

Chapter 10

The Political Structure in the Macao SAR

- The Chief Executive and its dual status
- The key personnel of the Macao SAR
- The executive authorities, the legislature and the judiciary of the Macao SAR

The Structure of the *Macao Basic Law*

Preamble

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Chapter II Relationship between the Central Authorities and the Macao Special Administrative Region

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Annex I Method for the Selection of the Chief Executive of the Macao Special Administrative Region

Annex II Method for the Formation of the Legislative Council of the Macao Special Administrative Region

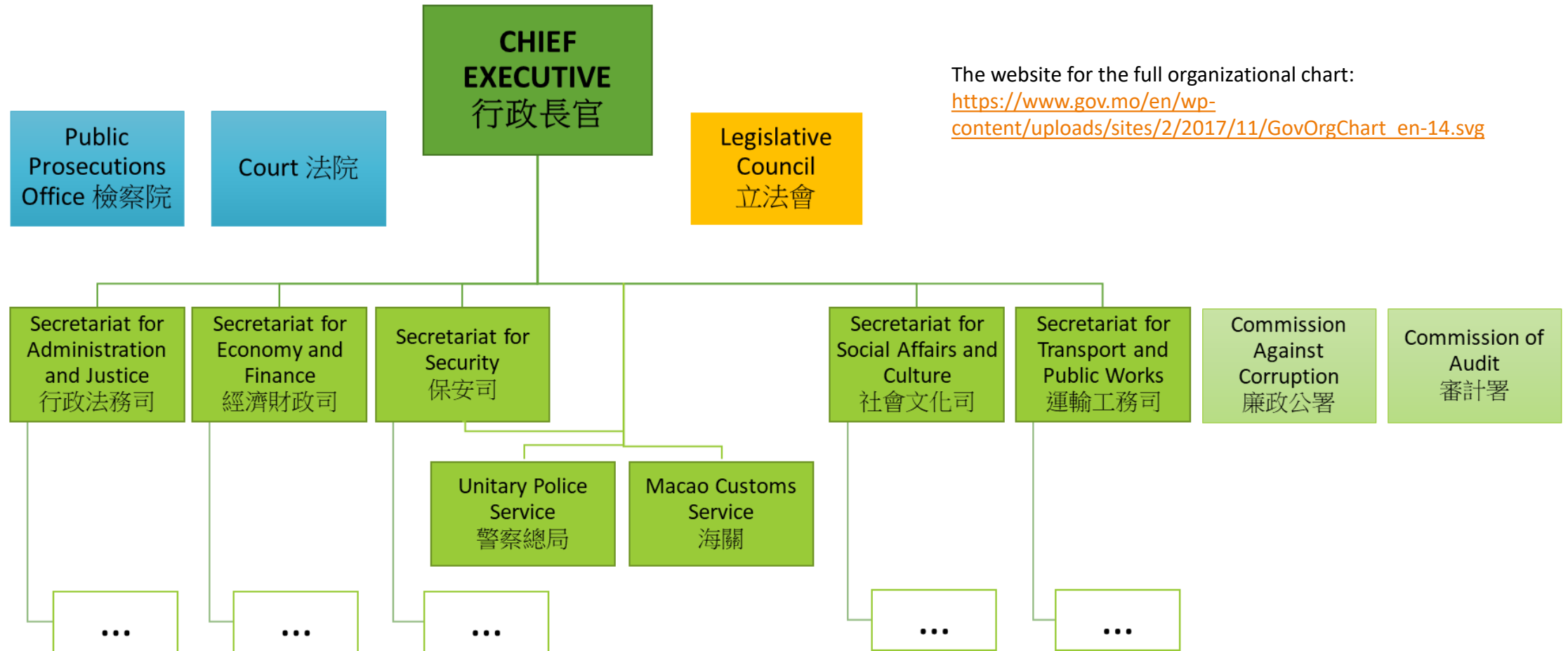
Annex III National Laws to Be Applied in the Macao Special Administrative Region

