
XV.

THE COMMON LEGISLATIVE PROCESS — THE POST-PROCEDURE

1. Post-Procedure: Reporting for Record

This stage is not an integrative one and does not pertain directly to effectiveness within the scope of the legislative procedure,⁸³³ nor is it subsumed into the control stage of the legislative procedure⁸³⁴ *per se* — it has the nature of an additional stage, one of mere record, required of all MSAR laws. This record shall not be confused with other acts, such as promulgation or ministerial referenda, and does not hinder the full effectiveness of a law.

Confirming the location of said stage outside the legislative procedure, a possible return of the law shall operate as “*a purely suppressive repeal*”.⁸³⁵

Under Article 17 of the Basic Law,⁸³⁶ “Laws enacted by the legislature of the Macau Special Administrative Region must be reported to the Standing Committee of the National People’s Congress for the record. The reporting for record shall not affect the entry into force of such laws.”, to which the principle of non-retroactivity is added, “This cessation of effects shall not be retroactive, unless otherwise provided for in other laws of the Macau Special Administrative Region.”⁸³⁷

⁸³³ Guo Tianwu, ‘Uma abordagem sobre alguns problemas relacionados com a supervisão legislativa da Região Administrativa Especial de Hong Kong’ (2008) 80 Administração 433, 442, says: “This mode of supervision is, of course, an a posteriori control. It may only exercise oversight over the legislative outcome, and not over the legislative process.”

⁸³⁴ With a different point of view, José Eduardo Figueiredo Dias, ‘Procedimento legislativo’, in *Formação Jurídica e Judiciária — Colectânea, Tome I* (CFJJ 2006) 247.

⁸³⁵ Carlos Blanco De Morais, ‘A organização do poder político-legislativo no território de Macau — Durante e após a transição para a soberania Chinesa’ in *Estudos em Homenagem ao Prof. Doutor Rogério Soares* (Coimbra Editora 2001) 143.

⁸³⁶ Li Yanping, ‘Governança constitucional iniciada em localidades — Inspiração do mecanismo de apreciação das Leis Básicas de Hong Kong e de Macau’ (2010) 87 Administração 113, 122: “*The Basic Law establishes the mechanism of reporting for record in order to guarantee the supreme legal position of the Basic Law in the regions of Hong Kong and Macau*”; Guo Tianwu, ‘Uma abordagem sobre alguns problemas relacionados com a supervisão legislativa da Região Administrativa Especial de Hong Kong’ (2008) 80 Administração 433, 442 et seq; Carlos Blanco De Morais, ‘A organização do poder político-legislativo no território de Macau — Durante e após a transição para a soberania Chinesa’ in *Estudos em Homenagem ao Prof. Doutor Rogério Soares* (Coimbra Editora 2001) 142–43.

⁸³⁷ In divergence, see João Albuquerque, ‘*Curso sobre a Lei Básica da Região Administrativa Especial de Macau da República Popular da China: I – Da reunificação da China à organização político-administrativa da RAEM*’ (unpublished and archived with the Author, 2013).

This mechanism, applicable exclusively to laws and not to the Rules of Procedure⁸³⁸, resolutions, or administrative regulations (including those complementing laws), should be regarded, beyond the confines of the legislative procedure, as a supervening phase of non-judicial control of constitutional conformity of laws; as mentioned above, such phase does not condition — until the record is accepted — the full effectiveness of the law.

⁸³⁸ And limited to the cases referred to in Article 17 of the Basic Law, ie there is no standard for complete control of constitutional compliance, encompassing the entirety of the Basic Law's norms and principles; the sole issues at stake are the affairs within the competence of the central authorities, and the relationship thereof with the MSAR.