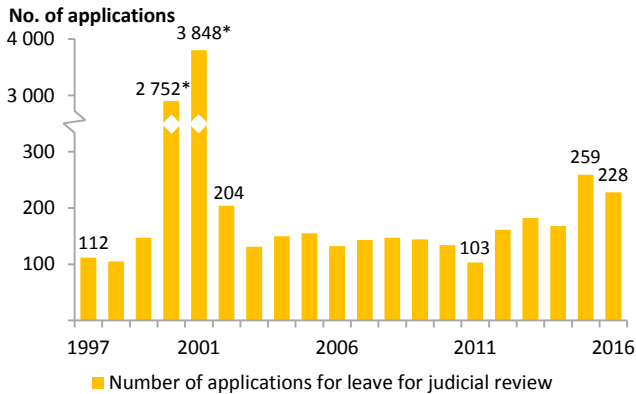




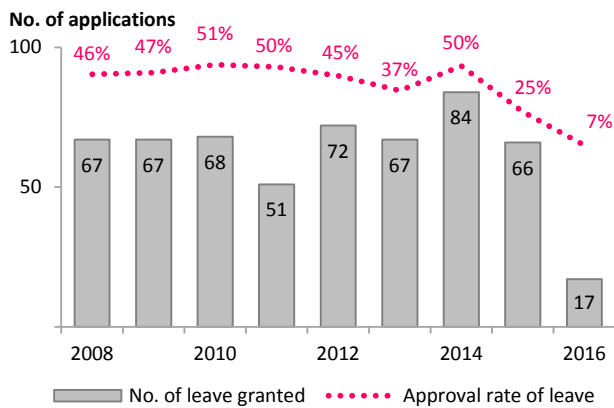
Judicial review

Figure 1 – Applications for leave for judicial review



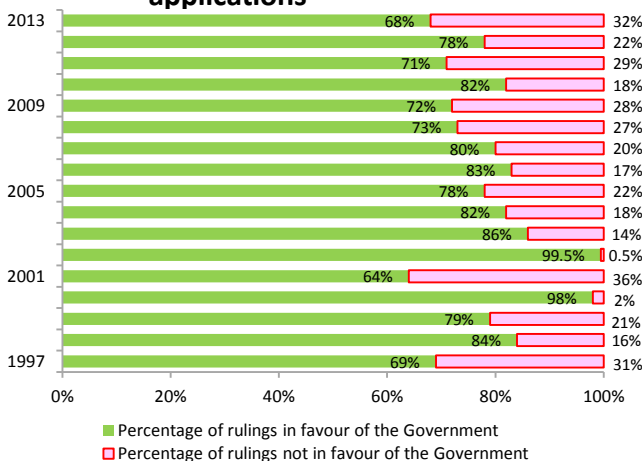
Note: (*) The sharp rise attributed to the judicial review for right of abode cases. In 2001, 97% of cases were right of abode claims.

Figure 2 – Approval for leave for judicial review*



Note: (*) Data as at 15 February 2017.

