

**DEMOCRATIC REPUBLIC OF EAST TIMOR**

**NATIONAL PARLIAMENT**

**Bill No. \_\_\_\_ of \_\_\_\_\_, 2003**

**Immigration and Asylum Act**

Immigration and asylum are fundamental problems in modern states.

Increasing mobility among populations, social and economic problems influencing many regions around the world, conflicts, terrorism and the need to keep social peace lead States to face the issue of controlling immigration flows as a fundamental component of their policies.

The geographic location of the country, in the path of important immigration flows, places special interest in the need for a legal framework that organizes immigration and asylum.

Current border control is extremely deficient and is based on insufficient legal instruments that prevent the State from effectively carrying out the constitutional imperative of defending the Timorese people from the threats of transnational crime and terrorism.

The matter of refugees and the right to asylum also takes on a critical dimension in the current geopolitical context in which East Timor is inserted, where the lack of clear legislative framework is preventing an adequate response. Without forgetting international instruments in this area nor the ever present underlying human element, there is, nonetheless, a need to guarantee the right of the State to assess its capacity to provide shelter without jeopardizing internal security, international relations or the equilibrium among the Timorese population.

In order to address all these matters, a legislative framework has been developed which organizes all these matters in an integrated, consistent and efficient manner to provide the Democratic Republic of East Timor the necessary instruments to control its borders and immigration flows.

**The National Parliament dictates, in the terms of paragraph 1 of Article 95 of the Constitution of East Timor, that the following will be law:**

## **CHAPTER I**

### **General Provisions**

#### **Article 1**

##### **Purpose**

1. The current document regulates conditions for entry, permanence, exit and removal of foreigners from the National Territory;
2. The above does not preclude special agreements set out in international treaties and conventions that the Democratic Republic of East Timor is party to, adheres to, or becomes party to.

#### **Article 2**

##### **Definition of a Foreigner**

1. For all effects and purposes this document defines a *foreigner* as anyone who cannot prove citizenship of East Timor.
2. Proof of citizenship is that which is described in the Citizenship Law.

#### **Article 3**

##### **Definition of Resident**

Foreigners are considered residents or legal immigrants when they have been given a residency authorization which is valid and has been issued in agreement with this legal instrument.

#### **Article 4**

##### **International Zone**

For document control and other purposes concerning the enforcement of the present instrument, the international zone is:

- a) In ports and airports, the area between the embarking and disembarking areas as well as the area where passenger document control points are located;
- b) In land border areas, the area located between the foreign territory and the area where passenger document control points are located.

## **CHAPTER II**

### **Foreigners Rights and Duties**

#### **Article 5**

#### **Principles of Law**

Foreigners who reside in the Democratic Republic of East Timor enjoy the rights, and are subject to, the duties sanctioned in the Constitution and the Laws.

#### **Article 6**

#### **Substantiating Documentation**

1. Foreigners must, at all times, carry the document that substantiates their identification and legal status in the National Territory as required by the present instrument.
2. The document referred to in the previous paragraph must be presented by the foreigner whenever asked to by an authority or official.

#### **Article 7**

#### **Notification Duty**

Resident foreigners must notify the Migration Department of the National Police of East Timor (NPTL) within 60 days of any change in their marital status, profession, domicile or nationality.

**Article 8**  
**Right to Employment**

1. Foreigners are permitted to engage in remunerated activity, whether independently or as an employee with the restrictions established by law.
2. Engaging in remunerated activity is not permitted for foreigners who do not possess an appropriate visa or documentation as required by the present law.
3. Foreigners who are admitted into the country with a working permit to engage in remunerated activity for others, can only engage in that activity with a different organization other than that which had hired him/her with specific authorization from the East Timor National Police Migration Department and with the approval from the Secretary of State for Labor and Solidarity.

**Article 9 .**  
**Right to Associate**

1. Foreigners may enter or join associations with cultural, religious, recreational, sports, charitable or assistance purposes, as well as participating in meetings to commemorate national holidays.
2. In addition to requirements stipulated in special laws referring to associations and corporate bodies, associations organized according to the above paragraph, which are exclusively made up of foreign members or in which the majority of members are foreigners, must register with the Ministry of the Interior (MI).
3. Registration of associations described in the previous paragraph must be made through an application addressed to the Ministry of the Interior briefly describing the purposes of the association, and submitting copies of the statutes or by-laws together with a detailed membership list.

**Article 10**  
**Denial of Registration and Cancellation**

1. The Ministry of the Interior will deny the registration of an association required under the terms of the above paragraph whenever the purpose and activities of said organization are prohibited by the present instrument and other existing national legislation.
2. The Ministry of the Interior may cancel on good legal grounds the registration received from an association if said registration was obtained through false statements of purpose, or if the organization subsequently performs prohibited activities.
3. Once the registration has been denied or cancelled, the operation of the association is immediately suspended, and officers in its membership who continue operations will be in violation of the law.
4. The Solicitor General, at the request of the Ministry of the Interior, will begin special judicial proceedings to dissolve any association which has been denied or cancelled by the Minister of the Interior.

## **Article 11**

### **Restrictions**

Foreigners cannot:

- a) Own the majority of stock in a national mass media company, regardless of its legal nature, unless expressly authorized by the Government. Exception to the present rule is the written press, directed exclusively at foreign resident communities with the purpose of disseminating foreign culture, literature or language;
- b) Own a majority of shares in a domestic commercial airline unless otherwise stipulated in specific legislation;
- c) Participate in the administration of a union, corporation or professional organization, or in agencies that monitor paid activities;
- d) Provide religious assistance to the Defense and Security Forces;
- e) Engage in activities of a political nature or participate, directly or indirectly, in affairs of State;
- f) Organize or participate in demonstrations, processions, rallies and meetings of a political nature;
- g) Organize, create or maintain an association or any other entity which is political in nature, even if solely to disseminate and broadcast political ideas, programs or political action of the country of origin among co-nationals;
- h) Influence co-nationals or third parties to follow ideas, programs or action programs of political parties or factions from any country.

**Article 12**  
**National Interest**

The Ministry of the Interior can, on good legal grounds, prohibit foreigners from organizing conferences, congresses, artistic or cultural demonstrations, whenever these may threaten the Nation's relevant interests or international relations.

**CHAPTER III**  
**Entry and Exit from the National Territory**

**Article 13**  
**Border Controls**

1. Entry and exit from the National Territory can only be made through the border control points that are set up during operation hours.
2. All individuals who enter or exit the National Territory are subject to immigration control.

**Article 14**  
**Right to Entry and Exit**

1. All citizens have the right to enter the National Territory provided they can prove East Timor citizenship.
2. Any citizen may leave East Timor provided no legal order has been issued to the contrary.
3. Notwithstanding the above provision, exit from the National Territory shall be denied to minors, nationals or foreigners, who travel unaccompanied by whomever has parental control over them or written authorization therein.

**Article 15**  
**Denial of Entry**

Entry to the National territory shall be denied to foreigners who do not meet all the requirements established in the present instrument or who constitute a risk or a serious threat to health, public law and order or to the international relations of the Democratic Republic of East Timor.

**Article 16**  
**Travel Documents and Substituting Documents**

1. For entering or exiting the National Territory foreigners must carry their passport or other recognized travel document.
2. The validity of the travel document has to be longer than the length of stay by at least three months, except in the case of an foreigner who is a resident of the National Territory.
3. Entry or exit into the National Territory is allowed to foreigners who:
  - a) are nationals of Countries with which the DRTL has entered into agreements allowing their entry with an identification card or its equivalent;
  - b) are bearers of a safe-conduct or its equivalent issued by the authorities of the Country they are nationals of or the Country they represent;
  - c) are bearers of flight license or certificate for crew members described in Annexes 1 and 9 of the International Civil Aviation Organization or of other documents that may substitute them, while in the performance of their duties;
  - d) are bearers of a seafarer identity document described in the Convention 108 of the International Labor Organization, while in the performance of their service;
  - e) are bearers of a *laissez-passer* issued by the United Nations Organization (UN);
  - f) are bearers of travel documents described in the Geneva Convention of 28 July 1951.
4. The safe-conduct in item b) of the previous paragraph will only be valid for transit, and when issued within the National Territory, will only allow the bearer to exit.
5. As well, foreigners who were issued documents by national authorities according to this instrument, are allowed to exit the National Territory.

