

MACAO SPECIAL ADMINISTRATIVE REGION

Law no. 10/2000 of 14th, August, as amended by Law no. 4/2012 of 26th
March

Organic Law of the Commission Against Corruption of the Macao Special Administrative Region

The Legislative Assembly decrees, pursuant to Subparagraph 1) of Article 71 of the Basic Law of the Macao Special Administrative Region, the following with the force of law:

CHAPTER I

Nature, Status, Mission, Scope of Activity and Powers
of the Commission Against Corruption

Article 1

Nature

The Commission Against Corruption (abbreviated designation CCAC) is a public body acting in accordance with the rules under the present law.

Article 2

Status

The Commission Against Corruption functions independently and the Commissioner Against Corruption is accountable to the Chief Executive.

Article 2-A

Mission and Scope of Activity

1. The Commission Against Corruption has the mission to promote actions for the prevention and investigation of crimes of corruption and related fraud crimes within the activities of the public sector and of the private sector, as well as to perform ombudsman actions, to defend and promote the rights, freedoms, safeguards and legitimate interests of individuals, in accordance with its duties.
2. The ombudsman actions are performed, namely, in the context of the activities of public administration, legal persons, companies either public or having a majority of publicly-owned capital, concessionaires of public services or of commercial exploitation of assets belonging to the public domain, and may also focus on relationships between private individuals

involving a special relation of dominance, within the scope of the protection of rights, freedoms and safeguards.

Article 3

Scope of Activity

1. The Commission Against Corruption aims, within its scope of activity, at:
 - 1) Taking actions to prevent and combat crimes of corruption and related fraud crimes within the activities of the public sector and of the private sector;
 - 2) Carrying out acts of investigation and inquiry with regard to crimes of corruption and related fraud crimes committed by public servants, in compliance with the penal legislation and the penal procedure legislation, without prejudice to the powers granted by law to other bodies;
 - 3) Carrying out acts of investigation and inquiry with regard to crimes of corruption and related fraud crimes committed within the private sector, in compliance with the penal legislation and the penal procedure legislation, without prejudice to the powers granted by law to other bodies;
 - 4) Carrying out acts of investigation and inquiry with regard to crimes of corruption and related fraud crimes committed in relation to electoral registration and to the elections of members of the institutions of the Macao Special Administrative Region, in compliance with the penal legislation and the penal procedure legislation, without prejudice to the powers granted by law to other bodies;
 - 5) Performing ombudsman activities by promoting the protection of the rights, freedoms, safeguards and legitimate interests of the individuals, and ensuring the legality in the exercise of public authority, as well as justice and efficiency in the public administration, through the means referred to under the following Article and other informal means.
2. For the purposes of this Article, public servants are those defined under Article 336 of the *Penal Code*.
3. The scope of activity of the Commission Against Corruption in reference to its aims under Subparagraphs 1), 2) and 3) of Paragraph 1 also extends to the activity of credit institutions.

Article 4

Powers

The Commission Against Corruption is entitled to:

- 1) Investigate any evidence or news about facts, which may give rise to justified suspicion regarding the commission of crimes of corruption and related fraud crimes within the activities of the public sector and of the private sector, crimes against public property, abusive exercise of public functions, acts damaging to public interests or any crimes under Subparagraph 4) of Paragraph 1 of the preceding Article;
- 2) Carry out inquiries and investigations deemed necessary to fulfill its aims;
- 3) Visit for the purpose of inspection, with or without prior notice, any unit of public entities; examine documents; hear the concerned public servants and serve requests for such information as it deems fit;
- 4) Conduct or request to conduct inquiries, comprehensive investigations, investigation measures or any other measures aimed at examining the legality of administrative acts and proceedings with regard to relations between public entities and individuals;
- 5) Examine the legality and the administrative correctness of acts which involve property entitlements;
- 6) Upon completion of investigation, report any findings of illegal acts to the authorities with disciplinary powers;
- 7) Follow up, wherever the circumstances so demand, the progress of any criminal or disciplinary proceedings filed with the competent authorities;
- 8) Report the results of its main inquiries to the Chief Executive and inform him of any acts carried out by principal officials and by other officials as referred to under Subparagraph a) of Paragraph 2 of Article 336 of the Penal Code and which may be subsumed in its scope of activity;
- 9) With regard to any shortcomings it finds in any legal provisions, namely those involving rights, freedoms, safeguards or any legitimate interests of the individuals, formulate recommendations or suggestions concerning their interpretation, amendment or repeal, or make suggestions for new legislation. When, however, the matter falls within the powers of the Legislative Assembly, it shall merely inform the Chief Executive in writing of its position;
- 10) Propose to the Chief Executive the enacting of normative acts which may improve the operations of the public institutions and enhance compliance with