Article 45 to 102

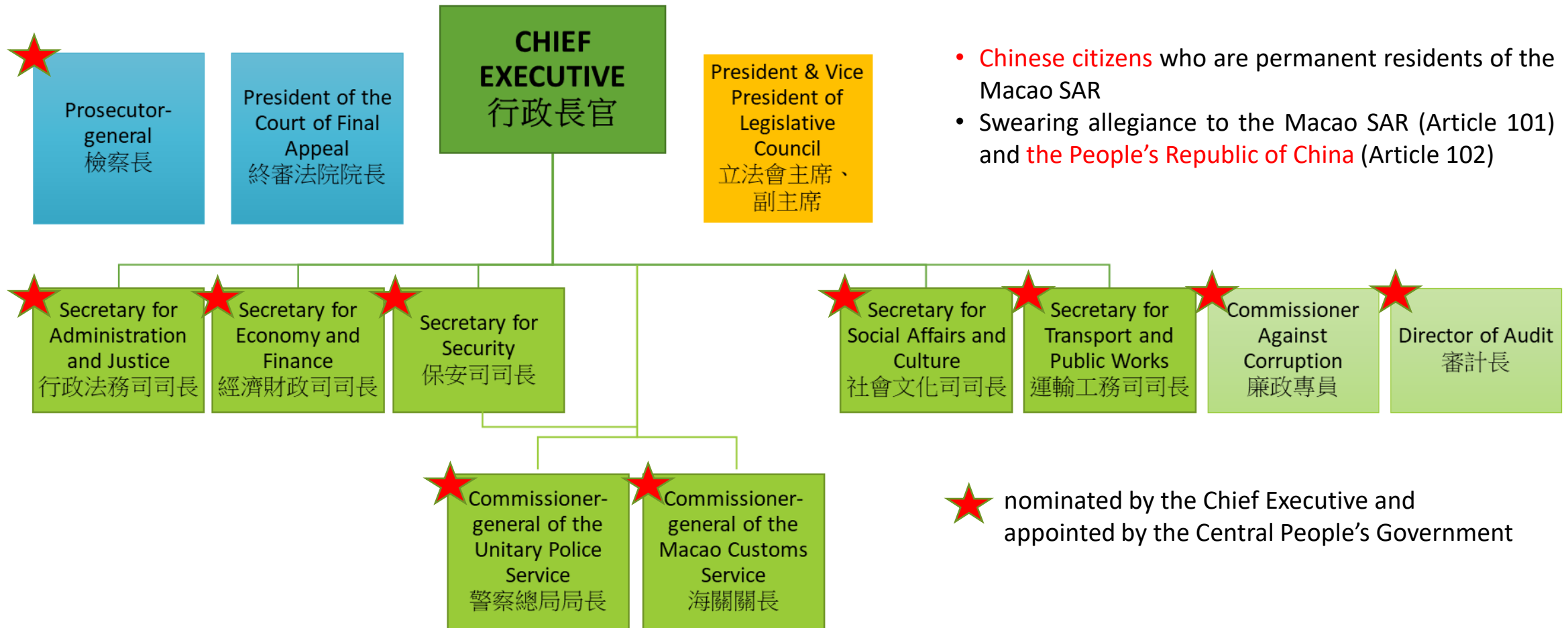
Chapter IV Political Structure 政治體制

- Section 1 The Chief Executive 行政長官
- Section 2 The Executive Authorities 行政機關
- Section 3 The Legislature 立法機關
- Section 4 The Judiciary 司法機關
- Section 5 Municipal Organs 市政機構
- Section 6 Public Servants 公務人員
- Section 7 Swearing Allegiance 宣誓就職

The Political Structure of the Macao SAR (in brief)



Important Personnel in the Macao SAR



Personnel appointed by Central People's Government



Source of picture: <https://www.ipim.gov.mo/wp-content/uploads/2020/02/M175-p14-1024x465.jpg>

The Chief Executive

The dual-status of the Chief Executive

Article 45, the *Macao Basic Law*

The Chief Executive of the Macao Special Administrative Region shall be **the head of the Macao Special Administrative Region** and shall represent the Region.

The Chief Executive of the Macao Special Administrative Region shall be accountable to the Central People's Government and the Macao Special Administrative Region in accordance with the provisions of this Law.

《澳門基本法》第45條

澳門特別行政區行政長官是**澳門特別行政區的首長**，代表澳門特別行政區。

澳門特別行政區行政長官依照本法規定對中央人民政府和澳門特別行政區負責。

Article 62, the *Macao Basic Law*

The head of the Government of the Macao Special Administrative Region shall be the Chief Executive of the Region. General secretariats, directorates of services, departments and divisions shall be established in the Government of the Macao Special Administrative Region.

《澳門基本法》第62條

澳門特別行政區政府的首長是澳門特別行政區行政長官。澳門特別行政區政府設司、局、廳、處。

The dual-status of the Chief Executive

The dual-status of the CE means the CE is both the head of the SAR and head of the SAR Government.

- The CE is the head of the SAR, the only person who can represent the SAR, internally and externally.
- The CE is the head of the SAR Government. He/She leads the executive authorities of the SAR.
- As the head of the SAR, he/she is accountable to the Central People's Government of the PRC, and at the same time, is also accountable to the SAR.
- As the head of the SAR Government, he/she is responsible for the performance of executive authorities, and is responsible to the people in the SAR.

The dual-status of the Chief Executive

The implications of the dual-status of the CE:

- The CE has **real powers**, otherwise he/she cannot fulfil the great responsibility granted to this position. (權責合一，行政長官非虛位)
- The CE is the representative of the Central Authorities of the PRC to govern the SAR under the “One Country, Two Systems” policy. Therefore, the CE has to be someone who is trusted by the Central Authorities. **Patriotism** is a fundamental requirement of the CE. (“一國兩制” ， “愛國者治澳” 原則)
- The CE is the core of the political structure of the SAR. Therefore, the political structure of the SAR is an **executive-led** model of separation of powers. (行政主導原則)

Executive-led model of separation of powers 行政主導

1. The CE and the Executive Authorities of the SAR

- The CE is the head of the executive authorities. (Article 62)
- The CE nominates principal officials to the Central People's Government for appointments or makes recommendation for their removals. (Article 50)
- The CE appoints or removes holders of public office in accordance with legal procedures. (Article 50).

2. The CE and the Judiciary of the SAR

- The CE appoints or removes presidents and judges of the courts at all levels. (Article 50)
- The CE nominates Procurator-General to the Central People's Government for appointments or makes recommendation for their removals. (Article 50)
- The CE appoints or removes procurators. (Article 50)

Executive-led model of separation of powers 行政主導

3. The CE and the Legislature of the SAR

- The CE appoints part of the members of the Legislative Council. (Article 50)
- The written consent of the CE shall be required before bills relating to government policies are introduced. (Article 75)
- A bill passed by the Legislative Council may take effect only after it is signed and promulgated by the CE. (Article 78)
- Under circumstance strictly prescribed by the *Macao Basic Law*, the CE may dissolve the Legislative Council once in each term of his/her office. (Article 52)