**Article 17**  
**Entry Visa**

- 1) In order to enter the National Territory foreigners must present the proper valid visa for their travels, according to the present instrument.
- 2) Entry will be allowed into the National Territory to foreigners who:
  - a) have a valid residency authorization or identification document issued to diplomatic personnel in accordance with the terms of this instrument;
  - b) Prove they are working for the UN or one of its agencies within the National Territory;
  - c) are exempt from the entry visa obligation because of bilateral or multilateral agreements entered into by the DRTL and the Country which they are nationals of.
- 3) Foreigners who enter the National Territory exempt from a visa can only remain for a 90 day maximum length of stay, without prejudice to the cases in which they get an extension according to the terms of this instrument.
- 4) Foreigners working for the UN or their agencies receive a special stay authorization which is valid until the end of their contract or mission with the UN as long as it is longer than 90 days.
- 5) Concession of the privilege described in the previous paragraph is under the jurisdiction of the Minister of the Interior and must be requested by UN representatives of their agencies duly credited in the DRTL.
- 6) What appears under items 4 and 5 of this Article applies similarly to foreigners working for cooperation programs entered to by the State and the country from which they are nationals of and the DRTL.

**Article 18**  
**Means of Support**

1. Entry into the National Territory shall be denied to foreigners who do not have the means to support themselves for the length of their stay, who do not have a return ticket to a country that guarantees their reentry or whose status does not allow them to legally provide for themselves.
2. In order to enter and remain in the National Territory, foreigners must have the means to pay *per capita* an amount equivalent to:
  - a) One hundred US dollars for each entry into the National Territory;

b) Fifty US dollars for each day expected to remain in the National Territory.

3. The amounts mentioned in the previous paragraph may be exempted in case a support statement is presented by a national or a legal resident guaranteeing the support and lodging of the foreigner during their stay.

4. The support statement implies that the subscriber assumes the responsibility to pay for all expenses the Government may incur to remove the foreigner from the National Territory without prejudice to the criminal liability he/she may face by making false statements or giving false information.

5. For the purpose of the above paragraph and after payment of debt with an attached note, the support statement becomes an enforceable instrument.

6. The model for the support statement shall be approved by an order of the Ministry of the Interior.

[7 *sic*]. The amounts mentioned in this article will be updated annually by a joint order from the Minister of the Interior and the Minister of Planning and Finances.

#### **Article 19**

#### **Purpose and Conditions for Staying**

1. Entry into the National Territory shall be denied to foreigners whose purpose for staying is clearly contrary to the documents or statements presented.

2. Foreigners, upon request, must submit for the record the statements and documents justifying the purpose and conditions for their stay, or entry or transit within the National Territory.

#### **Article 20**

#### **Entry Authorization in Special Cases**

1. In situations of relevant national interest and for urgent humanitarian reasons, the entry into the National Territory may be authorized to foreigners who do not fulfill legal entry requirements.

2. Power to authorize such entry as described in the previous paragraph falls upon the Ministry of the Interior on good legal grounds.

3. Maximum validity of the entry authorization is 30 days, and it can be extended once for an equal period of time.

**Article 21**  
**Entry of Minors**

1. Entry into National Territory shall be denied to foreigners who are minors when unaccompanied by the person who has parental custody or when there is no one in the National Territory duly authorized by the custodial parent to be responsible for the minor during his/her stay.

2. Except for duly justified cases, entry of a foreign minor into the National Territory will not be authorized when the custodial parent or the person whom the minor is entrusted to is not admitted into the National Territory.

3. If the foreign minor is not admitted into the National Territory, entry shall be denied to the person whom the minor is entrusted to.

**Article 22**  
**Power to Deny Entry and Exit**

The power to deny entry or exit from the National Territory rests on the Director of the National Police of East Timor, who can delegate said power to the Head of the National Police Migration Department and further delegate to the officers responsible at the border control points.

**Article 23**  
**Confiscation of Travel Documents**

When the denial of entry is based on the presentation of counterfeit, false, belonging to someone else, or fraudulently obtained documents, the same shall be confiscated and sent to the Department of Migration of the National Police.

**Article 24**  
**Verification of Document Validity**

The Department of Migration of the National Police may, in case of doubt about the authenticity of the documents issued by national authorities, may access the information on the records that allowed the issuance of said document.

**Article 25**  
**Carriers Responsibility**

1. Carriers that transport into the National Territory by air, sea or land foreigners who have been denied access to said territory, must provide those foreigners their return trip in the shortest time possible to the port where they first boarded the carrier or, if this is impossible, to the country where the travel document was issued or to any other location where their admission is guaranteed.
2. Until the boarding of the foreigner has been verified, he or she is under the responsibility of the carrier.
3. Whenever it is justified, foreigners who have been denied entry will be removed from the National Territory escorted by elements of the National Police.
4. The carrier is responsible for all expenses incurred by the use of the police escort, including payment of any applicable fees.
5. In the case of denial of entry at a land border point, the return will proceed immediately after the formalities related to the denial of entry are completed.

**Article 26**  
**Decision and Notification**

1. The decision to deny entry can only be made after a hearing with the foreign national.
2. The decision to deny entry shall be notified to the interested party, indicating the basis of the denial, the right to appeal and the deadline to exercise that right.
3. The carrier shall also be notified of the denial of entry for the purposes stipulated in the previous article.

## **Article 27**

### **Appeal**

1. The decision to deny entry can be appealed before the Ministry of the Interior and must be filed within eight days.
2. The remedy referred to in the previous number does not grant a reprieve.

## **Article 28**

### **Rights of Foreigners who are not admitted**

During the time spent in the international area of the border control post, the foreign national who has been denied entry has the right to contact a person of their trust, and to receive adequate assistance.

## **Article 29**

### **Refusal of Entry**

1. Entry into the National Territory shall be refused, and a record shall be kept of foreigners who:
  - a) Have been expelled from the National Territory;
  - b) Have left the National Territory as a consequence of notification issued under the terms of this instrument;
  - c) Have been sentenced to incarceration for a duration of more than one year;
  - d) About which there are strong indications that they pose a threat to the health, public order or security, or to the DRTL international relations ;
  - e) About which there are strong indications that they have committed or intend to commit what qualifies as a war crime, or an act of terrorism or an act contrary to the principles of the democratic rule of law.
2. Entry refusal provisions not subject to definite deadlines as per the terms of the present instrument will be periodically revisited to decide about their continuity or dismissal.

3. It is the responsibility of the Ministry of the Interior, following a request by the National Director of the NPTL to register the names in the list referred to in paragraph 1 above.

4. The courts and law enforcement authorities, within the scope of their authority, may request the interdiction of persons at the border to the National Director of the NPTL, who is the officer in charge of maintaining the list.

## **CHAPTER IV**

### **Visas**

#### **SECTION I**

#### **GENERAL PROVISIONS**

##### **Article 30**

##### **Places of Issue**

The visas referred to in this instrument shall be issued at the border control posts and in the consulates of the DRTL overseas.

##### **Article 31**

##### **Valid Documents**

1. Valid documents whereto affix visas are travel documents such as those described in this instrument, except those which, due to their nature, do not have a place to affix a visa.

2. In the cases mentioned in the last part of the previous item, the visas shall be affixed in an independent page.

##### **Article 32**

##### **Visas on Family Passports**

When a visa is issued on a family passport, the names of the members covered by the visa must be mentioned.