legality in the administration, particularly by eliminating factors which may facilitate corruption and illicit or unethical practices;

11) Propose to the Chief Executive the adoption of administrative measures for the purpose of improvement of the services provided by the public administration;

12) Address recommendations directly to the concerned authorities for the purpose of rectifying illegal or unfair administrative acts or procedures, or of performing due acts;

13) Publicize, through the mass media, its opinions pursuant to the aims enshrined in the Subparagraphs of Paragraph 1 of the preceding Article, subject to its duty of secrecy;

14) Seek, in cooperation with the concerned bodies and departments, the most adequate solutions to protect the legitimate interests of the individuals and to improve administrative activity;

15) Carry out public awareness activities to prevent the practice of crimes of corruption and related fraud crimes within the activities of the public sector and of the private sector, as well as of illegal administrative acts, motivate the residents to take precautions against and avoid acts and situations that may facilitate the occurrence of criminal conduct;

16) Exercise all other powers as defined by law.

Article 5

General Duty of Cooperation

All natural and legal persons, whether public or private, are under the duty to cooperate with the Commission Against Corruption, subject to the safeguards of their rights and legitimate interests.

Article 6

Special Duties of Cooperation

1. The Commission Against Corruption, within its scope of activity as mentioned under Subparagraph 5) of Paragraph 1 of Article 3, is entitled to the cooperation of public entities and it may demand, with regard to the powers of the concerned entities, that they carry out investigations, inquiries, comprehensive investigations, expert inspections, analyses, examinations or any other necessary measures.
2. The entities above are under the duty to provide the Commission Against Corruption with information, documents or any other materials they possess,

and to meet any demands put forward by the Commission, within the time frame which may be defined by the Commission.

3. The Commission Against Corruption and the criminal police bodies shall cooperate within their own scopes of activity.
4. The Commission Against Corruption is entitled to access by any means, including the use of information technology, to the information kept in the files of the Administration and of public and autonomous entities, where that is necessary to carry out its activity. For the purpose of criminal inquiry, it may also gain access to information about the identity of the holders of the means of telecommunication kept in the files of those entities which provide telecommunication services.
5. The rules on justice secrecy under the *Penal Code* and the *Penal Procedure Code* shall apply to investigations and inquiries carried out by the Commission Against Corruption.

Article 7

Non Punishment

1. With regard to crimes of corruption, punishment or accusation may be waived where the offender helps effectively in the search for evidence which may be decisive in establishing the elements of the crime, namely the identification of other offenders.
2. It is not punishable the conduct of he who, having been prior and duly authorized by a reasoned decision of the Commissioner Against Corruption, for the purposes specified in Subparagraphs 2) to 4) of Paragraph 1 of Article 3, instrumentally agrees, directly or indirectly, to an unlawful request made by a public official or by another person, if this proves adequate to collect evidence of the commission of any of the crimes under the scope of the current law.
3. Instrumental acceptance of bribes may also be authorized where this appears to be adequate to the collection of evidence of the commission of any of the crimes under Subparagraphs 2) to 4) of Paragraph 1 of Article 3 of this Law.

Article 8

Waiver of Duty of Confidentiality

1. The duty of cooperation with the Commission Against Corruption prevails over the duty of confidentiality of any natural or legal persons, whether public or private, where this duty is not expressly protected by law.

2. The duty of confidentiality imposed on credit institutions to protect facts or information pertaining to the relations with their customers, may be waived by means of an authorization by the particular customer himself, entered into proceedings at the Commission Against Corruption, pursuant to applicable rules of the *Penal Code* or the *Penal Procedure Code*.