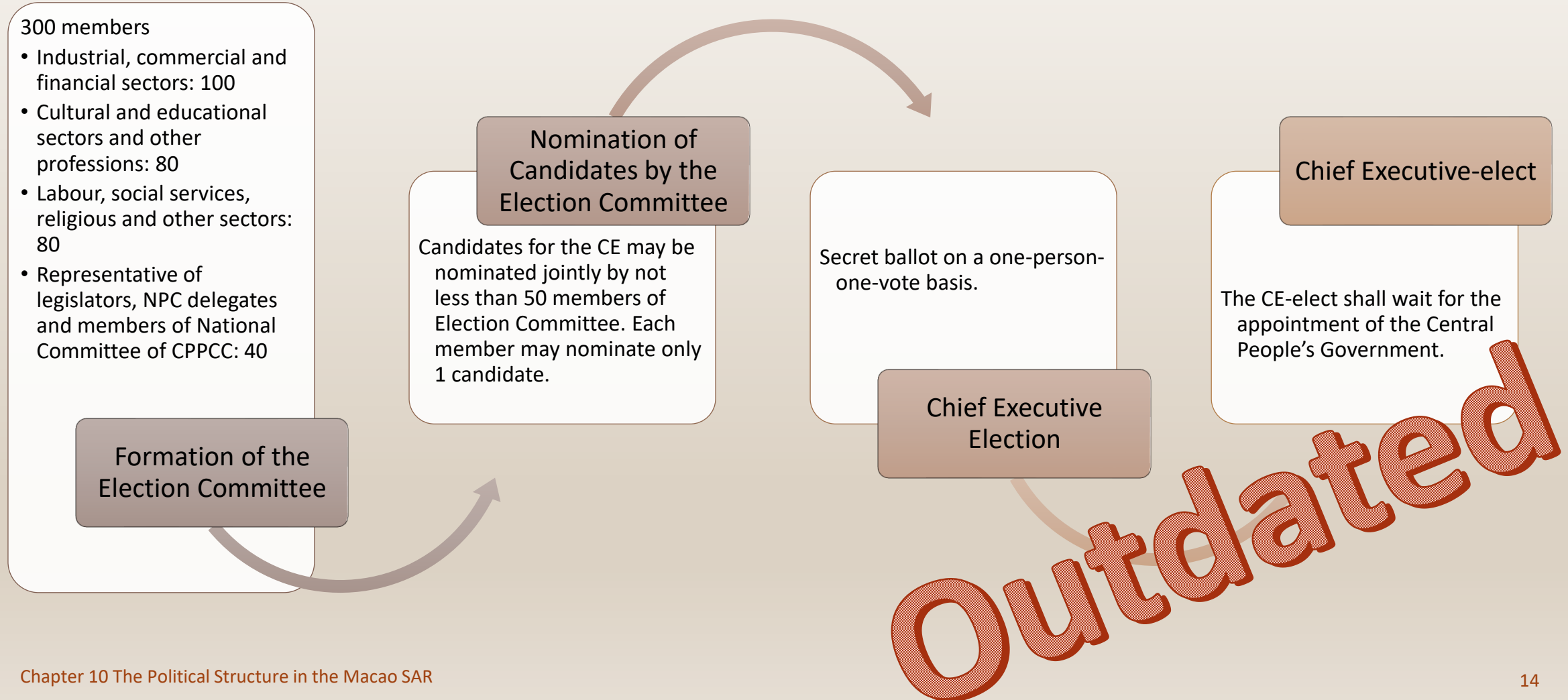
Qualifications of the Chief Executive

- Chinese citizen (Article 46)
- Permanent resident of the Macao SAR (Article 46)
- Not less than 40 years old (Article 46)
- Having resided in Macao for a continuous period of not less than 20 years (Article 46)
- No right of abode in any foreign country and no engagement in any activities for personal gains during the term of office (Article 49)

The term of office of the CE is 5 years.

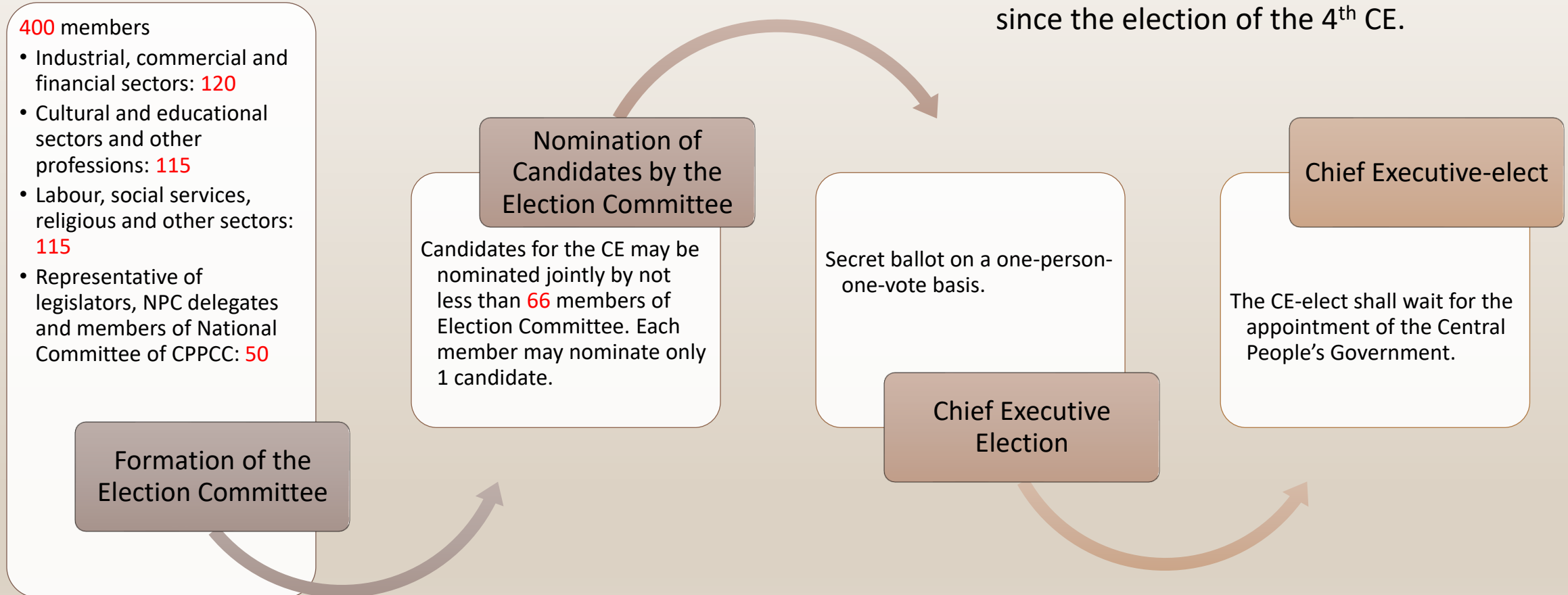
The CE may serve for not more than 2 consecutive terms. (Article 48)

Annex I Method for the Selection of the CE of the MSAR



Amendment of Annex I in 2012

The amended method came into effect since the election of the 4th CE.