**Article 33**  
**Visa Formats**

The different formats of visas appear in Annex 1 which is part of this instrument. .

**SECTION II**  
**TYPES OF VISAS**

**Article 34**  
**Types of visas**

The following types of visas shall be issued:

- a) Ordinary visa;
- b) Work visa;
- c) Permanent residency visa.

**Article 35**  
**Ordinary Visa**

1. Ordinary visas are divided in four different categories and are meant to allow entry into the National Territory for lengths of stay that do not qualify for work visas or permanent residency visas.

2. Ordinary Visa Class I is reserved for foreigners who travel to the National Territory for tourism or business, it allows a maximum length of stay of 90 days and is valid for up to one year with multiple entries.

3. Ordinary Visa Class II is meant for transit through the National Territory *en route* to another country, or between two international flights in a domestic airport, it allows a single entry and is valid for a maximum of 72 hours.

4. Ordinary Visa Class III is reserved for foreigners who intend to study in the National Territory, it allows a length of stay of up to one year and multiple entries, and it is renewable for the same duration upon proof of academic performance, registration and availability of funds and lodging.

5. Ordinary Visa Class IV is reserved for foreigners who travel to the National Territory in a cultural trip or for scientific research, as an artist or athlete, or as a correspondent of a foreign mass media organization, it allows a length of stay equivalent to the contract or mission with a maximum length of stay of 180 days, it can be extended, can be issued for multiple entries and is valid for one year.

### **Article 36**

#### **Work Visa**

1. Work visas are intended to authorize the bearer to enter the National Territory, on a temporary basis, to carry out a professional activity as an employee or independent worker.

2. Work visas exclusively allow the bearer to carry out the professional activity which he or she claimed for the granting of the visa and have the limitations described in Article 8, paragraph 3, of this instrument.

3. Work visas allow a length of stay of up to one year and are valid for one or multiple entries.

### **Article 37**

#### **Visa to Establish Permanent Residency**

1. Visas to establish permanent residency are reserved to allow the bearer entry into National Territory in order to request authorization for permanent residency.

2. Visas to establish permanent residency are granted to the applicant who proves intention to remain permanently in the National Territory, who proves he or she has means of self support, has lodging ensured and does not have a criminal or police record.

3. Visas to establish permanent residency are valid for a single entry into National Territory and allow the bearer to remain for six months.

4. If the foreigner who requests a visa under the terms of this Article intends to perform a professional activity as an employee or as an independent worker, consideration will be given to granting the visa based on the goal of providing specialized labor to the various sectors of the economy to increase productivity and assimilating technology.

5. The number of foreigners that will be admitted under the terms of the previous paragraph, as well as the sectors of the economy in which they will carry out their activity, will be set annually by resolution from the Council of Ministers.

6. Granting a visa to establish permanent residency may be conditioned to residing in a specific region within the National Territory for a period of no longer than five years.

### **SECTION III**

#### **POWER TO AUTHORIZE AND GRANT VISAS**

##### **Article 38**

##### **Authorizing Visas**

1. Visas to establish permanent residency, common visas Class III and IV, and work visas shall be authorized by the Department of Consular Affairs of the Ministry of Foreign Affairs and Cooperation.

2. A consultation with the Migration Department of the NPTL is not mandatory or binding to authorize the visas referred to in the previous paragraph.

3. A consultation with the government department that oversees labor and employment is not mandatory or binding to authorize work visas or visas to establish permanent residency and perform a professional activity.

4. Ordinary visas Class I and II shall be authorized by consulates of the DRTL abroad, and by the National Director of the NPTL when applied for at the border control points.

5. The authority of the National Director of the NPTL referred to in the above paragraph, may be delegated to the Head of the Migration Department who can, in turn, further delegate to the officers in charge at the border control points.

**Article 39**  
**Granting Visas**

1. Work visas, visas to establish permanent residency and ordinary visas Class III and IV shall be issued and granted, after being duly authorized, by the consular offices of the DRTL abroad.
2. In cases where the applicant resides in countries or territories where there are no DRTL consular offices, the request must be made directly to the Department of Consular Affairs of the Ministry of Foreign Affairs and Cooperation.
3. The visa authorization, in the case of the previous paragraph, is relayed to the visa applicant and to the anticipated border control point of entry into the National Territory, when the border control officers have the authority to issue said visa.
4. Ordinary visas Class I and II, after being duly authorized, shall be issued and granted at the consulates of the DRTL abroad, and at the border control points.

**Article 40**  
**Processing Documentation for Work Visas and for Establishing Permanent Residency**

1. The requests for work visas and for establishing permanent residency must be accompanied by the following documents:
  - a) Full identification of the applicant through an authenticated copy of their passport;
  - b) Color photograph, permit size, with single color background;
  - c) Certificate of clean criminal record and medical certificate attesting to the physical and psychological suitability of the applicant, issued by competent authority in the country of the applicant's nationality, or from his/her country of residency for more than one year;
  - d) Proof of support and lodging;
  - e) Visa application specifying the reasons for requesting residency and the length of time of permanence, as well as a commitment statement by the applicant to honor all the legal requirements for the requested visa.
2. In the case of a working visa, or a visa to establish permanent residency with the purpose of performing professional activities, the applicant must also attach proof of employment offer,

participation in a corporation, professional competence for performing an independent profession, or any other probatory document referred to the activity intended.

## **CHAPTER V**

### **Extension of Permanent Residency**

#### **Article 41**

##### **Travel Document Requirement**

Foreigners admitted into the National Territory, with or without a visa requirement, must have valid and recognized travel documents if they intend to remain longer than the time granted at the entry point in the border.

#### **Article 42**

##### **Limits for Lengths of Stay**

1. Foreigners who are bearers of visas can extend their stay in the National Territory with the following restrictions:

- a) Up to ninety days if the applicant holds an ordinary Class I visa;
- b) Up to three years if the applicant holds a work visa, which can be extended for subsequent 1 year periods;
- c) Up to 180 days if the applicant holds an ordinary visa Class IV, except journalists of foreign mass media who can extend their stay to the maximum time allowed, which is three years and for periods of 180 days;
- d) Until completing his/her studies if the applicant holds an ordinary visa Class III, the limit being the number of years anticipated for the course curriculum.

2. Foreigners admitted into the National Territory without the visa requirement can extend their stay for up to ninety days.

3. Extensions to work visas shall be contingent upon maintaining the working situation that granted the visa authorization, as well as the mandatory opinion of the government department that oversees labor and employment.

4. Extensions to lengths of stay granted under the terms of the present Article may be cancelled by the Head of the Migration Department of the NPTL if the conditions that were the basis for

granting the visa or the extension thereof are altered or if the presence of the foreigner in the National Territory constitutes a threat to public order, public security or international relations of the DRTL.

5. Extension denial sets in motion deportation procedures to exclude the foreigner from the National Territory as provided by this instrument.

**Article 43**  
**Qualification**

1. The authority to extend visas as per this Chapter falls on the National Director of the NPTL, who can delegate it on the Head of the Migration Department.
2. Extensions are granted by means of a stamp affixed to the applicants travel documents, which model shall be approved by decree from the Ministry of the Interior.

**CHAPTER VI**  
**Family Reunification**

**Article 44**  
**Right to Family Reunification**

1. In the National Territory the right to family reunification is recognized to foreigners who are family members of a resident immigrant with whom they lived in another country or of whom they are dependants.
2. The applicant for a Family Reunification request must have a valid residency authorization.

**Article 45**  
**Beneficiaries**

1. For the purposes of the previous Article, members of the resident's family are:
  - a) Spouse;

- b) Dependent children, children under 18 years old by both spouses, or by one of the spouses.

2. In the case of a child under 18 years old or handicapped child by one of the spouses, he/she shall qualify for family reunification only if the minor is in legal custody of the applicant.