Article 9

Initiative

The Commission Against Corruption acts on its own initiative with regard to facts that come to its knowledge by any means.

Article 10

Procedural Autonomy

The activity of the Commission Against Corruption is independent from the administrative or judicial remedies established by law and does neither suspend nor interrupt the continuity of any time limits of any nature.

Article 11

Proceedings

1. The acts carried out and the measures undertaken by the Commission Against Corruption, within its scope of activity as referred to in Subparagraphs 2) to 4) of Paragraph 1 of Article 3, shall be governed, with the necessary adaptations, by the rules of the penal legislation and the penal procedure legislation, without prejudice to the provisions of this law.
2. The Commissioner Against Corruption is empowered to carry out the acts and undertake the measures mentioned in the preceding Paragraph, the provisions of Subparagraph b) of Paragraph 2 of Article 42 and of Article 246 of the *Penal Procedure Code* being not applicable thereto.
3. The Commissioner Against Corruption and his deputy commissioners enjoy the status of criminal police authority, with regard to penal procedure acts within their powers.
4. The inquiry run by the Commissioner Against Corruption includes all procedural acts and measures within the powers of criminal police authorities and bodies pursuant to the penal procedure legislation, as well as searches and seizures to which the Procuratorate is empowered under penal procedure legislation.

5. The provision of Article 228 of the *Penal Procedure Code* is not applicable to the inquiries opened by the Commission Against Corruption.
6. The provisions of Article 258 of the *Penal Procedure Code* shall apply, with the necessary adaptations, to cases opened by the Commission Against Corruption, regarding crimes that fall within its scope of activity.
7. A copy of the accusation, of the indictment and of the court final decision shall be sent to the Commission Against Corruption, for those crimes that fall within its scope of activity.

Article 12

Other Acts and Measures

1. The acts carried out and the measures undertaken by the Commission Against Corruption, within its scope of activity as referred to in Subparagraphs 1) and 5) of Paragraph 1 of Article 3, shall not be subject to any special formalities, but notwithstanding, no such procedure as that might violate the rights, freedoms, safeguards and legitimate interests of individuals, shall be adopted when collecting evidence.
2. The Commission may require the testimony of any person where this is deemed necessary for fact-finding purposes.
3. The Commission may, at any moment and by means of a reasoned decision, determine that a proceeding be closed and refrain from taking any action in relation to it, namely where the facts lie outside its scope of activity or where there is insufficient evidence.
4. The entities requiring the intervention of the Commission shall be informed always of the final decision in each proceeding.
5. In case of non-acceptance or partial acceptance of any recommendations under Subparagraph 12) of Article 4, the concerned entity shall give its reasoned reply within a period of 15 working days, with the possibility of an extension for equal period when it justifiably invokes the complexity of the matter under review.
6. Wherever a recommendation of the Commission Against Corruption is not accepted without a reasoned motive, the Commission may present the case to the hierarchical superior or to the supervisory entity of the concerned body and, once exhausted the hierarchical chain, it shall inform as soon as possible the Chief Executive of the situation.
7. The acts and measures referred to under this Article are exempt from judicial costs, from stamp duty and from any other charges.

Article 13

Redirecting to Other Bodies

1. Wherever the Commission Against Corruption finds that matters presented or submitted to it should be subject to administrative or judicial remedies as specifically provided by law, it may merely refer the parties concerned to the concerned authorities.
2. Irrespective of the provision of the preceding Paragraph, and wherever applicable, the Commission Against Corruption shall inform the concerned parties of the available administrative or judicial remedies or any other available remedies.

Article 14

Disobedience

1. Whoever, after being served, either in person or by any other adequate means, with a request to testify, following a prior rejection of a request under Paragraph 2 of Article 12, fails to justify his absence or refusal to testify shall be subject to the penalty for the crime of disobedience.
2. The penalty for the crime of aggravated disobedience is applicable to:
 - 1) Whoever, other than the individuals at whom the activity of the Commission Against Corruption is aimed at, by any means, with intent and unjustifiably, obstructs the performance of duties of the Commission Against Corruption;
 - 2) Whoever, under a provision of law, has the duty to fulfill obligations referred to by Paragraph 2 of Article 6 but fails to comply within the assigned time frame;
 - 3) Public servants in the meaning of Paragraph 2 of Article 3, persons accountable for or workers of the entities referred to by Paragraph 3 of Article 3, who commit the offence of Paragraph 1 of this Article.
3. Where Subparagraphs 1) and 2) of the preceding Paragraph apply, criminal proceedings do not preclude civil or disciplinary liability.

