



[Home](#) > Press Releases

Press Releases

Former Chief Executive jailed for misconduct in public office

2017-2-22

Former Chief Executive (CE) of the Hong Kong Special Administrative Region (HKSAR) Donald Tsang Yam-kuen, charged by the ICAC, was today (February 22) sentenced to 20 months' imprisonment at the Court of First Instance of the High Court for misconduct in public office (MIPO).

Tsang, 72, was found guilty by a jury last Friday (February 17) of one charge of MIPO, contrary to Common Law.

In passing the sentence, Mr Justice Andrew Chan Hing-wai said the seriousness of the MIPO offence lied in the office which Tsang occupied. Tsang was then CE and head of the HKSAR, and was accountable to the people of Hong Kong and the Central People's Government. Being the CE, Tsang had to be a person of integrity.

The judge said Tsang's breach of trust was a significant aspect in the case. The decisions he made at the Executive Council (Exco) meetings were also important ones as the allocation of radio spectrum would affect all walks of life.

The judge said he reduced the starting point of 30 months in jail to 20 months after taking into account various factors, including Tsang's good character and his contribution to Hong Kong in the past 40 years.

Since there was no exceptional circumstances in this case, there was no justification for a suspended sentence, the judge added.

The charge, of which Tsang was found guilty, stated that between January 1, 2010 and June 30, 2012, Tsang, in the course of or in relation to his public office, namely the CE and President of the ExCo, without reasonable excuse or justification, wilfully misconducted himself by failing to declare or disclose to, or by concealing from the ExCo his dealings and negotiations with Wong Cho-bau, the major shareholder of Wave Media Limited (WML), in respect of a three-storey residential property situated at East Pacific Garden in Shenzhen (the flat) when he was involved in decision making in relation to applications made by WML (subsequently renamed Digital Broadcasting Corporation Hong Kong Limited (DBC)) for:

(i) a sound broadcasting licence for the provision of digital audio broadcasting services submitted to the Commerce and Economic Development Bureau (CEDB) in April 2010;

(ii) the surrender of a sound broadcasting licence for the provision of Amplitude Modulation radio services submitted to the CEDB in September 2010; and

(iii) permission for Arthur Li Kwok-cheung to exercise control of DBC as a director and chairman of the board of the company.

Last Friday, the jury was unable to reach a verdict on a bribery charge of CE accepting an advantage, contrary to Section 4(2B)(a) of the Prevention of Bribery Ordinance, against Tsang. The court will hear the retrial in respect of this charge in September this year.

The charge alleged that between January 1, 2010 and June 30, 2012, Tsang, without lawful authority or reasonable excuse, accepted the refurbishment and re-decoration of the flat as a reward for considering and making decisions in relation to the aforesaid applications made by WML.

In addition, the jury found Tsang not guilty of another charge of MIPO in relation to the nomination of Barrie Ho Chow-lai for an honour or award under the HKSAR honours and award system.

The prosecution was today represented by prosecuting counsel David Perry QC, Eric Kwok SC and Maggie Wong, assisted by ICAC officer Winnie Lee.

[Back to Index](#)



主頁 > 新聞公佈

新聞公佈

前行政長官公職人員行為失當判囚二十個月

2017年2月22日

香港特別行政區(香港特區)前行政長官曾蔭權觸犯公職人員行為失當，被廉政公署起訴。被告今日(二月二十二日)在高等法院原訟法庭被判囚二十個月。

曾蔭權，七十二歲，上星期五(二月十七日)被陪審團裁定一項違反普通法的公職人員行為失當罪名成立。

法官陳慶偉判刑時表示，有關公職人員行為失當罪名並不輕微，其嚴重之處在於曾蔭權的職位。他當時是行政長官，並為香港特區首長，須向香港市民及中央人民政府負責。曾蔭權身為行政長官必須廉潔奉公。

法官指出，本案的重要性是曾蔭權違反誠信。他在行政會議(行會)就無線電頻譜的分配所作的決定是重要的，因為它影響社會各階層人士。

法官稱，量刑起點為監禁三十個月，但考慮到多項因素，包括曾蔭權品格良好及四十年來對香港有貢獻，遂將刑期減至二十個月。

法官續稱，由於本案並無涉及特殊情況，故此沒有任何理據判處緩刑。

控罪指曾蔭權於二〇一〇年一月一日至二〇一二年六月三十日期間，擔任公職即行政長官及行會主席，於履行其公職過程中或在與其公職有關的事上，無合理辯解或理由下而故意作出失當行為，即參與決定雄濤廣播有限公司(雄濤)(其後更名為香港數碼廣播有限公司(數碼廣播公司))提交的申請時，沒有向行會申報或披露，或向行會隱瞞他與雄濤主要股東黃楚標就一個位於深圳東海花園的三聯式住宅物業(該物業)所進行的事務往來及商議。有關申請為：

- (i) 於二〇一〇年四月向商務及經濟發展局為提供數碼聲音廣播服務而提交的聲音廣播牌照申請；
- (ii) 於二〇一〇年九月向商務及經濟發展局為交還用於提供調幅(AM)電台服務的聲音廣播牌照而提交的申請；以及
- (iii) 准許李國章以該公司董事兼主席身分對數碼廣播公司作出控制而提交的申請。

陪審團於上星期五未能就曾蔭權一項貪污控罪達成裁決。該控罪涉及行政長官接受利益，違反《防止賄賂條例》第4(2B)(a)條。法庭將於本年九月就該控罪進行重審。

有關控罪指曾蔭權涉嫌於二〇一〇年一月一日至二〇一二年六月三十日期間，無合法權限或合理辯解而接受該物業的整修及裝修工程，作為曾蔭權考慮及決定雄濤提交上述申請的報酬。

此外，陪審團裁定曾蔭權另一項公職人員行為失當罪名不成立。有關控罪涉及何周禮在香港特區授勳及嘉獎制度下獲授勳及嘉獎的提名。

控方今日由御用大律師David Perry、資深大律師郭棟明及大律師黃佩琪代表出庭，並由廉署人員李慧兒協助。

[返回目錄](#)