## **Article 46**

### **Processing**

1. Immigrants residing in the National Territory who would like to benefit from the right to family reunification must forward the proper application to the Migration Department of the NPTL, attaching proper identification of the applicant and of the family members included in the request.

2. The application must be accompanied by the following documents:

- a) Proof of family relationship;
- b) Authenticated copies of identification documents of the applicant's family members for whom reunification is requested;
- c) Proof of adequate lodging facilities and support means to fulfill the needs of the family members.

3. The Migration Department of the NPTL can request from the applicant all documents deemed necessary to process the request, as well as obtain from all government agencies the necessary information for the same purpose.

4. The decision about the request for family reunification belongs to the National Director of the NPTL, who may delegate on the Head of the Migration Department.

## **CHAPTER VII**

### **Special Travel Documents**

#### **Article 47**

#### **Safe-conduct**

1. The National Director of the NPTL may issue a safe-conduct to foreigners who are in the following situations:

- a) Not being residents of the National Territory they have difficulties or are prevented from leaving the National Territory because they lack travel documents;
  - b) Are subject to deportation from the National Territory and do not have a travel document.
2. The safe-conduct is issued with the exclusive aim of allowing the exit from the National Territory and it is valid for a single trip.
  3. The model for the safe-conduct shall be approved by decree from the Minister of the Interior.

**Article 48**  
**Bearer's Proof of Citizenship**

A safe-conduct issued to a foreigner is not proof of citizenship of the bearer.

**CHAPTER VIII**  
**Residency Authorization**

**Article 49**  
**Request for and Granting of Residency Authorization**

1. Applications for authorization of residency shall be submitted to the Migration Department of the NPTL.
2. To be granted residency the applicant must meet the following requirements:
  - a) Possess a valid visa for establishing residency;
  - b) No hidden impediments that would constitute basis for visa denial if they were known by the competent authorities;
  - c) Actual presence in the National Territory.

**Article 50**  
**Types of Residency Authorizations**

1. There are two types of residency authorization:
  - a) Temporary residency authorization;
  - b) Permanent residency authorization.
2. Foreigners authorized to reside in the National Territory are issued a residency document whose model shall be approved by decree from the Minister of the Interior.

**Article 51**  
**Temporary Residency Authorization**

1. There is no time limit as to the validity of a temporary residency authorization.
2. The residency document must be renewed every time there is a change in the identification elements contained therein.

**Article 52**  
**Permanent Residency Authorization**

1. There is no time limit as to the validity of a permanent residency authorization.
2. The residency document must be renewed every five years or under the circumstances described in paragraph 2 of the previous Article.

**Article 53**  
**Granting Permanent Residency Authorization**

A permanent residency authorization may benefit foreigners who:

- a) Have been legal residents of the National Territory for at least 12 consecutive years;
- b) Have not been sentenced for criminal offenses to a prison term (concurrent or consecutive) of more than one year, during the residency period described in the above paragraph.

**Article 54**  
**Special Cases**

1. In special cases and in cases of national interest, residency authorization may be granted to foreigners who do not meet the requirements under this instrument.
2. The authority to grant residency in the special cases described in the previous paragraph falls on the Prime Minister and the Minister of the Interior by joint order.
3. The application shall be submitted to the Migration Department of the NPTL who will start the process, gathering all pertinent elements and documents thereto, namely those related to the exceptionality and national interest invoked.
4. Once the process is concluded, a report shall be prepared describing the grounds for a decision proposal which, together with the corresponding file, shall be submitted for a final decision.

**Article 55**  
**Foreigner minors born in the National Territory**

1. Foreigner minors born in the National Territory enjoy the same resident status granted to any of the parents.
2. In order to issue the resident document, any of the parents must submit a petition to that effect within six months following the minor's birth registration.

**Article 56**  
**Granting Residency Authorization**

1. Applications for residency authorization shall be submitted in the printed form available, duly completed and signed by the applicant, or in the case of minors or incompetent persons, by their legal representative.

2. The application must be accompanied by the following documents:

- a) Valid passport;
- b) Valid visa to establish permanent residency, when necessary;
- c) Two identical photographs, permit size, with single color background;
- d) Proof of means of support and lodging accommodations;
- e) Any other document serving as proof of expressed allegations.

#### **Article 57**

#### **Renewal of Residency Authorization**

1. Renewal of the temporary residency authorization must be requested at least 30 days prior to its expiration.

2. Among the considerations examined in the request submitted to the Migration Department of the NPTL, the following criteria will be examined:

- a) Means of support and lodging accommodations of the applicant;
- b) The applicant's history of abiding by the current legislation, namely that referring to foreigners.

3. Request for renewal must be accompanied by the documents described in paragraph c) and following, of paragraph 2 of the previous Article.

#### **Article 58**

#### **Abrogation of Authorization of Residency**

Authorization of residency will be abrogated whenever the resident immigrant:

- a) Is the subject of a deportation order from the National Territory;

- b) Has been sentenced, by a court of law, to a prison term in excess of three years;
- c) Made false statements or presented false documentation during the process to grant residency authorization;
- d) When holding a temporary residency authorization the resident immigrant is absent from the National Territory for six consecutive months or ten interspersed months during the valid term of the authorization;
- e) When as a holder of permanent residency authorization, is absent from the National Territory for 24 consecutive months in a three year period, 30 months interspersed.

### **Article 59**

#### **Foreigners Exempted from Residency Authorization**

1. The residency authorization is not a requirement for diplomats, or consular officers credited in the DRTL, or for the administrative, domestic and technical personnel coming with the diplomatic missions or consular offices, nor their family members.
2. The above mentioned personnel will be given an identity card issued by the Ministry of Foreign Affairs and Cooperation, with a visa issued by the Migration Department of the NPTL.
3. The individuals referred to in paragraph 1 of the present Article are also exempted from a visa for their first entry into the National Territory, as long as they hold a diplomatic or official passport and their arrival is previously communicated to the Migration Department of the NPTL by the diplomatic mission or consular office.

### **Article 60**

#### **Identification Document**

The individual identification document constitutes enough proof of civil identity of the bearer and is the only identification document apt to prove resident status in the National Territory.

**Article 61**  
**Legal Authority**

It is under the authority of the National Director of the NPTL, except a provision to the contrary in the present instrument, the renewal and abrogation of residency authorizations, and such authority can be delegated on the Head of the Migration Department.

**CHAPTER IX**  
**Lodging Registration**

**Article 62**  
**Lodging Registration**

1. Lodging registration is intended to allow for the control of foreigners in the National Territory.
2. For the purpose of registration described in the previous paragraph, all persons, individually or collectively, that provide lodging to foreigners in any manner, must keep a record of that information.
3. The record must include the name, date of birth, number and expiration date of the identification document, nationality, and the date of entry and departure from the lodging.
4. Registration may be done electronically or in paper, but must necessarily contain the information mentioned in the previous number.

**CHAPTER X**  
**Deportation From the National Territory**

**Section I**  
**General Stipulations**

**Article 63**  
**Basis for Deportation**

1. Without prejudice to provisions in international treaties or conventions where the DRTL is a party to, foreigners will be deported from National Territory if they:

- a) Enter or remain illegally in the National Territory;
- b) Commit acts against national security, public order or good morals;
- c) Because of their presence or activities in the National Territory constitute a threat to the interests and dignity of the DRTL or its citizens;
- d) Interfere in an abusive manner in the exercise of the right of political participation reserved for the citizens of DRTL or are responsible by commission or omission, of acts prohibited to foreigners under this law;
- e) Have committed acts that, if known to the authorities of the DRTL, would have prevented their entrance into the National Territory.

2. The provision in the previous paragraph does not preclude criminal responsibility on the part of the foreigner.

#### **Article 64**

#### **Exclusion from the National Territory**

1. Before deportation procedures are filed, foreigners who are in one of the situations described in paragraph 1 of the previous Article, can be ordered to leave the National Territory within a certain time frame.