Article 15

Annual Report

1. The Commission Against Corruption shall submit to the Chief Executive, no later than 31st March of every calendar year, a report of its activities in relation to the previous year, which shall be published in the *Official Gazette of the Macao Special Administrative Region*.
2. When technical requirements are met, and with authorization of the Chief Executive, the publication of the annual report can also be made by means of information technology, in which case, a notice concerning the access to the report shall be published in the *Official Gazette of the Macao Special Administrative Region*.
3. The provision of Paragraph 7 of Article 12 shall apply, with the necessary adaptations, for the purpose of the publication referred to in the preceding Paragraphs.

CHAPTER II

Commissioner Against Corruption, Deputy Commissioners and Staff

SECTION I

Commissioner Against Corruption

Article 16

Commissioner

The Commissioner holds all powers of the Commission Against Corruption, which he may delegate onto his deputy commissioners and, in accordance with the regulation complementary to this Law, onto his assisting staff, without prejudice to his authority to call onto himself the exercise of any delegated power at any time.

Article 17

Appointment

The Commissioner Against Corruption is nominated by the Chief Executive and appointed by the Central People's Government.

Article 18

Incompatibilities

The Commissioner Against Corruption may neither exercise any other public or private activity, whether remunerated or not, nor hold any position in any trade union or political organization, except where authorized by the Chief Executive to exercise a public function that contributes to the pursuit of the public interest.

Article 19

Public Authority

The Commissioner Against Corruption enjoys the status of public authority, without prejudice to the provisions of Paragraph 3 of Article 11.

Article 20

Duty of Confidentiality

The Commissioner Against Corruption shall keep the secrecy in respect of all facts that come to his knowledge in the course of performing his functions or as a consequence of such performance, except where such duty of confidentiality is deemed not necessary by reason of the nature of the facts themselves.

Article 21

Rights and Benefits

1. The salary of the Commissioner Against Corruption as well as the allowance for representation expenses, are defined in specific legislation, without prejudice to the following provision.
2. The Commissioner Against Corruption is entitled to all other rights and benefits as the Secretaries.
3. The Commissioner Against Corruption shall not be disadvantaged in regard to his career stability, social security regime and other benefits, and in particular his seniority of service shall be deemed, for all legal purposes, as if it were rendered on his original position.

Article 22

Immunities

The Commissioner Against Corruption is neither civilly nor criminally liable for the preparatory acts towards issuing a recommendation or for the recommendation itself, he shall not be arrested or kept in pre-trial detention before he is served with a decision of indictment or before a date is designated for the trial hearing, except if found in the act of committing a crime punishable with a maximum prison sentence of more than three years.

Article 23

Suspension, Dismissal and Renunciation

1. The Commissioner Against Corruption shall be suspended of his functions on the day he is served with a decision of indictment or with a decision designating a date for a trial hearing, for the commitment of any intentional crime.
2. Dismissal of the Commissioner Against Corruption follows proposal of the Chief Executive to the Central People's Government.
3. The Commissioner Against Corruption may renounce his post in a written request submitted to the Chief Executive.

SECTION II

Deputy Commissioners

Article 24

Deputy Commissioners

1. The Commissioner Against Corruption may nominate two deputy commissioners from amongst recognized competent individuals with well-recognized merit, probity and independence as his assistants, to be appointed and dismissed by the Chief Executive.
2. The appointment decision must be published in the *Official Gazette of the Macao Special Administrative Region*.
3. The deputy commissioners are entitled to a salary equivalent to 70% of that of the Commissioner Against Corruption as well as all other rights and benefits enjoyed by Directors of Bureau (column 2).

Article 25

Substitution

1. In case of absence or impediment, the Commissioner Against Corruption shall appoint the deputy commissioner who shall take over his responsibilities.
2. Where the position of Commissioner falls vacant, its functions shall be carried out by the most senior deputy commissioner in his term of appointment until a new Commissioner is appointed.

