

**Decree Law Proposed by Ministry of Justice**  
**(English Translation – February 23, 2005)**

**Regulation for the Registration and Certification for the Exercise of the  
Legal Profession**

**Section I – General Provisions**

**Article 1 – Scope of Application**

The present diploma establishes the conditions and procedures regarding the exercise of the practice of law in East Timor.

**Article 2 – Requirements for the Registration and Use of the Title of  
Lawyer**

1. The practice of the profession of law and the use of the respective title is reserved, apart from the special cases prescribed in this law, for those who are registered in accordance with the quality of the Judicial Training Center, until an Order or Organization of Timorese lawyers can be created.
2. To be permitted to be registered, you must be a Timorese citizen who:
  - a.) Possesses a law degree;
  - b.) Possesses written and spoken knowledge of the national languages of Portuguese and Tetun;
  - c.) Has regularly attended and successfully completed the training course and respective trainee stage administered through the Judicial Training Center;
  - d.) Has attained the age of majority/adulthood.

**Article 3 – Proof of Possession of the Law Degree**

1. In order to prove that you possess the requirement referenced in line 2(a) of the above article, it is necessary to present a diploma or certificate of the respective law degree from where it was received, including all courses attended and their classification or, in the alternative, the curriculum plan for the course.
2. If the referenced documentation is not written in the official Timorese language, the respective translation must be presented.
3. The diploma or certificate proving the qualifications must be certified by the Ministry of Education, Culture, Youth and Sports, or it will not receive consideration.

**Section II – The Course and Training Stage**

## **Article 4 – Opening of the Competition**

1. The Council of Ministers, upon hearing that an association or class exists, will determine the number of candidates allowed to attend the course, the frequency of the course and the training stage for the practice of the legal profession.
2. After this decision, the President of the Managing Council of the Judicial Training Center will make a public announcement, no later than the end of the month of August, and give notice of the opening of the competition.

## **Article 5 – Contents of the Notice for the Opening of the Competition**

1. The obligatory contents of the notice for the opening of the competition shall include:
  - a.) The requirements for the candidates referenced in Article 2;
  - b.) An indication of the number of places available in order to attend the course;
  - c.) The examinations required to be taken, the list of subjects required and the date and place on which the examinations are to be carried out;
  - d.) The deadline in which to present the requirements of the candidates, as addressed to the Director of the Judicial Training Center;
  - e.) The composition of the jury for the competition.

## **Article 6 – Jury**

1. The jury for the competition will be composed of 3 actual members and 3 extras, appointed by the President of the Managing Council of the Judicial Training Center.
2. The members of the jury must possess the appropriate law degree and, immediately upon the existence of the proper number of lawyers enrolled for the practice of the respective functions and observance of the requirements which appear in Article 2, will obligatorily appoint between them one actual member and one extra.
3. In the process of the appointment of the jury, it is the duty to indicate the President and his respective substitute.

## **Article 7 – List of Candidates**

1. At the close of the deadline for the presentation of candidates, a list of the candidates that have been admitted and excluded will be publicized, after which the candidates can present an appeal of the

- decision of the jury within 10 days to the Managing Council of the Judicial Training Center.
2. Upon the final determination of the appeals, if there are any, the definitive list of the candidates who are admitted will be published.

### **Article 8 – Subsidiary Regime For the Selection of the Candidates**

The process for the selection of the candidates will be conducted in accordance with Section II of the law for the recruitment and training for the professional career of judges and public defenders, with proper adaptation.

### **Article 9 – Course and Training Stage**

1. The course and the training stage for the practice of the profession of lawyer has as its given objective the development of the candidates' technical and human capacity, which guarantees the quality fulfillment of their important social function.
2. The duration, structure and functioning of the course and training stage for the practice of the law will be approved by the Managing Council of the Judicial Training Center and, subsequently, published in the form of a regulation of the Ministry of Justice, all within the term of 90 days after the publication of the present diploma.

### **Section III – The Registration and Certification**

#### **Article 10 -- Date For Registration and Seniority**

1. Immediately after the successful completion of the course and training stage required of the candidate, the candidate has 30 days within which to enroll as a lawyer, and the Managing Council must consider and make a decision regarding their request within 30 days immediately following their presentation, under penalty of the duties which are considered tacitly granted.
2. The date of the registration of the aforementioned required period will be the date which will be used for granting the request and for determining seniority, of the cases prescribed in the previous number, and will be the date of the final classification obtained for the course and the training stage.
3. If the approved candidate does not request registration under the terms and in the required period referenced in number one, the seniority will be counted beginning from the date of registration.

