to high demand for speech therapy and training for local students and insufficient number of speech-language therapists in Macao. Therefore, it provided training on speech training skills for professionals including qualified teachers, counsellors and social workers so that upon completion of the courses, they could provide speech training services for students in need at schools or social service organisations, but the content of the relevant courses did not involve speech therapy. During the investigation, the CCAC did not find that the speech trainers who had completed the courses "usurped" the positions of speech-language therapists by providing the services that only they were qualified to provide.

However, the CCAC also found in the investigation that the DSEDJ has not yet established any clear instructions to regulate the scope of functions of the speech trainers and the consequences of violating the relevant regulations, which is not conductive to the carrying out of supervision. After the CCAC raised the opinions, the DSEDJ formulated the *Guidelines on the Job Content of Speech Trainers* for implementation by the schools and organisations subsidised to provide speech training services in order to improve the relevant supervision work.

(VI)
Strengthening supervision to avoid confusions

In the exercise of its duties, the CCAC found that there were deficiencies in the supervisory mechanism of the Education and Youth Development Bureau (DSEDJ) and the former Education Development Fund regarding the construction works and procurement of information technology equipment of subsidised schools. Therefore, it took the initiative to commence an inquiry file in order to follow up the matter.

Following the investigation, it was discovered that the subsidising regulations and the relevant instructions formulated by the competent authorities in the past lacked specifications on the procedure of selecting recipients of written consultations, the recusal system and the consequences of not abiding by the rules, among other issues, making it disadvantageous to the carrying out of the supervision. After the CCAC expressed its views, the DSEDJ and the newly established Education Fund expressed agreement on the views and adopted measures to review and improve the relevant regulations and instructions, namely by requiring the procurement personnel of the schools to declare whether they should recuse themselves from the procedures and stipulating the consequences of violating the regulations, among others. Furthermore, they also drew up a checklist regarding the relevant procurement procedures, which allowed the schools to accurately verify whether all procurement work was carried out in accordance with the stipulated requirements. In addition, driven by the CCAC, the competent authorities commenced the establishment of a database of suppliers of information technology equipment, from which the schools should randomly select the recipients of written consultations in the future in order to regulate the method of their selection of the recipients of written consultations.

Meanwhile, after reviewing the reports submitted by the schools that had joined the subsidy scheme, the Education Fund required some of the schools that failed to meet the requirements for subsidy claim to return the respective funds. At the same time, it also improved the relevant subsidising procedures and strengthened the supervision in order to ensure that the procurement procedures carried out and the documents submitted by the schools are in accordance with the relevant laws and instructions.

(VII)

Shift allowance should be paid according to the work actually done

Some nursing workers (nurses and health assistants) of the Health Bureau (SS) complained to the CCAC that when the mass nucleic acid tests took place,

some nursing workers carried out shift work for which the shift allowance should be paid according to the law, but they lost the shift allowance because they were not arranged to provide services on any day of the weekends or public holidays in that month.

Following the investigation, it was discovered that according to the relevant special career regime of the SS, shift work is counted on a monthly basis, including that carried out on Saturdays, Sundays and public holidays. Therefore, the premise that the shift allowance can be granted only when the worker has been on duty on any day of the Saturdays, Sundays or public holidays in that month, has been introduced.

Following an analysis, it was found that the shift allowance for nursing workers should be calculated based on each of the shift periods in accordance with the relevant special career regime, while working on shift during daytime on Saturdays, Sundays and public holidays is considered to be one of the situations in which the shift allowance should be paid for. Therefore, as long as the shift period is that specified by the lawmaker, the shift allowance should be paid. Also, it was not found that the lawmaker has stipulated any other prerequisites. In fact, according to the proposal on the bill of the *Career Regime of Nurses* made by the temporary committee formed for analysis of the bills related to the public service regime in the past, the purpose of the lawmaker's change of the night work allowance to be shift allowance calculated based on the specific period in which the work is carried out was to implement the principle of "getting more pay for working more" and compensate the shift workers for extra physical and mental exhaustion. In this sense, the premise introduced by the SS that the shift allowance should be granted "only if the shift work has been carried out on any day of the Saturdays, Sundays or public holidays in a month" apparently contradicts the legislative intention of "getting more pay for working more".