Powers and functions of the Chief Executive (Article 50)

Article 50 of the *Macao Basic Law* lists out the powers and functions exercised by the Chief Executive of the Macao SAR. There are altogether 18 items listed and can be roughly divided into two main categories.

As the head of the Macao SAR, the CE exercises the powers and functions listed in

- item 1, 2, 3, 6, 7, 8, 9, 10, 12, 16, 17 & 18

As the head of the Macao SAR Government, the CE exercises the powers and functions listed in

- item 4, 5, 11, 13, 14 & 15

The organs assisting the CE or accountable to the CE

The **Executive Council** (行政會) is an organ assisting the CE in policy making. The organization of the Executive Council is stated in Article 56 to 58 of the *Macao Basic Law*.

Two independent organs accountable directly to the CE:

1. **Commission against Corruption** 廉政公署 (Article 59)
2. **Commission of Audit** 審計署 (Article 60)

The heads of these two organs are principal officials. They shall be Chinese citizens who are permanent residents of the Macao SAR. They shall be nominated by the CE for the appointment by the Central People's Government.



Source of picture: <https://www.gov.mo/en/about-government/chief-executive-principal-officials-legislature-and-judiciary/>

The Executive Authorities and the Public Servants

The Executive Authorities

Article 61, the *Macao Basic Law*

The Government of the Macao Special Administrative Region shall be the executive authorities of the Region.

《澳門基本法》第61條

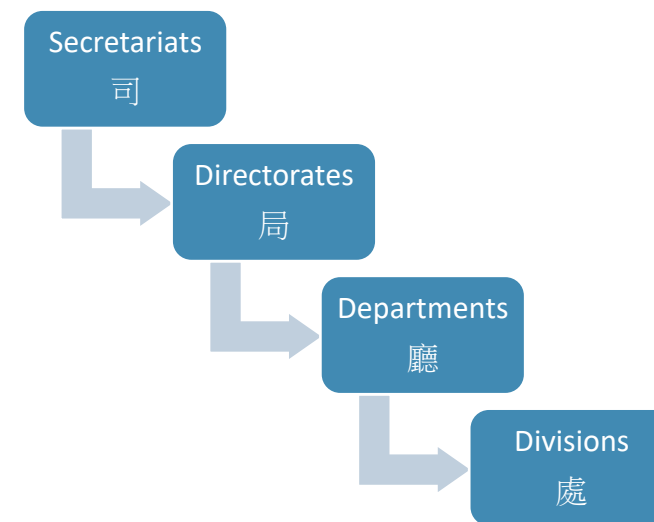
澳門特別行政區政府是澳門特別行政區的行政機關。

Article 62, the *Macao Basic Law*

The head of the Government of the Macao Special Administrative Region shall be the Chief Executive of the Region. General secretariats, directorates of services, departments and divisions shall be established in the Government of the Macao Special Administrative Region.

《澳門基本法》第62條

澳門特別行政區政府的首長是澳門特別行政區行政長官。
澳門特別行政區政府設司、局、廳、處。



Five Secretaries of the MSAR Government



Cheong Weng Chon
Secretary for Administration
and Justice



Lei Wai Nong
Secretary for Economy and
Finance



Wong Sio Chak
Secretary for Security



Ao Ieong U
Secretary for Social Affairs
and Culture



Raimundo Arrais do Rosário
Secretary for Transport and
Public Works

Source of picture: <https://www.gov.mo/en/about-government/chief-executive-principal-officials-legislature-and-judiciary/>

Para. 1, Article 63, the *Macao Basic Law*

The principal officials of the Macao Special Administrative Region shall be **Chinese citizens** who are **permanent residents** of the Region and have ordinarily **resided in Macao for a continuous period of not less than 15 years**.

《澳門基本法》第63條第1款

澳門特別行政區政府的主要官員由**在澳門通常居住連續滿十五年的澳門特別行政區永久性居民中的中國公民**擔任。

Powers and Functions of the MSAR Government

- To formulate and implement policies;
- To conduct administrative affairs;
- To conduct external affairs as authorized by the Central People's Government under this Law;
- To draw up and introduce budgets and final accounts;
- To introduce bills and motions and to draft administrative regulations; and
- To designate officials to sit in on the meetings of the Legislative Council to hear opinions or speak on behalf of the government.

(Article 64, the *Macao Basic Law*)

The Public Servants

According to Article 97 to 100 of the *Macao Basic Law*,

- The public servants shall be **permanent residents of the Macao SAR**.
Exceptions: technical personnel, junior public servants
- Portuguese and foreign nationals may be employed as adviser or fill professional and technical posts.

The Legislature

The Legislature of the Macao SAR

Article 67, the *Macao Basic Law*

The **Legislative Council** of the Macao Special Administrative Region shall be the legislature of the Region.

《澳門基本法》第67條

澳門特別行政區**立法會**是澳門特別行政區的立法機關。

The Legislative Council is the only organ in the MSAR that can exercise the legislative power.



Source of picture: <https://www.al.gov.mo/>

Formation of the Legislative Council in this history

Article 68, the *Macao Basic Law*

The Legislative Council of the Macao Special Administrative Region shall be composed of **permanent residents** of the Region.