#### **Article 11 – Requirements For Registration**

1. While there does not exist any professional law association, the interested parties are required to register with the President of the Managing Council of the Judicial Training Center.
2. The duty to make the proof of the requirements referenced in Article 2 include an indication of their complete name, the use of any shortened name, the responsibilities and activities they exercise, and their professional address.

### **Article 12 – Certification and Professional Card**

1. Upon the act of granting the request for registration, the President of the Managing Council of the Judicial Training Center shall order the issuance of a professional card, properly authenticated, on behalf of the petitioner.
2. The professional card may be replaced in the case of damage, loss, or unuseability, with the cost and responsibility on the petitioner and with a reference to it being a second copy.
3. The card must contain the initial date of the activity, as well as the following facts:
  - a.) The cancellation with an indication of the reasons;
  - b.) The suspension of the practice with an indication of the reasons;
  - c.) Any disciplinary penalties passed by the court and the respective decision;
  - d.) The lifting or cancellation of the suspension of the registration with an indication of the reasons;
  - e.) The registration of any other relevant facts, such as the change of the professional address.
4. All registrations and administrative services will be completed through the Judicial Training Center and are included in the individual processing of each lawyer.

### **Article 13 – List of Lawyers**

While there does not exist a legally constituted professional organization of lawyers, it is the work of the Judicial Training Center to organize and maintain an actual list of the registered lawyers, which will be distributed annually to the various judicial agencies or, upon their request, to other public and private agencies.

### **Article 14 – Suspension of Registration**

1. The suspension of registration may occur as follows:
  - a.) At the request of the interested party to interrupt the exercise of the activity of the profession;

- b.) When the interested party exercises responsibilities incompatible with the practice of the profession;
  - c.) Upon the sentencing of a disciplinary penalty for suspension after a final decision has been issued during the disciplinary process and properly passed by the court.
2. The suspension due to the exercise of the responsibilities incompatible with the performance of the functions of the lawyer is effective immediately upon the interested party's request or, officially, after a proper hearing.
  3. The suspension requires the delivery of the professional card and the inability to practice the profession of law in East Timor during the pendency of the case and must be communicated to the judicial authorities.

### **Article 15 – Lifting the Suspension**

1. The suspension of the registration can be lifted:
  - a.) In the case mentioned in line a) of number 1 of the previous Article, upon the request of the interested party;
  - b.) In the situation referenced in line b) of number 1 of the previous Article, when the respective cause ceases;
  - c.) In the case regulated in line c) of number 1 of the previous Article, once the respective disciplinary penalty has been completed.
2. The lifting of the suspension enables the immediate exercise of the profession by the interested party, if certified by the competent authority.
3. The lifting of the suspension is required to be immediately communicated to the judicial authorities.

### **Article 16 – Cancellation of the Registration**

1. The registration is cancelled upon the request of the interested party, who claims his intent to abandon the exercise of the profession, or upon his death.
2. The cancellation is applicable, with the proper adaptations, as set forth in the rules prescribed in No. 2 and 3 of the previous article.

### **Article 17 – Registration Fees**

1. The obligation for the payment of fees for the registration of the lawyer, the legalization and the cancellation of the issuance of the professional card shall be set pursuant to the regulations of the Ministry of Justice.
2. The previous number is correspondingly applicable to the acts of denial.

## **Section IV – Rights and Duties**

### **Article 18 – Proper Actions of the Lawyers**

1. Only law graduates with the registration in effect for the exercise of the profession can practice the proper actions of the lawyers.
2. Without prejudice to the procedural laws, actions which are proper for the lawyers include:
  - a.) The practice in the courts;
  - b.) Legal consultation.
3. Still other proper actions of the lawyers include:
  - a.) The preparation of contracts and the practice of preparatory actions tending to the constitution, alteration or completion of legal negotiations, designed for the practice joined in the conservatory and notary registry office;
  - b.) The negotiations tending to the collection of credit;
  - c.) The exercise of the mandate in the range of the reclamation or refutation of the administrative acts or taxes.
4. According to the terms which are set forth in the previous numbers, it will be considered the proper actions of the lawyers to exercise the practice of law in the interest of third-parties and within the range of professional activities, without prejudice to the proper competencies attributed to other professions or activities whose access or exercise is regulated by law.
5. For the effect of the disposition set forth in the previous number, it is not to be considered practice in the interest of a third party for the actions practiced by the legal representatives, employers, clerks, or agents of the singular or collective persons, public or private, in that quality, except which, in the case of the collection of debt, this constitutes the objective or principle activity of these persons.
6. The proper actions of all lawyers are also those which result in the exercise of the rights of citizens to accompany the lawyer in the presence of any authority.
7. In those cases in which the criminal process determines that the accused should be assisted by a defense lawyer, this function shall be exercised by the lawyers, under the terms of this law.
8. Except for the disposition of the previous numbered articles, opinions written by the professors of the law faculties or by other jurists and also in the exercise of the functions of the public defenders, as defined in this law.