After the CCAC expressed the stance described above, the SS accepted the suggestions of the CCAC. Starting from February 2024, all personnel in the

special career categories of the SS can be granted the shift allowance even if they have not carried out shift work on Saturdays, Sundays or public holidays.

(VIII)
Right to receive notification about contract awarding shall be defended in accordance with law

In the course of handling a case involving an awarding (invitation tender/consultation tender) of tourism promotion services at the tourist information counters by the Macao Government Tourism Office (MGTO) between January 2020 and December 2022, the CCAC found that the ways of notifying the results of the contract awarding were relatively casual and non-compliant with any rules. For example, in the same consultation tender process, the notification to the successful tenderer was sent by mail, but the notification to the unsuccessful tenderers was made by phone. In another invitation to submit proposals, the notification of the results was made by e-mail, regardless of whether the recipients were successful or unsuccessful tenderers. In addition, in the open tender processes for procurement of services carried out between 2024 and 2025, the notification of the results was not made in the statutory way (by registered mail with advice of delivery).

Meanwhile, the CCAC also found that an "objection" filed by a complainant over the result of a consultation tender was treated by the MGTO as an enquiry and opinion. In addition, in the relevant notification of the awarding result, the MGTO did not mention to the unsuccessful tenderers the reasons for not being awarded the contract as well as the information about filing an objection in accordance with the law (including the entities competent to process the objection about the decision of the awarding, the deadline for the submission of the objection and the possibility of filing a judicial appeal, among others). In the response to the relevant enquiry, the aforesaid information was not provided. Apparently, the complainants' rights to file an objection and judicial appeal, that were protected by the law, could not be exercised effectively. It was impossible

for them to defend their legally protected rights and interests through objection and/or judicial means.

When the CCAC discovered the problem, more than two years had passed since the issuance of the relevant notifications and the period for filing a judicial appeal had already expired. The voidable defect has been redressed as the period for judicial appeal has elapsed.

According to the data collected, since 2020, in various tenders for provision of services at the Tourist Information Counters under the MGTO, regardless of the procurement method (written consultation or public tender) and the form of notification (by phone, by e-mail or via the MGTO's website), the reasons for failure to be awarded the contracts were not indicated in almost all the notifications of the results made to the unsuccessful parties, including both the submitters of quotations and tenderers. Also, the information such as the means of and deadlines for filing an objection and the possibility to file a judicial appeal, etc. were not indicated in all of the notifications.

Considering that the Public Administration shall act in accordance with the law, be responsible for the information provided in writing and act in good faith, it is necessary to draw the MGTO's attention to the mandatory indication of the reasons for the decision of awarding, the means of filing an objection and the possibility to file a judicial appeal, among other information, in future notifications, as well as the implementation, in practice, of the provisions regarding the administrative guarantees such as complaints and hierarchical appeals.

Following the CCAC's intervention, the MGTO started making all notifications in written form, while the notifications about open tendering were sent by registered mail with advice of delivery in accordance with the law. At the same time, in the written response to the CCAC, the MGTO promised to provide the personnel responsible for the relevant work with further clarification of the procedure and the form of notification and encouraged them to take the

relevant training courses in order to ensure that they would thoroughly understand and abide by the relevant laws.

Meanwhile, in the written response to the CCAC, the MGTO also admitted that when assessing the letter from the complainant, it only took into consideration its contents and neglected its purpose. The MGTO promised that when dealing with the requests or complaints with identical or similar doubts on the scoring criteria or content in the future, it would give priority to the consideration that the relevant requests or complaints should be complaints against the results, and the relevant responses would be made in accordance with the procedures of handling objections. Furthermore, when the response is about rejection to the objection, the information on the possibility to file a hierarchical appeal, the competent body that receives and accesses the hierarchical appeal, the deadline and the possibility to file a judicial appeal, among other information, will be indicated in the relevant notification in accordance with the law.