The majority of its members shall be elected.

The method for forming the Legislative Council is prescribed in **Annex II: Method for the Formation of the Legislative Council of the Macao Special Administrative Region**.

Members of the Legislative Council, upon assuming office, shall declare their financial situation in accordance with legal procedures.

《澳門基本法》第68條

澳門特別行政區立法會議員由澳門特別行政區**永久性居民**擔任。

立法會多數議員由選舉產生。

立法會的產生辦法由**附件二《澳門特別行政區立法會的產生辦法》**規定。

立法會議員就任時應依法申報經濟狀況。

The term of office of the Legislative Council is 4 years. (Article 69)

Annex II of the Macao Basic Law

The original Annex II of the Macao Basic Law states the method of the formation of the 1st, 2nd, 3rd and subsequent terms of the Legislative Council of the Macao SAR.

The amendment of Annex II in 2012 made a change to the method of the formation of the Legislative Council of the Macao SAR.

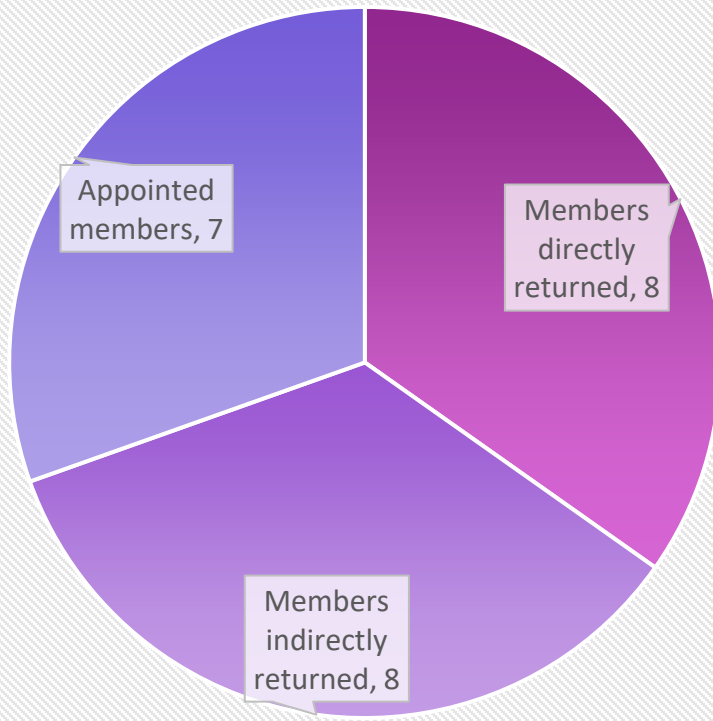
The Legislative Council of the Macao SAR shall be composed of:

- Members directly returned 直接選舉的議員
- Members indirectly returned 間接選舉的議員
- Appointed members 委任的議員

Formation of the Legislative Council in different terms

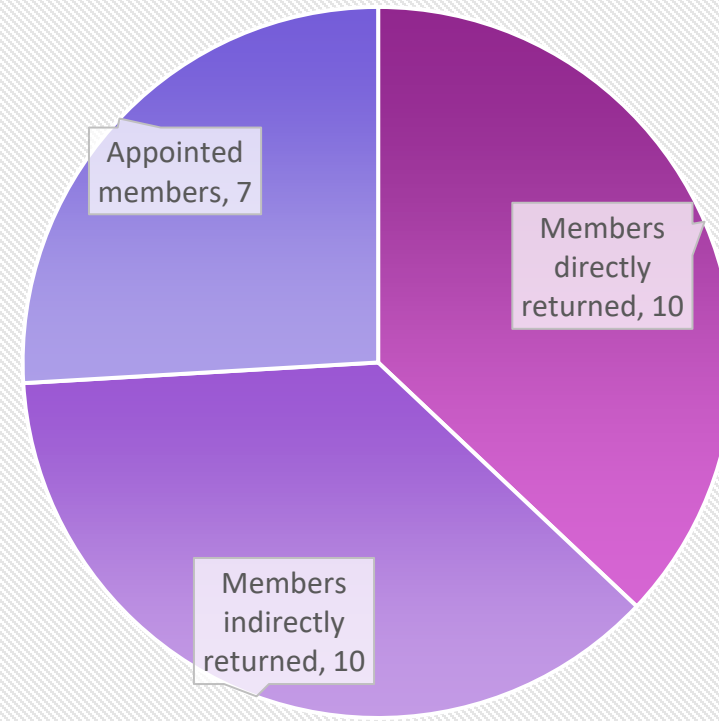
1st Term (1996-2001) – total 23 members

* Formed before 1999, and remained in office after.