Article 26

Duty of Confidentiality

The deputy commissioners must abide by the duty of absolute secrecy in respect of all facts that come to their knowledge in the course of performing their functions or as a consequence of such performance, unless such duty is waived by means of an authorization of the Commissioner Against Corruption.

Article 27

Renunciation

The deputy commissioners may renounce their posts in a written statement submitted to the Commissioner Against Corruption.

Article 28

Reference

The provisions of Article 18, Article 19, Paragraph 3 of Article 21, Article 22 and Paragraph 1 of Article 23 above shall apply to the deputy commissioners.

SECTION III

Assisting Staff

Article 29

Advisers, Investigators and Other Staff

1. The Commissioner Against Corruption shall be assisted by advisers, investigators and other necessary staff, for the purpose of carrying out his functions to the fullest.
2. The career of the criminal investigation personnel under Decree-Law no. 26/99/M, of 28th June, amended by Laws no. 4/2006 and no. 2/2008, shall apply to the investigation personnel, except in regard to training courses, apprenticeships and maximum age limits for entry into such career.
3. Investigators are to be recruited from amongst individuals with 11 year schooling who have successfully concluded training organized by the Commission Against Corruption for such purpose, even without qualification of driving motor-run vehicles. Investigation Officers and other staff with an even higher category are to be recruited from amongst individuals with a degree or investigators recognized as highly competent.
4. For the purposes of Paragraph 2, principal investigation officer, senior investigation officer, investigation officer, principal investigator, senior investigator and investigator relate to the categories of 1st class inspector, 2nd class inspector, sub-inspector, principal investigator, 1st class investigator and 2nd class investigator, in their respective order.

Article 30

Appointment and Dismissal

Personnel referred to in the preceding Article is freely appointed and dismissed by the Commissioner Against Corruption and may be requisitioned, detached or contracted, being deemed to be in the effective exercise of his functions from the date as stipulated in the appointment decision or the related contract, regardless of any other formality except for the related publication in the Official Gazette of the Macau Special Administrative Region, where this publication is not waived by the Chief Executive.

Article 31

Authority Safeguards

1. In carrying out their functions, the directors and chiefs and the advisers of the Service of the Commission Against Corruption, enjoy the status of authority agents, and are considered to be criminal police authorities where, in accordance with complementary regulation to this Law, powers were delegated onto them for directing a criminal inquiry.
2. When assigned to a criminal inquiry, investigation personnel enjoy, in carrying out their functions, the status of criminal police body and other assisting staff may enjoy the status of authority agent.

Article 31-A

Special Duties

The assisting staff of the Commissioner Against Corruption have the following special duties:

- 1) To protect the life and the physical integrity of detained persons, or persons held in custody or under protection, in the strict respect for the human honour and dignity;
- 2) To act without any discrimination on nationality, ascendancy, race, place of origin, age, gender, marital status, sexual orientation, language, religion, political or ideological beliefs, educational level, economic status or social conditions;
- 3) To identify themselves as staff of the Commission Against Corruption when carrying out identity checks or taking someone into custody.

Article 32

Personnel under Temporary Arrangement

To carry out measures and acts that are within the scope of powers of the Commission, or acts that are required in order to comply with the duty of cooperation, the Commissioner Against Corruption may require the concerned public services to assign public servants or agents to work in the Service of the Commission as it deems useful or suitable.

Article 33

Rendering of Services and Confidential Expenses

1. The Commissioner Against Corruption may, in exceptional cases, enter into contracts with public or private entities for training activities, studies and works of a technical nature, occurring occasionally.
2. Where special needs of prevention and investigation so demand, the Commissioner Against Corruption may authorize expenses regardless of any formalities.
3. Expenses under the preceding provision shall be entered unto a secret registry under the responsibility of the Commissioner Against Corruption and submitted to the review of the Chief Executive.

Article 34

Reference

1. The provisions of Article 26 shall apply to advisers, investigators, assisting staff, as well as all those who cooperate with the Commission Against Corruption.
2. Advisers and other assisting staff benefit from the provisions of Paragraph 3 of Article 21.