2. Non-compliance with the above order sets in motion immediate deportation proceedings, together with detention and other coercive measures included in this instrument.

3. The authority to notify the foreigner under paragraph 1 rests on the National Director of the NPTL, who can delegate on the Migration Department.

4. The time frame described in paragraph 1 can be between 24 hours and ten days.

#### **Article 65**

#### **Additional Penalties to Deportation**

1. Beyond what other criminal laws provide, an additional penalty to deportation can be imposed to:

- a) Foreigners who are not residents of the National Territory who were convicted of a crime that carries a prison sentence of more than 6 months

- b) Foreigners who have been residents of the National Territory less than four years and were convicted of a crime that carries a prison sentence of more than one year;
  - c) Foreigners who have been residents of the National Territory for over four years who were convicted of a crime that carries a prison sentence of more than 3 years.
2. The additional penalty can be imposed even if the deportee is free on probation.
  3. The court that imposed the sentence has jurisdiction to decide on the deportation.

### **Article 66**

#### **Authority over the Deportation Process**

1. The Head of the Migration Department of the NPTL has authority to start deportation proceedings.
2. The National Director of the NPTL has authority to decide for the dismissal of the deportation case.

### **Article 67**

#### **Authority to Enforce the Decision**

The Migration Department of the NPTL has the authority to enforce the deportation order.

### **Article 68**

#### **Country of Destination**

1. A foreigner cannot be deported to a country where he/she may suffer life-threatening persecution for ethnic or religious reasons, nationality, social group or political ideas.
2. In order to be protected by the above mentioned guarantee, the foreigner must invoke fear of persecution and provide proof of it within the timeframe granted by the law.

### **Article 69**

#### **Length of Reentry Prohibition**

Reentry into the National Territory will be denied to deportees for a period between three to ten years.

**Article 70**  
**Coercive Measures**

1. Beyond other provisions in the criminal laws, the Courts could further impose the following measures on foreigners subject to deportation proceedings:

- a) Regular reporting in person to the Migration Department of the NPTL;
- b) Placing the deportees under preventive detention, separated from the rest of the inmates.

2. The District Courts in the area where the foreigner resides have jurisdiction to impose these coercive measures. In cases where the foreigner is not a resident, the Court in the location where the foreigner was found has jurisdiction over the case.

**Section II**

**Deportation process**

**Article 71**  
**Due Process**

1. Deportation proceedings shall be started against foreigners who incur in one of the causes for deportation from the National Territory described in this instrument.

2. No decision to deport a foreigner may be executed without a final deportation decision after due process.

**Article 72**  
**Illegal Entry and Permanence**

1. Foreigners who enter or remain illegally in the National Territory and are detained by law enforcement must be taken before a judge within 48 hours from their detention, as per Article 70 paragraph 2, to validate their detention and decide on coercive measures.

2. Should the Court decide preventive detention, the Migration Department of the NPTL shall be notified, in order to start due process for deporting the foreigner from the National Territory.

3. Preventive detention described in the previous paragraph cannot exceed the time needed to execute the deportation order, and cannot be longer than 90 days.

4. If preventive detention is not decided, the Migration Department of the NPTL shall nonetheless be notified for the purposes described in paragraph 2, and the foreigner shall be given notice to appear before the Migration Department.

### **Article 73**

#### **The Process**

1. During the fact finding stage of the deportation process, the person subject to the process has the right to a hearing, and enjoys all guarantees for his/her defense.

2. The fact finder shall start all legal proceedings deemed essential to find out the truth and can reject, on good legal grounds, any preparatory inquiries requested by the person against whom the process was initiated, when the alleged facts are sufficiently proved.

3. Once the fact finding is complete, a report must be prepared, where the fact finder describes the facts discovered and proposes what he/she considers an appropriate decision, and the file shall then be sent to the competent authority that issues a final decision.

### **Article 74**

#### **Deportation Order**

1. The decision to deport rests on the Ministry of the Interior.

2. The deportation order must include:

- a) Statement of facts;
- b) Deportee's legal obligations;
- c) Document used for entry into the National Territory, with indication as to the duration of the stay;
- d) Indication of the country to which the foreigner shall be sent.

3. The execution of the deportation order implies adding the deportee to the list of persons not allowed reentry.

**Article 75**  
**Notice of Deportation Order**

The deportation order shall be notified to the person against whom the process was initiated and included therein is the right to appeal, as well as the deadline to file such recourse.

**Article 76**  
**Appeals**

1. The deportation order can be appealed before the Court of Appeals.
2. The appeal of the decision against foreigners who entered and remained legally in the National Territory or are permanent residents has the effect of a stay.
3. The appeal of the decision against foreigners who entered and remained illegally in the National Territory has merely a returnable effect.
4. Deadline to file the appeal is ten days from when the notice of the decision to deport has been given to the person concerned.

**Section III**  
**Execution of the Deportation Order**

**Article 77**  
**Executing the Order**

1. A foreigner against whom a deportation order has been issued will remain under police custody for a period of 48 hours, beginning at the time when the decision was notified, unless the foreigner is not in preventive detention or has not filed for appeal under Article 76, paragraph 2.
2. Police custody described in the previous paragraph is intended to ensure the deportation order is executed and the deadline can be extended by the Court for a maximum of 96 hours if execution of the order is impossible before the deadline anticipated in paragraph 1.

**Article 78**  
**Violation of Reentry Prohibition**

1. It is a crime punishable by a prison term of up to two years for foreigners who reenter the National Territory during the time such reentry is prohibited.
2. In case of conviction, the Court shall order the deportation of the foreigner as an additional penalty.

**CHAPTER XI**  
**Immigration Crimes**

**Article 79**  
**Aid to Illegal Immigration**

1. All persons who, through any means, assist or facilitate the illegal entry or permanence of a foreigner in the National Territory shall be punished by imprisonment of not more than 3 years not fewer than 30 days.
2. If the acts referred to in the previous paragraph were committed for profit, the penalty shall be imprisonment of not more than 4 years not fewer than 12 months.
3. Attempted crimes shall be punished with the same sentences applicable to committed crimes.

**Article 80**  
**Illegal Solicitation of Labor**

1. All persons who, for cash or in kind remuneration, hire or help the hiring of a foreigner in a workplace for any type of economic activity shall be punished by imprisonment of not more than 3 years not fewer than 30 days.
2. Attempted crimes shall be punishable by the same penalties applicable to committed crimes.

**Article 81**  
**Human Trafficking**

1. All persons who under threat of force or any other form of coercion, fraud, deceit, abuse of power or by taking advantage of the victim's vulnerability, recruit, transfer, lodge or keep persons with the purpose of exploiting them or placing them in sexual exploitation, forced labor, slavery or human organ trafficking networks, shall be punished by imprisonment of not more than 8 years not fewer than 3 years.
2. The same penalties shall apply to those who, through payment either in cash or in kind, buy consent from a third party in control of the victim, to perform the activities described in paragraph 1 of the present Article.
3. If the victim of the activities described in paragraphs 1 and 2 of the present Article is a minor under 18 years of age, the mere transportation, recruitment, transfer, lodging or keeping of these persons for the purposes described in paragraph 1, constitutes a crime that shall be punishable by imprisonment of not more than 12 years not fewer than 5.

**Article 82**  
**Criminal Association**

1. All persons who create a group, organization or association whose activities are geared to the commission of the crimes described in the previous Articles shall be punished by imprisonment of not more than 5 years not fewer than 2 years.
2. The same penalties apply to all members of such groups, organizations or associations.
3. The leaders of those groups, organizations or associations described in the previous paragraphs shall be punished by imprisonment of not more than 15 years not fewer than 5 years.
4. Individuals who commit the offenses described in the present Chapter and cooperate with law enforcement investigation, or who with their behavior contribute in a decisive manner for the offense not to be committed, may be given special reduced sentence with a reduction of 2/5 of the minimum and maximum limits.