## **Article 19 –Power of Attorney**

The power of attorney is given through a judicial mandate to be executed in any court, arbitration commission, or within the scope of traditional justice, as prescribed in the law.

## **Article 20 – Legal Consultation**

Legal consultation is considered to be the activity of providing legal counseling consisting of the interpretation and application of laws, following a request from a third party.

## **Article 21 – Freedom of Practice**

Lawyers with paid and current registration cannot be prevented, by any public or private authority, from practicing those acts usually practiced by lawyers.

## **Article 22 – Incompatibility to Practice the Profession**

1. The practice of the profession is incompatible with any activity or function that diminishes the independence and the dignity of the profession.
2. The practice of the profession is also incompatible with the performance of the following functions:
  - a.) Being a member of or holding office in a governmental organization or as a respective advisor, member or functionary of the respective cabinets, except when stated otherwise in the law;
  - b.) Being a judge, prosecutor, public defender, or clerk of any court or assigned to any of the services previously mentioned;
  - c.) Being a notary or working at the civil registry;
  - d.) Being an employee or agent of any public service, either central or local, even if personal, with the exception of professors and assistants of law;
  - e.) Being an active member of the armed forces or security forces;
  - f.) Being a mediator or auctioneer;
  - g.) Any other functions which are considered incompatible with the practice of law, pursuant to special law.
3. These incompatibilities are not applicable to those in the situation of being retired, in the reserve, inactive, or on unlimited leave.

## **Article 23 – Unlawful Practice of the Profession**

Judges are under an obligation to inform the competent authority of any situations involving the unlawful practice of the profession that comes to their knowledge.

## **Article 24 – Ethical Duties**

1. The lawyer must, whether exercising his profession or not, consider himself a servant of justice and the law, and as such, show dignity and honor in the responsibilities which are inherent in the profession.

2. The lawyer, when exercising his profession, must always and in any circumstances maintain outstanding independence and exemption, not using their powers of attorney for any objectives which are not strictly professional.
3. The lawyer must punctually and scrupulously carry out the duties prescribed in this Statute and all others that the law, practices, customs and traditions impose to other lawyers, judges, clients and any public or private entities.

### **Article 25 – Duties Towards the Community**

The duties of the lawyer towards the community are as follows:

- a.) To strive for the correct enforcement and application of the laws, for the swift administration of justice and for the improvement of the judicial institutions;
- b.) To abstain from acting in contradiction to the written law, or from using illegal methods or means, or promoting manifestly delayed diligence, useless or prejudicial means for the correct application of the law or the discovery of the truth;
- c.) To refuse to sponsor issues which he finds to be unjust;
- d.) To cooperate in promoting access to the law and accepting court appointments, as prescribed under the law;
- e.) To protest against violations of human rights and fight any arbitrariness that comes to his knowledge in the practice of the profession;
- f.) To abstain from accepting powers of attorney or from rendering provisional services, which, in any circumstance, do not result from the direct choice and free will of the interested party.

### **Article 26 – Duties Towards the Client**

1. The duties of the lawyer in their relations with the client are as follows:
  - a.) To refuse to represent, accept a court appointment, or render services on issues in which he has already intervened in any other capacity or in connection with others which he has represented or in which he has represented an opposing party;
  - b.) To refuse representation against someone who is his client in another case;
  - c.) To give to the client his conscientious opinion on the legal merits of the law or claim which they invoke, as well as render, whenever requested, information on the progress of the matter that has been entrusted to him;

- d.) To study with care and treat with zeal the matter that been entrusted to him, utilizing for that purpose all of the resources of his experience, knowledge and activity;
  - e.) To guard the privilege of confidentiality;
  - f.) To advise on any options or resolutions which are considered just and equitable;
  - g.) To give an accounting to the client for all money which they have received, from any source, and to present a bill of fees and expenses when requested to do so;
  - h.) To give proper use to any valuables, documents, or objects which have been entrusted to him;
  - i.) To not gain, for his own profit, from any agreements on the subject matter of the issues entrusted to him or, in any form, to solicit or accept a stake in the results of the case;
  - j.) To not abandon the representation or cease accompaniment of the issues entrusted to him without due justification.
2. The lawyer must make every effort to prevent his client from exercising reprisal against his opponent or to disrespectful to the lawyers of the opposing party, judges or any other interveners in the case.