Figure 3 – Court ruling of judicial review applications

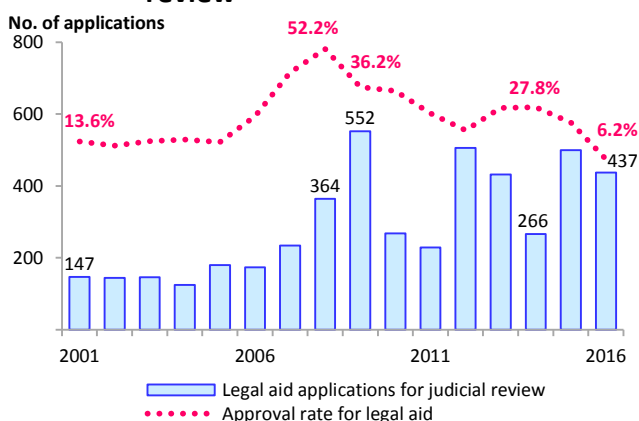


Highlights

- In Hong Kong, judicial review is an integral part of the rule of law, allowing citizens to have access to the courts to challenge decisions made by public authorities. This right is explicitly provided under Article 35 of the Basic Law. Procedurally, applicants for judicial review must first obtain permission (i.e. leave) from the court. In a threshold laid down by the court in 2007, leave will be granted if the case is reasonably arguable and has a realistic prospect of success.
- The number of applications for leave for judicial review had spiked to a peak of 3 848 cases in 2001, mostly due to a surge in "right of abode" cases for children of Hong Kong residents borne in the Mainland, before moving within a narrower range of 100-260 in the ensuing years. In 2016, there were 228 applications for leave, doubling that of 112 in 1997 (Figure 1).
- Between 2008 and 2014, the court granted leave of 51-84 to such applications annually, with an average annual approval rate of 47%. However, there was a noticeable drop in the approval rate in the most recent years, to 25% in 2015 and 7% in 2016 (Figure 2).
- Upon granting of the leave, a challenger under judicial review has to present his/her case in court on the grounds of illegality, irrationality or procedural impropriety of the administrative decision or action of the administrative body. According to the Government's response to a Member's question about the court ruling of judicial review, for those cases involving the Government heard in the Court of Final Appeal and the High Court during 1997-2013, about four-fifths of the court rulings were in favour of the Government (Figure 3).

Judicial review (cont'd)

Figure 4 – Legal aid applications for judicial review*



Note: (*) Approval for legal aid for judicial review may not be granted within the same year as the application was received.

Figure 5 – Case category of legal aid applications for judicial review

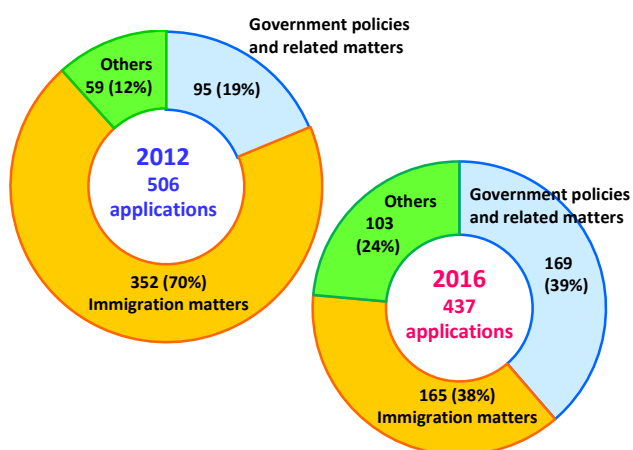


Figure 6 – Legal aid expenditure on judicial review

	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Legal aid expenditure on judicial review (HK\$ million)	21.0	21.9	33.9	22.7	29.4
Percentage of overall expenditure of the Legal Aid Department	3.0%	2.8%	4.0%	2.7%	3.4%

Highlights

- Some applicants for judicial review may apply for legal aid due to the lack of financial means. Over the past 16 years, the number of legal aid applications for judicial review has almost tripled from 147 cases to 437 cases in 2016. Within the same period, the number of applications for judicial review have accounted for 0.5% to 2.7% of the overall legal aid applications. However, its approval rate stayed mostly below 30% during 2001-2016, except for 4 years. Most recently in 2016, only 27 or 6.2% such legal aid applications were approved (**Figure 4**).
- Analysed by case category within the legal aid applications for judicial review, the proportion of "government policies and related matters" witnessed a visible uptrend over the past five years, from 19% in 2012 to 39% in 2016. On the other hand, the relative proportion of "immigration matters" fell noticeably over the same period, from 70% to 38% (**Figure 5**).
- Regarding the Government spending on legal aid for judicial review, the relevant expenditure was HK\$29.4 million in 2015-2016, accounting for 3.4% of the overall expenditure of the Legal Aid Department (**Figure 6**).

Data sources: Latest figures from Department of Justice and Legal Aid Department.

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