2nd Term – total 27 members

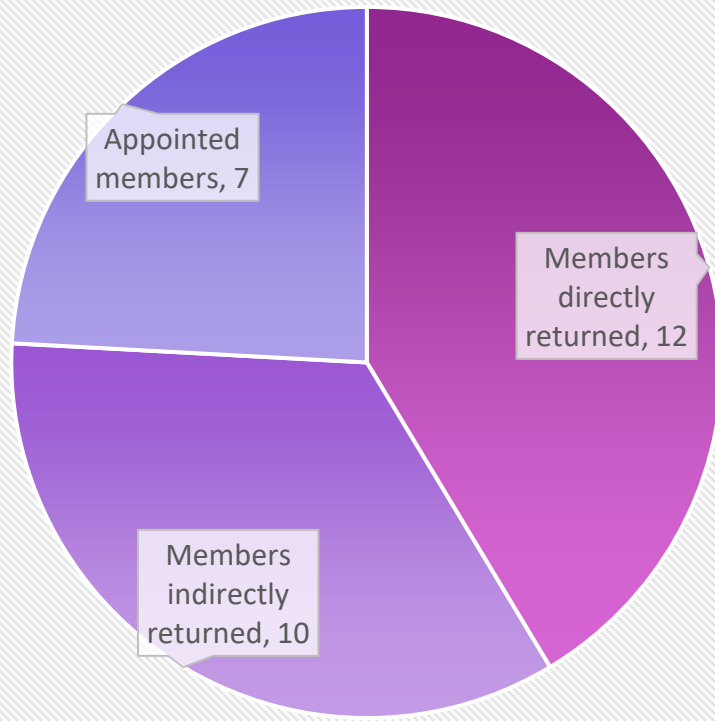
* According to the original Annex II



Formation of the Legislative Council in different terms

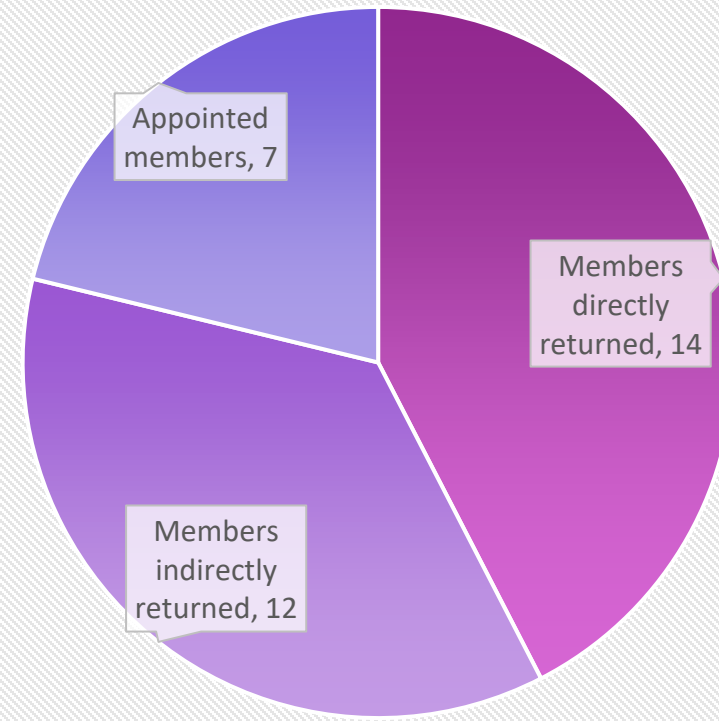
3rd and 4th Term – total 29 members

* According to the original Annex II



5th and subsequent terms – total 33 members

* According to the Amendment of Annex II in 2012



President and Vice President of the Legislative Council

Article 72, the Macao Basic Law

The Legislative Council of the Macao Special Administrative Region shall have a President and a Vice President who shall be **elected by and from among the members of the Legislative Council**.

The President and Vice President of the Legislative Council shall be **Chinese citizens** who are **permanent residents** of the Region and **have ordinarily resided in Macao for a continuous period of not less than 15 years**.

《澳門基本法》第72條

澳門特別行政區立法會設主席、副主席各一人。主席、副主席由**立法會議員互選產生**。

澳門特別行政區立法會主席、副主席由**在澳門通常居住連續滿十五年的澳門特別行政區永久性居民中的中國公民**擔任。



Kou Hoi In

President of the Legislative
Assembly

Source of picture:
<https://www.gov.mo/en/about-government/chief-executive-principal-officials-legislature-and-judiciary/>

Attention: Only the President and the Vice President of the Legislative Council have to be Chinese citizens who are permanent residents of the MSAR, other members can be permanent residents but not Chinese citizens.

The MSAR Government and the Legislative Council

- Proposing govt budget and final accounts to the LC
- Introducing govt reports to the LC
- Introducing bills and motions for enactment by the LC

- Sitting in the LC meetings to answer questions
- The CE giving written consent for bills and motions by the LC
- The CE refusing to sign the bill passed by the LC
- The CE dissolving the LC under prescribe circumstances

- Examining and approving govt budget
- Examining govt reports
- Approving govt debts
- Examining and enacting or rejecting bills or motions introduced by the govt

- Raising questions about govt work
- Impeaching the CE under prescribed circumstances
- Forcing the CE to resign under prescribed circumstances



Source of picture: <https://news.cgtn.com/news/2021-07-31/Macao-SAR-govt-supports-dismissal-of-disqualified-candidates-appeal-12INPc6TMgU/img/d5a93ea8e1544ff38760adb028f94b10/d5a93ea8e1544ff38760adb028f94b10.jpeg>



Source of picture: <https://www.gov.mo/en/wp-content/uploads/sites/2/2021/07/en-8.jpeg>

Relationship between Executive and Legislature in MSAR

A mutual coordination and mutual restraint relationship, with the emphasis on the former. (“相互配合，相互制衡” 原則)

- According to the *Macao Basic Law*, the Executive Authorities and the Legislature both have the responsibility to coordinate with each other to ensure the long-term stability and prosperity of the Macao SAR.
- The mutual restraint mechanism is not the purpose, but a measure to ensure a better coordination. Balanced and checks on the Government's powers are always necessary, so as to make sure the rights of the people in the Macao SAR are not harmed by any excessive expansion of the executive powers.

The Judiciary

The Judiciary of the Macao SAR



Source of picture: <https://www.court.gov.mo/tools/attachment/1601373973pfm.jpg>

Court 法院



Source of picture: <https://www.gov.mo/zh-hant/wp-content/uploads/sites/4/2021/01/p21ayhhs0.jpeg>

Public Prosecution Office 檢察院

Court

Article 82, the *Macao Basic Law*

The courts of the Macao Special Administrative Region shall exercise **the judicial power**.