In addition, the MGTO also stated to the CCAC in writing that in order to optimise the specific content of the notifications of contract awarding, in February 2024, the MGTO, through internal notice, reminded its subunits that when the interested party is notified of the administrative act (the decision of awarding), Article 70 of the *Administrative Procedure Code* shall be complied with, particularly the provisions under Paragraphs c) and d) of the article, and relevant content shall be detailed in a table and specified with examples.

The above shows that after the intervention of the CCAC, the MGTO accepted its stance, realised the problems existing in the previous practices and adopted corrective measures in order to prevent the reoccurrence of similar problems in the future.

(IX)
Vetting procedure must be carried out according to the regulations when there is an increase in standard

According to a complaint, the complainant who obtained approval for a motorcycle model involved in the case from the Transport Bureau (DSAT) in

2020 submitted a report of compliance with the new exhaust gas emission standard according to Chief Executive Order no. 111/2022, but on the grounds that the production of the motorcycle model involved in the case had ceased, the DSAT rejected the continual use of the original approval. Therefore, the complainant doubted if there was administrative illegality and impropriety of the DSAT in handling the matter.

After investigation, it was found that the approval for the motorcycle model originally held by the complainant was valid and legal. However, since the exhaust gas emission standard has been enhanced according to Chief Executive Order no. 111/2022, it is necessary to submit a report of compliance with the new standard within the effective dates in order that the approval can be used continuously. According to Paragraphs 1 and 5 of Article 4 of Administrative Regulation of *Setting the Limits for Emissions of Gaseous Pollutants to be Complied with by New Imported Motorcycles and Mopeds*, applicants who have already been granted approval only need to submit proofs of compliance with the new standard to the DSAT when the vehicles are imported for the first time and it is not necessary to re-examine all other statutory documents.

Nevertheless, the DSAT started afresh the vetting and approval procedures and "cancelled" the approval originally obtained by the complainant based on the reason unrelated to the new exhaust gas emission standard. Moreover, the DSAT failed to provide the complainant with chances to be heard and directly disapproved his application, resulting that the applicant's right to be heard could not be safeguarded.

After the intervention of the CCAC, the DSAT already rectified the vetting and approval procedures regarding the new exhaust gas emission standard. For vehicles which were granted approval prior to the entry into force of Chief Executive Order no. 111/2022, if reports of compliance with the new standard are submitted within the effective dates, the approval granted can be used continuously until the expiry date. The DSAT also stated that it will optimise its vetting and approval procedures and ensure that the implementation is carried

out according to Article 93 and relevant regulations of *Administrative Procedure Code*, including holding a hearing for interested parties, notifying them of the body to which complaints can be filed and the period for filing complaints when decisions have been made.

(X)
Existing written record may serve as evidence

A parent filed a complaint to the CCAC, claiming that he had raised an objection against a decision made by the class committee of the public school where his son was studying regarding the dispute on his son's academic results, but the complainant has not yet received any result of the complaint.

Upon analysing the document provided by the Education and Youth Development Bureau (DSEDJ), the CCAC realised that the DSEDJ had met with the complainant and his lawyer for three times successively, during which the DSEDJ informed and explained to the complainant about the issues relevant to the complaint and the lack of legitimacy to file the relevant complaint.

However, the aforementioned document was prepared by the DSEDJ only at the request of the CCAC. The DSEDJ actually did not make any written document such as minutes or records of meetings or others based on their conversations and decisions during the meetings. As such, there was a lack of a written record which included the signature of the complainant and which demonstrated that the complainant had clearly understood the informed content. The aforementioned lack easily raised doubts as to the authenticity and certainty of the relevant meetings and the informed content. It was exactly after the meetings that the complainant filed a complaint to the CCAC, claiming that the DSEDJ failed to reply to his complaint.