**Article 83**  
**Investigation**

The Migration Department of the NPTL is responsible for fact finding and investigating crimes described in the present Chapter and others connected therein.

## **CHAPTER XII [*sic*]**

### **Right to Asylum**

#### **SECTION I**

#### **ASYLUM**

##### **Article 84**

##### **Right to Asylum Guarantee**

1. Foreigners and stateless persons, persecuted or seriously threatened by persecution as a result of an activity carried out in the Country of their nationality or of their ordinary residency, in favor of democracy, social and national freedom, peace among the peoples, freedom and human rights, are guaranteed the right of asylum.
2. Furthermore, foreigners and stateless persons who fearing with cause being persecuted due to race, religion, nationality, political opinion or for being part of a specific social group, cannot or because of fear do not want to return to their Country of origin, or to their country of residency, have the right to be granted asylum.
3. Asylum may only be granted to foreigners who have more than one nationality when the motives referred to in the previous paragraphs can be verified in all the Countries they are nationals of.

##### **Article 85**

##### **Effects of the Asylum Granting**

Asylum granting under the terms of the previous paragraph gives the beneficiary the status of refugee, subject to the provision in this instrument, without prejudice to what has been stipulated in treaties or conventions which the DRTL is party to or adheres to.

**Article 86**  
**Deportation and Right to Asylum**

1. Asylum cannot be granted to:

- a) Those who have committed acts that go against the basic interests or the sovereignty of the DRTL;
- b) Those who have committed crimes against peace, war crimes or crimes against humanity, as described in international instruments designed to prevent them;
- c) Those who have committed common law felonies punishable by incarceration of more than 3 years;
- d) Those who have committed acts that are contrary to the goals and principles of the United Nations.

2. Asylum can be denied if granting it results in a proven risk or justified threat to internal or external security, or to public order.

**Article 87**  
**Family Reunification**

Asylum benefits extend to spouses, minor children, adopted or incompetent, as long as the petitioner so requires and without prejudice to what is provided in the previous paragraph.

**Article 88**  
**Effect of Asylum on Extradition**

1. Asylum granting stops follow-up of any extradition request against the person protected by the asylum, based on the factual grounds of the asylum granting.

2. The final decision over any pending extradition procedures against the petitioner, is suspended while the request for asylum is being considered.

**Article 89**  
**Refugee Status**

1. Refugees enjoy the same rights and are subject to the same obligations of foreign residents in the DRTL, as long as they do not violate the provisions in this instrument, the 1951 Geneva Convention and the 1967 New York protocol, and it is their duty to abide by the law and regulations, as well as all norms concerning public order.

2. Refugees have the right, under the 1951 Geneva Convention, to an identification document as proof of the status granted them by the Migration Department of the DRTL as per the model approved by decree of the Minister of the Interior.

**Article 90**  
**Prohibited Acts**

Asylum applicants cannot:

- a) Interfere, in any manner prohibited by law, in the political life of the DRTL;
- b) Carry out activities that might endanger internal or external security or public order, or that may harm relations of the DRTL with other States;
- c) Carry out activities that are contrary to the goals and principles of the United Nations or of international treaties and conventions that the DRTL is party to or adheres to.

**SECTION II**  
**ADMISSIBILITY OF THE ASYLUM REQUEST**

**Article 91**  
**Asylum Request**

For the purposes of this section, an asylum request is understood as the request by which a foreigner petitions a State for protection under the 1951 Geneva Convention, invoking refugee status as defined in Article 1 of said Convention, with the wording used in the New York Protocol.

**Article 92**  
**Submission of Request**

1. Foreigners and stateless persons who enter the National Territory in order to request asylum must submit their request to any police authority within 72 hours from their entry into the Country, orally or in writing.
2. In the case of a resident of the National Territory, the time count begins on the date in which the facts, or the knowledge of the facts, that serve as basis for the petition are verified.
3. The request must include the petitioner's identification and that of the family members for whom the same request is being filed under the terms of this instrument, plus a statement of the circumstances or facts that constitute the basis for the asylum request and a listing of all the evidence.
4. In case the request is not submitted to the Migration Department of the NPTL, it shall be sent to that Department, which immediately notifies the petitioner to make a statement within the next five days, and informs the United Nations High Commissioner for Refugees (UNHCR).
5. Together with the notification referred to in the previous paragraph, the petitioner is given a statement of proof of submission of request, whereupon the foreigner should be informed of his or her rights and responsibilities, and told to keep the Department informed of their present residency and to appear every 15 days on a specific day of the week, without which the procedure may not go forward.

**Article 93**  
**Effects of Asylum over Violations Related to the Entry into National Territory**

1. Submittal of the request for asylum suspends the proceedings of any other administrative procedure for illegal entry into the National Territory filed against the petitioner or family members who have the right to asylum under the terms of the present instrument.
2. The above mentioned proceedings are dismissed in case asylum is granted and it has been proven that the violation was a result of the very same facts that justified the granting of asylum.

**Article 94**  
**Inadmissibility of Request**

1. The request is considered inadmissible if through the proceedings described in the present instrument some of the causes described in Article 86 or in the following lines were to be found:

- a) It is groundless because it clearly does not meet any of the criteria defined by the Geneva Convention and the New York Protocol, because the petitioner's allegations concerning his/her fear of persecution in their country of origin have no material basis, being clearly fraudulent or an abusive use of the asylum process;
- b) Is made by a petitioner who is a national of or an ordinary resident in a country which qualifies as a safe country or as a third country of shelter;
- c) It falls within the situations described under Article 1-F of the Geneva Convention;
- d) The request is presented, unjustifiably, beyond the deadline described in Article 92;
- e) The petitioner is subject to deportation from the National Territory.

2. For the purpose of what appears in paragraph a) of paragraph 1, there are clear indications that the request is fraudulent or that it constitutes an abusive use of the asylum process when the petitioner, namely:

- a) Based the request on proof provided by counterfeit or falsified documents, and when questioned about the same affirms in bad faith their authenticity, gives false testimony concerning the purpose of the request or destroys documents proving his/her real identity;
- b) Knowingly omits the fact that an asylum request has already been submitted in one or more other countries, eventually resorting to a false identity.

3. For the purposes of paragraph b) in paragraph 1, it is understood that:

- a) Safe country – a country from which one can safely say, in an objective and verifiable way, does not generate any refugees, or a country from which one can say that the causes that could previously justify the protection of the 1951 Geneva Convention have ceased to exist;
- b) Third country of shelter – a country where the asylum petitioner was verifiably not a target of threats to his or her life and liberty in the sense of Article 33 of the Geneva Convention, nor subject to torture, or inhuman or degrading treatment, and where he/she received protection or took advantage of the opportunity, at the

border or in the interior of the territory, to contact the authorities of that country to request protection, or was in fact admitted, and where he/she benefits with real protection against exclusion in the sense of the Geneva Convention.

#### **Article 95**

#### **Summary Fact Finding and Decision**

1. The National Director of the NPTL, after summary fact finding, has the authority to issue a decision on good legal grounds as to the refusal or admission of the request within 20 days, after which the request will be considered admitted, in the absence of a decision.
2. The UNHCR representative shall be notified of the decision.

#### **Article 96**

#### **Effects of the Request Refusal**

1. The petitioner shall be notified of the decision to refuse the request within 24 hours, with the warning that he/she must leave the National Territory within 10 days, or risk immediate deportation once the deadline has passed.
2. The notification referred to in the previous paragraph shall include the information as to the rights of the petitioner under the terms of the following Article.

#### **Article 97**

#### **Appeal**

1. In case the petitioner is not satisfied with the decision, he/she can, within five days from receiving notice, submit an appeal to the Minister of the Interior; the appeal has the effect of a stay.
2. Within 48 hours from the date in which the appeal was received, the Minister of the Interior will issue a final decision, which can be appealed before a court of law within the following eight days.