《澳門基本法》第82條

澳門特別行政區法院行使**審判權**。

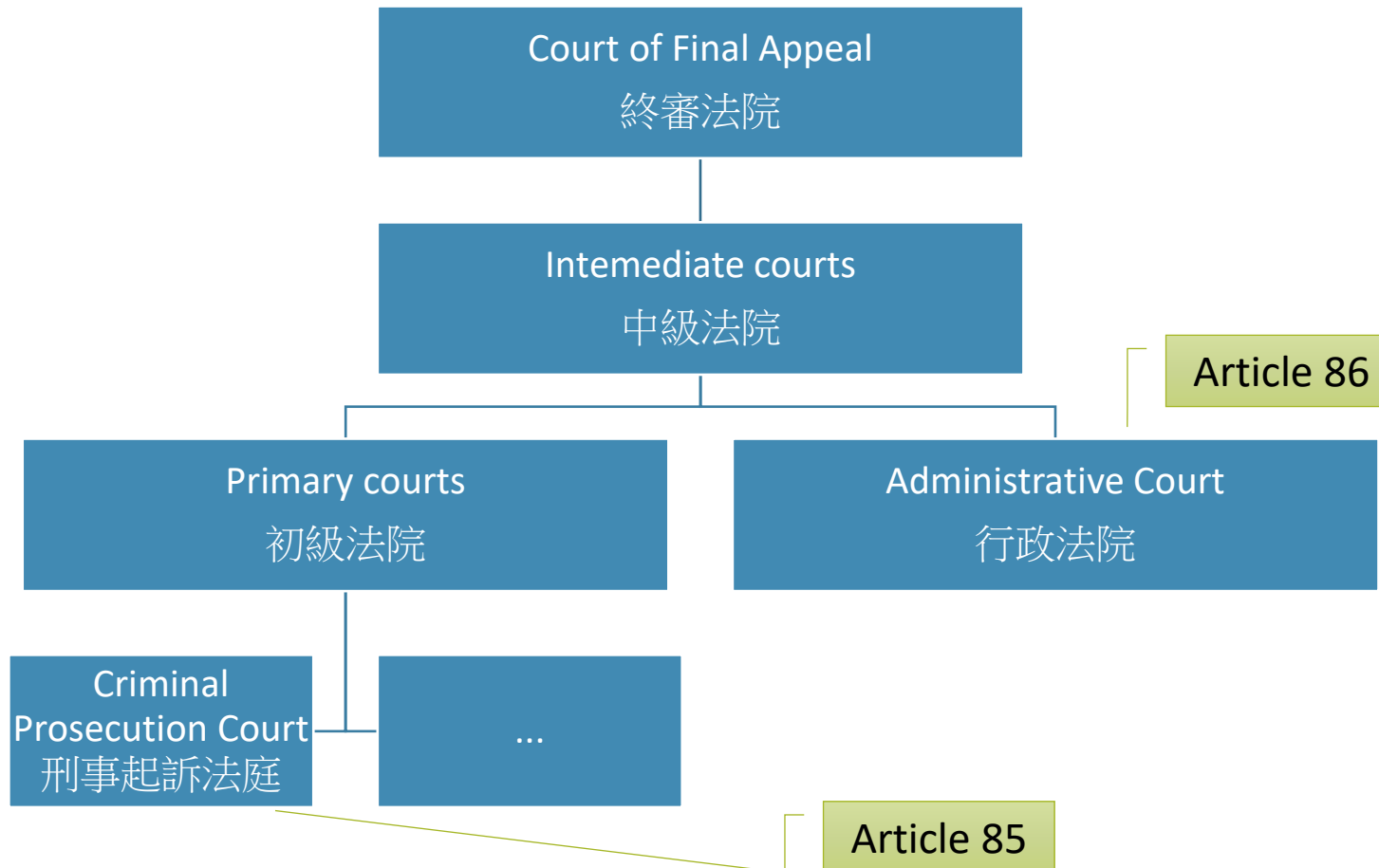
Article 83, the *Macao Basic Law*

The courts of the Macao Special Administrative Region shall **exercise judicial power independently**. They shall be **subordinated to nothing but law** and shall not be subject to any interference.

《澳門基本法》第83條

澳門特別行政區法院**獨立進行審判**，**祇服從法律**，不受任何干涉。

Hierarchy of the Courts in the Macao SAR



Article 84, the Macao Basic Law

The primary courts, intermediate courts and Court of Final Appeal shall be established in the Macao Special Administrative Region.

The power of final adjudication of the Macao Special Administrative Region shall be vested in the Court of Final Appeal of the Region.

The structure, powers and functions as well as operation of the courts of the Macao Special Administrative Region shall be prescribed by law.

《澳門基本法》第84條

澳門特別行政區設立初級法院、中級法院和終審法院。

澳門特別行政區終審權屬於澳門特別行政區終審法院。

澳門特別行政區法院的組織、職權和運作由法律規定。

Judges of the courts of the Macao SAR



Source of picture: <https://www.court.gov.mo/uploads/media/cache/photo/uploads/attachment/97/jpg/1612177997kcbeg.jpg>

- Judges are appointed by the Chief Executive on the recommendation of an independent commission. (Article 87)
- Judges of **foreign nationality** may also be employed. (Article 87)
- A judge may only be removed on circumstances specified by the *Macao Basic Law*. (Article 87)
- Presidents of courts at all levels shall be chosen among the judges by the Chief Executive. (Article 88)

The judges of the Macao SAR shall exercise judicial power according to law, instead of according to any order or instruction, except the situation as prescribed in para. 3 of Article 19 of the Macao Basic Law. (Article 89)

President of the Court of Final Appeal 終審法院院長



Sam Hou Fai

President of the Court of Final Appeal

Source of picture: <https://www.gov.mo/en/about-government/chief-executive-principal-officials-legislature-and-judiciary/>

Para. 2 & 3, Article 88, the *Macao Basic Law*

The President of the Court of Final Appeal of the Macao Special Administrative Region shall be a **Chinese citizen** who is a **permanent resident** of the Region.