Therefore, the CCAC suggested the DSEDJ make a written record for the decisions made regarding any objections or complaints in the future and make a written record upon in-person notification which serves as evidence of the relevant act of notification. For example, the DSEDJ can write a remark in the case file showing the date of a notification act and including the signature of the

person being notified, or the DSEDJ can obtain a declaration from the person being notified who declares that he clearly understands relevant content, coupled with his signature and the date.

III. Retrospective review

In 2024, to continuously exercise the CCAC's power of supervising the improvement of governance of competent departments and entities conferred upon by the law, the CCAC sustained its efforts in implementing the work related to "retrospective review" within the scope of the ombudsman's duty. In 2024, six cases were included in the list of "retrospective review".

According to the data, along with the cases brought forward between 2021 and 2023 which were still effective, eight cases were included in the list of "retrospective review". In 2024, seven cases were removed from the list upon completion of retrospective review.

(I)

As regards the implementation of the carrying out of measures to reinforce the recusal system by the Collegiate Bodies of the Macao Foundation, the CCAC included the relevant case in the list of "retrospective review" in 2022. Upon carrying out the relevant work of retrospective review in 2023, given that the Macao Foundation has already carried out various measures to reinforce the carrying out of the recusal system and implement effective regulations that members of the Collegiate Bodies should recuse themselves from participating in the vetting and approval and voting procedures, the CCAC removed the relevant case from the list of "retrospective review".

(II)

As regards the implementation of reinforcement of supervision over sports associations and the youth academies by the Sports Bureau (ID), the CCAC included the relevant case in the list of "retrospective review" in 2022 and carried out the work of retrospective review in 2023.

Information showed that in response to the suggestions by the CCAC, the ID has already carried out measures to improve and optimise the operational mechanism and the means of selection of the youth academies and stipulated various supervision measures and recusal mechanisms, among others, in the agreements entered into with the sports associations. However, during the process of "retrospective review", the CCAC found that the "disclaimer" contained in the rules and regulations of a competition by a sports association had allegedly violated the law of *General Contractual Clauses*. Therefore, the CCAC once again reflected its opinions to the ID, which replied afterwards, saying that it had already requested the relevant sports association to optimise the wordings of the rules and regulations of the competition and it would continue to carry out respective supervision.

As the ID has already carried out various improvement measures and exercised the functions of supervising sports associations according to law, the CCAC removed the relevant case from the list of "retrospective review".

(III)

The CCAC received a complaint from a staff of the Macao Government Tourism Office (MGTO), claiming that he had served in the class of 1st grade senior officer for two years and should be entitled to promote to the next rank according to law. However, the MGTO considered that the two special assessments conducted to the complainant during which he was temporarily appointed as 2nd grade senior officer had already served as the purpose for promotion to the position of 1st grade senior officer. In spite of the fact that he had served in the class of 1st grade senior officer for two years, he had just completed one ordinary assessment and one summative assessment during his time of service in its original rank. In order to meet all the requirements necessary for promotion to the 2nd grade, an ordinary assessment had to be conducted for the second time and a certain rating had to be achieved. Therefore, the complainant doubted if the MGTO had misinterpreted the statutory requirements relevant to the rank and class promotion as stated in Articles 13 and 14 of the

Regime of Public Service Positions, which led to unfair treatment between civil servants admitted in the first and second half of the year respectively.

Upon intervention by the CCAC, it was verified that the Public Administration and Civil Service Bureau (SAFP) had provided its opinions to the MGTO and agreed with how the MGTO handled the relevant case. However, after random inspection by the CCAC, it was found that currently some departments handle matters of promotion to the next class with ways which are more favourable to their staff. As long as an ordinary assessment is conducted to a relevant staff with an assessment rating of "very satisfactory" during his time of service in his original rank, the requirements of the rank and class promotion are met.