## **SECTION III**

### **REQUESTS SUBMITTED AT BORDER POINTS**

#### **Article 98**

##### **Special Provisions**

Inadmissibility of the asylum requests made at the border points by foreigners who do not meet the necessary legal requirements to enter into the National Territory are subject to the provisions described in the previous Articles, with the changes included in the present Section.

#### **Article 99**

##### **Request Evaluation and Decision**

1. The Migration Department of the NPTL shall inform the UNHCR representative about the requests for asylum referred to in the previous Article, and he/she shall have 48 hours to interview the petitioner, if desired.
2. Within the timeframe referred to in the previous paragraph, the petitioner shall be informed of his or her rights and responsibilities and shall be interviewed.
3. The National Director of the NPTL shall make a decision on good legal grounds refusing or admitting the request within a maximum period of 5 days, but never before the deadline anticipated in paragraph 1.
4. The decision referred to in the previous paragraph shall be notified to the petitioner, including information as to his/her rights, and shall simultaneously be communicated to the UNHCR Representative.

#### **Article 100**

##### **Appeal**

1. Within 24 hours of receiving notification of the decision, the petitioner may file an appeal with the Minister of the Interior; the appeal has the effect of a stay and the Minister shall render a decision within 24 hours.

2. The UNHCR representative may, if he/she wishes, make a statement about the decision of the National Director of the NPTL, and it must be done in writing within 24 hours from the communication about the decision.

#### **Article 101**

#### **Effects of the Request and of the Decision**

1. The petitioner remains at the international area of the border while awaiting decision by the National Director of the NPTL.
2. The decision to deny the request results in the return of the petitioner to the location where his or her trip originated, and in the event that this is impossible, to the country where the travel documents with which he or she traveled were issued, or to another place where he or she may be admitted, namely a third country of safe harbor.
3. The decision to grant admission or deny the request, if it is not notified to the petitioner in the time established in the previous Articles, the entry of the petitioner to the National Territory is allowed, followed by the start of the asylum request proceedings under the terms of the present instrument.

#### **SECTION VI [sic]**

#### **GRANTING ASYLUM**

#### **Article 102**

#### **Temporary Residency Authorization**

1. The Migration Department of the NPTL shall issue to individuals covered by the request for asylum a temporary residency authorization, valid for 60 days from the date the request was filed and renewable for 30 day periods until a final decision is made, model of which will be approved by decree of the Minister of the Interior.
2. Family members entitled to the same protections under the present instrument must be mentioned and named in the petitioner's application for residency.

**Article 103**  
**Fact Finding and Reports**

1. The Migration Department of the NPTL shall initiate the required legal proceedings and determine all facts, that need to be discovered for a fair and speedy decision.
2. Deadline for the fact finding process shall be 60 days, renewable for an equal period, when justified.
3. During the fact finding process the UNHCR may attach to the request reports or information about the country of origin and obtain information about the status of the application.
4. After finding the facts, the Migration Department of the NPTL prepares a report with the final proposal which is to be sent, together with the file, to the Minister of the Interior.
5. The UNHCR representative shall be informed of this proposal and if so willing, may make a statement as to its content within five days.
6. The applicant shall be informed of the proposal's contents and may also make a statement about it within the same timeframe.
7. The Minister of the Interior shall decide within eight days counting from the last day of the term established in the previous paragraph, taking into account the proposal that was made and the possible statements by the applicant and the UNHCR.
8. All who participate in the asylum process must keep professional secrecy regarding the information they have access to in the performance of their duties.

**Article 104**  
**Notification and Appeal**

1. A denial to the request for asylum can be appealed before the Court of Appeals, must be filed within 20 days and it has the effect of a stay.
2. The Migration Department of the NPTL shall notify the decision to the applicant mentioning his/her right to appeal described in the previous paragraph and shall also notify the UNHCR.

**Article 105**  
**Effects of the Asylum Denial**

1. In case of an asylum denial, the petitioner may remain in the National Territory for a temporary period which shall not exceed 30 days.
2. The petitioner is subject to the general provisions stipulated in the present instrument, starting at the time established in the previous paragraph.

**SECTION VII**  
**REQUEST TO REINSTATE REFUGEES**

**Article 106**  
**Request for Reinstatement**

1. Requests for reinstatement of refugees under the UNHCR mandate are presented by the UNHCR representative to the Minister of the Interior, who requests an opinion to the Command of the NPTL who shall issue said opinion within eight days.
2. The Government representative referred to in the previous paragraph is who decides about the admissibility and granting of asylum, taking into consideration the special circumstances of the case and the legitimate interests to be safeguarded.

**SECTION VIII**  
**LOSS OF THE RIGHT TO ASYLUM**

**Article 107**  
**Causes for Loss of the Right to Asylum**

Cause for loss of the right for asylum are:

- a) Stated renunciation;

- b) Engaging in prohibited acts or activities as stipulated in the provisions of this instrument;
- c) Proof of falsehoods in the basis invoked for the granting of asylum, or the revelation of facts, which if known at the time of the granting, would have resulted in a negative decision;
- d) The request by, and subsequent granting of protection to the petitioner in the country in which he or she is a national;
- e) Voluntary reclaiming of the nationality that the petitioner had lost;
- f) Voluntary adoption by the refugee of a new nationality as long as he or she enjoys protection from that country;
- g) Voluntary relocation to the country he or she had left or from which he or she remained away from for fear of persecution;
- h) Cease of motives which justified the granting of asylum;
- i) Judicial decision to deport the individual given asylum;
- j) Refugee's departure from the National Territory and relocation in another country.

### **Article 108**

#### **Effects of the Loss of the Right to Asylum**

1. The loss of the right to asylum based on paragraph b) of the previous Article is cause for deportation from the National Territory without prejudice to the provisions in paragraph 3.
2. The loss of the right to asylum for causes described in paragraphs a), c), d), e), f), g) and h) of the previous Article places the refugee under the general provisions described in this instrument for permanence of foreigners, without prejudice to what is described in the following paragraph.
3. In cases of loss of the right to asylum, for the reasons described in paragraph h) of the previous Article, the refugee may request to be granted a residency authorization, exempted from presenting the visa, in the terms of the general provisions for foreigners.

**Article 109**  
**Deportation of Refugees**

Deportation of refugees in the terms of the previous article, may nor result in his or her placement in a Territory in a country where his or her freedom is at risk for any of the causes which, in the terms of this Chapter, may constitute basis to grant asylum.

**Article 110**  
**Legal Authority**

1. The Ministry of the Interior has the authority, under provisions from the National Director of the NPTL, to decide about the loss of the right to asylum.
2. The decision of the National Director of the NPTL described in the previous paragraph shall be brought to the attention of the UNHCR who, if he/she wishes to, may make a statement about the decision within five days.
3. The decision stipulating the loss of the right to asylum can be appealed before the Court of Appeals, it must be filed within 20 days, and it has the effect of a stay.

SECTION IX  
**SOCIAL SUPPORT**

**Article 111**  
**Guarantee of Safe Harbor**

The DRTL guarantees asylum applicants humane and respectful treatment, until the final decision about the request is made.

**Article 112**  
**Social Support**

1. Asylum applicants and their family group, who lack financial and social support, shall be provided social support whenever possible under the terms of this Chapter.

2. Social support under the previous paragraph shall be provided by non governmental organizations under protocols established to that effect.

**Article 113**  
**Termination**

The procedure described in this Chapter will be deemed terminated when the process is stalled for over 60 days for reasons attributed to the petitioner.

**CHAPTER XIII**

**Fees**

**Article 114**

**Fees**

1. The fee for visas and visa extensions are the following:

- a) To issue ordinary visas Class I 30 USD, Class II, 20 USD, Class III and IV, 40 USD.
- b) To issue work visas and establishing residency 50 USD;
- c) To extend permanent visas 35 USD.