The appointment and removal of the President of the Court of Final Appeal shall be reported to the Standing Committee of the National People's Congress for the record.

《澳門基本法》第88條第2、3款

終審法院院長由澳門特別行政區**永久性居民**中的**中國公民**擔任。

終審法院院長的任命和免職須報全國人民代表大會常務委員會備案。

Procuratorate & Prosecutor General 檢察院和檢察長



Ip Son Sang

**Prosecutor General of the
Public Prosecutions Office**

Source of picture: <https://www.gov.mo/en/about-government/chief-executive-principal-officials-legislature-and-judiciary/>

Article 90, the *Macao Basic Law*

The procuratorates of the Macao Special Administrative Region shall exercise **procuratorial functions** as vested by law, independently and free from any interference.

The Procurator-General of the Macao Special Administrative Region shall be a **Chinese citizen** who is a **permanent resident** of the Region, shall be nominated by the Chief Executive and appointed by the Central People's Government.

Procurators shall be nominated by the Procurator-General and appointed by the Chief Executive.

The structure, powers and functions as well as operation of the procuratorates shall be prescribed by law.

《澳門基本法》第90條

澳門特別行政區檢察院獨立行使法律賦予的檢察職能，不受任何干涉。

澳門特別行政區檢察長由澳門特別行政區永久性居民中的中國公民擔任，由行政長官提名，報中央人民政府任命。

檢察官經檢察長提名，由行政長官任命。

檢察院的組織、職權和運作由法律規定。

Judicial relations with organs outside of the MSAR

The Macao SAR

Judicial organs of
other parts of
China



Source of picture: <https://encrypted-tbn0.gstatic.com/images?q=tbn:ANd9GcRIN-MQPTrWYw7HFGerHpiDqfKkcfWYX8jnRcEjm-83Uj624UjLracyJ3Dpx8Bcto8mocA&usqp=CAU>

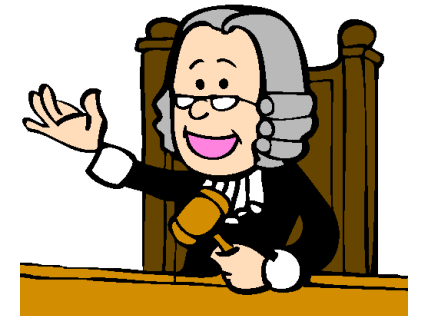
Article 93



Source of picture: <https://media.istockphoto.com/vectors/cartoon-judge-vector-id165765467?k=20&m=165765467&s=170667a&w=0&h=tAm4XcguF7io5vONaXUS7LviybhFkyxDPvaMcZ5fiQ=>

Article 94

Reciprocal
judicial assistance
with foreign
states



Source of picture: <https://library.kissclipart.com/20180830/xoe/kissclipart-profesiones-juez-clipart-judge-trial-court-6e750829a4170b9c.png>

Municipal Organs

The Municipal Affairs Bureau



Source of picture: https://www.gov.mo/zh-hant/wp-content/uploads/sites/4/2018/11/IAM-logo_2019_-_C01.png

Article 90, the *Macao Basic Law*

Municipal organizations which are not organs of political power may be established in the Macao Special Administrative Region. Entrusted by the government of the Region, they shall provide services in such fields as culture, recreation and environmental sanitation, and shall be consulted by the government of the Region on the above mentioned affairs.

《澳門基本法》第90條

澳門特別行政區可設立非政權性的市政機構。市政機構受政府委託為居民提供文化、康樂、環境衛生等方面的服務，並就有關上述事務向澳門特別行政區政府提供諮詢意見。

Important knowledge points

- Key personnel of the Macao SAR political structure:
 - The Chief Executive
 - principal officials
 - President and Vice President of the Legislative Council
 - President of the Court of Final Appeal
 - Prosecutor General of the Public Prosecution Offices
- The dual status of the Chief Executive
- The executive-led model of separations of power
- The relationship between the Executive Authorities and the Legislature
- The independence of the Judiciary
- Annex I & Annex II

References:

1. Jeong, W. C. & Jeong, S. L. (2004). *“One Country, Two Systems” and the Macao SAR*. Macao: Centre for Macau Studies, University of Macau.
2. Jeong, W. C. (ed.) (2011-2014). *Academic Journal of “One Country, Two Systems” (Volume I-IV)*, Macao: One Country Two Systems Research Center, Macao Polytechnic Institute.
3. Li, L. N. & Xu C. (eds.) (2020). *Explaining the Macao Basic Law*. Macao: “One Country, Two Systems” Research Centre of Macao Polytechnic Institute. [李莉娜、許昌主編：《澳門基本法解讀》，澳門：澳門理工學院“一國兩制”研究中心，2020年。]
4. Lok, W. K. (2000). *An Introduction to the Basic Law of Macau Special Administrative Region*, Macao: Macao Foundation. [駱偉建：《澳門特別行政區基本法概論》，澳門：澳門基金會，2000年。]
5. Lok, W. K. (2003). On the Executive-led System in the Special Administrative Region. *Administration*, 16(2), pp. 397-405. [駱偉建：“論特別行政區的行政主導”，《行政》第十六卷第二期，2003年，第397-405頁。]
6. Lok, W. K. (2012). *A New Study on the Basic Law of Macau Special Administrative Region*, Beijing/Macao: Social Sciences Academic Press (China)/Macao Foundation. [駱偉建：《澳門特別行政區基本法新論》，北京/澳門：社會科學文獻出版社/澳門基金會，2012年。]
7. Song, X. (2014). A Comparative Study on the Relations of the Executive to the Legislature and the Judiciary in the Hong Kong SAR and the Macao SAR. *Academic Journal of “One Country, Two Systems” (English Edition)*, 4, pp. 119-132.