

The concept of Regular Residence

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Macau is known for its multicultural environment, and many of us have either a friend, a colleague or know someone who has applied for Macau residency.

When we talk about the application for a residence permit in Macau, the most talked-about issues are the concept of regular residence and the criteria of 183 days' stay in the MSAR. Both are considered by the authorities as essential requirements to support the decision to approve or reject the renewal of a residence permit that will pave the way to permanent residence.

Therefore, the Macau Resident Identity Card's renewal is not automatic and is subject to the conditions and requirements established by Law No. 4/2003 and by Administrative Regulation No. 5/2003. The regular residence of the applicant in the MSAR is essential for the maintenance and renewal of their residence permit. Such permit may, in turn, be revoked if the applicant fails to reside regularly in Macau, as per article 9, number 3 of Law No. 4/2003 and article 24 of Administrative Regulation No. 5/2003.

So what is the regular residence?

According to the legal presumption provided in article 5, number 1 of Law No. 8/1999, Macau Resident ID Cardholders are presumed to reside in Macau regularly. Number 2 of article 30 of the Macau Civil Code defines regular residence as the place where an individual holds the effective and stable centre of their personal life.

As mentioned on a decision from the Court of Second Instance dated 02/07/2020 in case no. 473/2019, legal doctrine considers regular residence the place where a person usually lives and where they usually return to after shorter or longer absences, without prejudice to extended absence due to relevant reasons.

According to a recent decision from the Court of Last Instance dated 27/01/2021, case no. 182/2020, the mere stay (physical presence) in a certain territory does not suffice to be considered a "regular resident". The intention to become a resident of this same territory is also required. That can be measured based on several aspects of the personal, family, social and economic daily life that indicate an "effective participation and sharing" of their social life.

Thus, to determine if a person has a regular residence in Macau, the competent authorities assess this undetermined concept on a case-by-case basis for determining its verification (or not).

Once the applicant obtains the residence application's approval, the competent authority informs that, to renew and maintain the residence permit, among other legal requirements established by Law No. 4/2003 and Administrative Regulation No. 5/2003, they should regularly reside in Macau. Namely, the applicant should stay in Macau at least 183 days per year and not being absent for more than six consecutive months starting from the effective date of the residence authorization.

It should be noted that special and relevant reasons may justify the absence period. Namely, to attend a specialization training program outside of Macau at the invitation of the company that is employing the applicant or receiving appropriate treatments due to extended illness and hospitalization outside of Macau.

Therefore, staying overnight in Macau or the extended physical presence of an individual in a place are not exclusive criteria for determining an individual's regular residence, according to the decision mentioned above from the Court of Second Instance.

Due to some legal concepts' subjective nature and the way the authorities usually interpret them, residence applications benefit from a case-by-case assessment by a qualified professional. For more information on this subject and the specifics of your case, please contact **C&C Lawyers & Notaries**.



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