### **Article 27 – Reciprocal Duties Among the Lawyers**

The duties of the lawyer in relation with other lawyers are as follows:

- a.) To proceed with the utmost correction and courtesy, abstaining from any personal attack or discouraging reference;
- b.) To not speak publicly on any issue which he knows has been entrusted to another lawyer, except in that lawyer's presence or with his prior agreement;
- c.) To act with the utmost loyalty, not seeking to gain illegitimate or undue advantages for their constituents and clients;
- d.) To abstain from contacting or maintaining a relation, even in writing, with an opposing party represented by a lawyer, except as previously authorized;
- e.) To abstain from publicly invoking, especially in the presence of the court, any failed or unsuccessfully negotiated transactions, whether orally or in writing, in which the lawyer has intervened;
- f.) To not sign legal opinions, memos or other professional writings which he has not done himself or in which he has not collaborated.

### **Article 28 – Duties Towards the Judges**

1. The lawyer has a duty, without prejudice to his independence, to treat the judges with the proper respect owed to their office and abstain from

interference in their decisions, either directly, in conversation or in writing, or through a third party, which is for all purposes considered to be the for in consideration of his own party.

2. The lawyer is especially forbidden to send or cause to be sent to the judges any pleadings or to resort to disloyal means in defending the interest of the parties.

### **Article 29 – Actions Against A Lawyer or Judge**

The lawyer, before promoting any judicial procedure against another lawyer or judge, must communicate in writing his intention, with any explanation deemed necessary, except in cases which are secret or urgent by nature.

### **Article 30 – General Duties of Courtesy/Civility**

In the exercise of the profession, the lawyer is to behave with courtesy/civility, namely, with other lawyers, judges, clerks, experts, interpreters, witnesses and other legal interveners in the cases.

### **Article 31 – Professional Confidentiality**

The lawyer is bound to the duty of confidentiality, regardless of whether the facts are relative to the exercise of his judicial service or whether it deals with his extrajudicial professional actions.

### **Article 32 – Publicity and Public Discussions**

1. It is forbidden for a lawyer to engage in publicizing by means of circulars, announcements, the media, or any other form, directly or indirectly, of professional advertising, designed to divulge the names of their clients.
2. The lawyers must not promote nor authorize public reference regarding their judicial cases or other legal matters entrusted to them.
3. The lawyer must not influence or attempt to influence, through the media, the resolution of the judicial cases or other pending legal matters.
4. The lawyer must not discuss in public or through the media any pending matters or to institute or contribute to such discussions.

### **Article 33 – Exceptions**

1. It is not considered advertising, for the purposes of the previous article, to use signboards on the exterior of the office, a insertion of simple

announcements in a newspaper and the use of a calling card or business card, with a simple mention of the name of the lawyer, office address and working hours.

2. In exceptional cases, whenever justified for the public interest, the organization responsible for the registration and discipline of the lawyers may authorize statements to the media, so long as the confidentiality and independence of all judicial operators is honored.

### **Article 34 – Professional Clothing**

It is mandatory for the lawyers, when delivering oral arguments in a case, to wear the robe, whose model, as well as any other accessories of professional clothing, shall be determined by the institution responsible for the registration and certification for the practice of the profession.

## **Section V – Final Provisions**

### **Article 35 – Crime of Unlawful Representation**

1. Whoever is in violation of the preceding articles:
  - a.) To practice the appropriate actions of a lawyer;
  - b.) To assist or collaborate in the practice of the action of a lawyer;Is punishable with the penalty of imprisonment for up to 3 years or a fine.
2. The criminal proceedings are dependent upon a complaint, which can be put forward not only by the damaged party, but also by the representative of the organization responsible for the registration and certification for the practice of the profession.

### **Article 36 – Creation of a Professional Association or Order of Lawyers**

As soon as there are at least 30 registered lawyers, as deemed qualified under the terms established in this present law, they may take the initiative to present a proposal to the government for the creation of a professional Association or Order, if this has not already been done by an initiative from the government, and their respective statutes.

### **Article 37 – Disciplinary Actions**

1. While there is not created a professional Order or Association of competent lawyers, the Managing Council of the Judicial Training Center shall have

the responsibility for the exercise of disciplinary authority over the lawyers.

2. The discipline of the lawyers, until the creation of the professional organization and its respective statutes, will be regulated by the pertinent rules relating to the statute for the judicial magistrates, duly adapted to meet this function.

### **Article 38 – To Take Effect**

The present diploma enters into effect immediately on the day following its publication.

English translation prepared by:

Shelley R. Wieck  
Program Officer  
Avocats Sans Frontieres - Belgium

With assistance provided by:

Mr. Miguel Ferreira  
Mr. Bernardo Ayala  
Ms. Anna \_\_\_\_\_ (JSMP)