SECTION IV

Identity Card and Use of Weapons

Article 35

Identity Card

1. The Chief Executive issues a “special identity card” for the Commissioner Against Corruption.
2. The Commissioner Against Corruption issues a “special identity card” for his deputy commissioners and a “special identity card” or an “ordinary identity card” for the assisting staff.

3. The bearers of “special identity card” are entitled, when carrying out their functions, to circulate freely and to have free access to all places of work of the Administration of the Macao Special Administrative Region, including internal security entities and services and legal persons under public law.

Article 36

Use of Weapons

1. Deputy commissioners, directors and chiefs, advisers, investigators and assisting staff of the Commission Against Corruption who carry out criminal inquiries may be granted, in specific cases and following a decision of the Commissioner Against Corruption, the right to hold, use and carry a weapon, of a caliber and type approved by a decision of the Chief Executive.
2. The special duties of the personnel mentioned in the above provision, emerging from holding, using and carrying a weapon are defined in a separate regulation, to be published in the *Official Gazette of the Macao Special Administrative Region*.

CHAPTER III

Services of the Commission Against Corruption

Article 37

Aims, Autonomy and Premises

1. The Service of the Commission Against Corruption shall provide the necessary technical and administrative support for the discharge of the duties established in this Law.
2. The Service of the Commission Against Corruption is autonomous in matters of administration, finance and property.
3. The Service of the Commission Against Corruption shall operate in its own premises.

Article 38

Administrative and Disciplinary Power

1. The Commissioner Against Corruption has the power to carry out all acts relating to the appointment and to the functional status of the personnel of the Commission Against Corruption, as well as exercising the disciplinary power over them.

2. Whenever the Commissioner Against Corruption orders internal investigations to be carried out, a specific subunit of the Service of the Commission Against Corruption shall provide all necessary support.
3. A specialized committee, established by decision of the Chief Executive shall supervise problems related to non-criminal nature complaints against personnel of the Commission Against Corruption.

Article 39

Status of Personnel

The common status of the public service shall apply subsidiarily to the personnel of the Service of the Commission Against Corruption.

Article 40

Budget

1. The Commission Against Corruption submits its budget to the Chief Executive to the effect of a global item being allocated to the Commission Against Corruption, included in the expenditure of the Budget of the Macao Special Administrative Region.
2. Transfer of funds between allocations to the Service of the Commission Against Corruption shall be approved by the Commissioner Against Corruption.

Article 41

Supervision and Examination

No later than 31st March of every calendar year, the Commission Against Corruption submits the accounts for the previous economic year to the Chief Executive for supervision and examination.

CHAPTER IV

Final and Temporary Provisions

Article 42

Complementary Legislation

1. The Chief Executive shall implement this Law, by means of an administrative regulation establishing the personnel framework and its functions, the organization and form of activity of the Service of the Commission Against Corruption.

2. Until entry into force of the regulation mentioned in the preceding Paragraph, the current personnel framework shall be maintained.

Article 43

Budget Costs

Budget costs for the implementation of this Law shall be paid, during the current economic year, within the available resources in the Budget of the Macao Special Administrative Region for the current year or, where necessary, by opening a credit line to be offset with budget balance carried from previous years.

Article 44

Repealing Provision

1. Law no. 11/90/M, of 10th September, in its part adopted as law of the Macao Special Administrative Region under Paragraph 4 of Annexure III of *Reunification Law*, approved by Law no. 1/1999, Law no. 2/97/M, of 31st March, Decree-Law no. 7/92/M, of 29th January, and Edict no. 8/93/M, of 18th January are hereby repealed.
2. Decree-Law no. 53/93/M, of 27th September, shall apply subsidiarily to the Service of the Commission Against Corruption, save for the prevailing provisions of this Law ruling otherwise.

Article 45

Entry into Force

This Law enters into force the day after its publication.

Enacted on 7th August 2000.

The President of the Legislative Assembly, *Susana Chou*.

Signed on 10th August 2000.

To be published.

The Chief Executive, *Ho Hau Wah*.

(The English version of this law is provided for reference only. Only the Chinese and Portuguese versions published in the Official Gazette of the Macao SAR are official.)