After analysis, the CCAC considers that the legislation currently in force does not expressly stipulate that ratings of ordinary assessment should be obtained twice in order to be qualified to be promoted. To ensure all departments implement the system uniformly, the CCAC has requested the SAFP to coordinate such matter.

In order to continuously supervise the implementation of relevant measures, the CCAC included the case in the list of "retrospective review" so as to follow up the progress regarding the collaboration between the SAFP and other departments in order to promote the standardisation and transparency of the implementation of the system.

(IV)

According to a complaint received by the CCAC, a complainant claimed that the China-Macau Dragon Boat Association (CMDB), despite having received subsidies regularly from the Sports Bureau (ID), continued to charge fees from its members for using the dragon-boats for training at the Nam Van Lake Nautical Centre. The complainant therefore doubted about the inappropriateness of such actions.

It was verified after investigation that the CMDB indeed lent some dragon boats to the public for carrying out regular training at the Nam Van Lake Nautical

Centre and charged them fees in accordance with the principle of a non-profit organisation in order to pay for expenses for lifeguards, insurance and maintenance of boats, among other expenses. The relevant regular training and the charging plan had already been approved by the ID.

However, during the investigation, it was found that the ID was negligent in the process of vetting and approving the aforementioned applications and did not notice that the CMDB had repurposed the dragon boats used by training teams to carry out training free of charge as rental dragon boats used by its members, despite the fact that the dragon boats were purchased under government subsidies. The purpose of subsides has been changed by nature. The ID did not analyse and follow up issues relevant to the rationality about the change of the purpose of subsidies, the supervision measures and so forth. As regards the information submitted by the CMDB, the ID also failed to make a thorough inspection. It was not until the intervention of the CCAC that the ID discovered that half of the involved dragon boats were public assets purchased through public procurement procedures and were not assets freely manipulated and used by the CMDB.

Moreover, during the investigation, the CCAC also found out that the ID intended to open the Nam Van Lake Nautical Centre to the public through the regular training scheme carried out by the CMDB. However, the ID did not thoroughly consider that a series of legal problems would arise from the opening of the facility through the aforementioned scheme of the CMDB, particularly about the attribution of responsibilities if incidents occurred.

Upon the intervention of the CCAC, the ID stated that the CMDB had already suspended the relevant regular training scheme and that the ID would take this opportunity to review the situation of the implementation of the scheme by the CMDB in the past, evaluate the sustainability of the scheme, supervision ways and issues of charging fees and would take reference from the opinions of the CCAC in order to optimise the content of the scheme.

The CCAC has already included the case in the list of “retrospective review” in order to continue to pay attention to the supervision conducted by the ID

regarding any scheme or follow-up actions concerning the use of the Nam Van Lake Nautical Centre by the relevant team and its personnel.

IV. Departments or entities with positive attitudes

In 2024, the CCAC increased exchange opportunities and direct communication with departments and entities, namely with the Cultural Affairs Bureau, the Health Bureau, the Education and Youth Development Bureau, the Legal Affairs Bureau, the Public Administration and Civil Service Bureau, among others, where some complicated legal issues or specific governance measures were discussed and a consensus was reached. This type of useful contacts undoubtedly favoured the CCAC to exert its function as an Ombudsman and facilitated administrative departments or entities to govern according to law in a more precise way.

Departments or entities	Involved issues	Responses to CCAC's opinions	Follow-up actions by the departments
Housing Bureau	Permission given by the management body of a building to the residents to park vehicles in public places of the building which affects fire safety	The department has taken appropriate actions.	The department has already performed its duty to recommend the management body of the building to carry out corrections and transferred the part involving fire safety issues to the competent departments for follow-up actions.

Departments or entities	Involved issues	Responses to CCAC's opinions	Follow-up actions by the departments
Correctional Services Bureau	Work guidelines of the Youth Correctional Institution regarding the delivery of articles from outside to juvenile delinquents	The department has taken appropriate actions.	The department has carried out measures to optimise its relevant guidelines and handling procedures.