2. The fees to be paid for issuing and renewing residency authorizations are the following:

- a) To issue authorization for temporary residency 40 USD and to renew residency card 25 USD;
- b) To issue authorization for permanent residency 100 USD and to renew residency card 25 USD;

3. To escort foreign nationals whose deportation from the National Territory is the responsibility of the carriers in the terms of this instrument, a 750 fee shall be required for each individual..

4. Fees described in this Article are revisited annually by a joint order from the Minister of Planning and Finances and the Minister of the Interior.

### **Article 115**

#### **Fee Exemption and Reduction**

1. Holders of diplomatic and official passports are exempt form visa fees and permanence extension fees.

2. The same benefit of fee exemption applies to foreign nationals from countries with which the DRTL has agreements for such purpose or whose domestic laws guarantees identical treatment to DRTL nationals.

## **CHAPTER XIV *[sic]***

### **Fines**

#### **Section I**

#### **Applicable Fines**

### **Article 116**

#### **Illegal Stay**

1. In cases where the foreigner exceeds the authorized stay in the National Territory, the following fines will apply:

- a) 70 USD to 150 USD if the period exceeding authorized stay does not exceed 30 days;
- b) 150 USD to 270 USD if the period exceeding authorized stay exceeds 30 days;
- c) 270 USD to 500 USD if the period exceeding authorized stay exceeds 90 days.

2. Extensions to the maximum stay allowed in the provisions of this instrument cannot be authorized without proof of payment of the appropriate fees under the previous paragraph.

### **Article 117**

#### **Transportation of Foreigners not Authorized to Enter**

Carriers as well as all who transport into the National Territory foreign nationals whose entry into the DRTL is not authorized, shall be subject to a fine of not more than USD 1500 and not less than USD 750 for each individual.

### **Article 118**

#### **Practicing Unauthorized Professional Activity**

The practice of a professional activity, as an employee or independently, by foreigners lacking authorization and appropriate work visa or residency authorization, when required, shall be subject to a fine of not more than USD 1000, and not less than USD 250.

### **Article 119**

#### **Use of Illegal Labor**

Companies and individuals who employ foreign nationals who do not have the authorization for practicing that activity under the terms of this instrument, shall be subject to a fine of not more than USD 2000 and not less than USD 500 for each individual detected illegally practicing the above mentioned activity.

### **Article 120**

#### **Renewal After Expiration**

Foreigners who request renewal for their temporary residency over 30 days after expiration of the same will be fined not more than USD 250 and not less than USD 50.

**Article 121**  
**Non-observance of Certain Responsibilities**

Violation of the obligation to communicate described in the present instrument entails a fine of not more than USD 200 and not less than USD 25.

**Article 122**  
**Non-observance of Lodging Registration**

For each foreigner who is not registered in a Records Book or other type of register under the terms of this instrument shall be fined not more than USD 200 and not less than USD 25.

**Section II**  
**Application of Fines**

**Article 123**  
**Notification Orders**

1. For every violator detected when a fine is due under the terms of the present instruments, a notification order shall be written.
2. If more than one violator is detected in relation to the same agent, only one notification order will be written for all violations.
3. The notification order must include location, date of violation, name of the responsible party, the building itself, the circumstances that resulted in the violation and the name and contact information of the witnesses to the violation, as well as the identification and signature of the agent that wrote the orders.

**Article 124**  
**Voluntary Payment and Complaints**

1. Notification orders shall be immediately presented to the individual responsible for the violation, together with the information that he or she can voluntarily pay the fine within 10 days, under the minimum legal period or, during the same period of time, he/she can complain about the fine imposed.
2. The complaint described in the previous paragraph must be addressed to the national Director of the NPTL and must be accompanied by all the evidence that in the opinion of the complaining witness justify non payment of the fine.
3. In case the complaint is not honored, a new deadline of five days is allowed for voluntary payment of the fine in the minimum legal amount.
4. Voluntary payment of fines shall be made using the forms issued by the Migration Department of the NPTL in triplicate and payment shall be made to the Treasury of the NPTL. One copy remains at the Treasury, one copy goes to the violator and the third copy goes to the Migration Department as proof of payment.

**Article 125**  
**Willful Failure to Pay**

1. In the case of willful failure to pay, the notification order, together with other relevant documentation shall be sent to the District Court of the district of residence of the violator, in order to proceed with execution, or if that is not possible, to the Court district where the violation was committed.
2. Upon receiving the file, the Court initiates order execution proceedings, setting the date for the hearing, sending summons all interested parties and the violator, informing the latter that he or she may bring up to three witnesses and present other proofs.
3. The summons to appear is mandatory and the Court will make a decision even if the violator fails to appear and it is proven that he or she was duly notified.
4. Presentation of proof ends if the Court decides not to acquit and sets a fine according to the criteria defined in the next Article and within to legal limits, plus payment of court fees.
5. The decision is immediately notified to the violator if present, or by mail if absent, setting a deadline for voluntary payment, after which if payment is not made, the sentence shall be executed.
6. The decision of the District Court in this case cannot be appealed.

**Article 126**  
**Criteria to Set Fines**

1. In order to set fines the Court will consider, among others, the following criteria:
  - a) The financial status of the violator;
  - b) Economic advantages removed with the infraction;
  - c) Recidivism;
  - d) Criminal intent;
  - e) Damages caused to society, to the State or to other public entities.
2. Negligence in payment of the fines described in this instrument shall be punishable by law.

**Article 127**  
**Restrictions**

Under no circumstances shall visas be extended, permanent visas granted, authorization of residency renewed or any acts performed for the benefit of a foreigner without proof of payment of all fines due.

**Article 128**  
**Purpose of Fines and Fees**

1. The monies received for fines under the terms of the present instrument will be assigned as follows: 80% for the State and 20% for the NPTL.
2. The total amount of the fees will be distributed according to the criteria described in the previous paragraph, except for fees for visas to establish residency, ordinary visas Class II and IV, and work visas which shall go 80% to the State, 10% to the NPTL and 10% to the Ministry of Foreign Affairs and Cooperation.

## **CHAPTER XV**

### **Final and Temporary Provisions**

#### **Article 129**

##### **Identification of Foreigners**

In order to establish or confirm the identity of foreigners the Migration Department of the NPTL may resort to the most common forms of identification, namely photos and fingerprints.

#### **Article 130**

##### **Expenses**

The expenses necessary to leave the National Territory that cannot be borne by the foreigner nor by those who are responsible for him or her under the terms of this instrument shall be borne by the State drawing from an amount to be assigned in the budget for the NPTL for these purpose.

#### **Article 131**

##### **Normalization**

1. Foreigners who entered the country after September 7, 1975 and who are conducting activities in the National Territory for which under the present provisions it is mandatory to be a resident or holder of a proper visa, must, within 90 days from the passing of this Act, request a visa that allows them to stay or to practice a professional activity.
2. The granting of the visa described in the previous paragraph follows the requirements established in this law, duly adapted, and its application is regulated by the Ministry of the Interior.

#### **Article 132**

##### **Visa Exemptions**

The Government may, through a resolution by the Council of Ministers, taking into account the tourism influx, regional and global security concerns, and international relations of the State, exempt nationals of certain countries from the obligation to hold ordinary visas Class I and II, or make more flexible the conditions under which they are issued and granted.

**Article 133**  
**Enforcement**

The power to enforce the provisions in this Act belongs to the National Police of Timor-Leste.


**Article 134**  
**Abrogation Ruling**

All legal or regulatory provisions contrary to what is stated in the present law, namely UNTAET Regulation 9/2000 of January 25, are hereby abrogated.

Approved by the Council of Ministers, under proviso of Article 116, c) of the Constitution on February 5, 2003.

# ATTACHMENT 1

OIL SEAL WITH BLUE INK (COMMON MODEL FOR VISAS DESCRIBED IN ARTICLE 34)

	
<b>VISTO/VISA</b>	
<b>TIPO DE VISTO: COMUM</b>	<input type="checkbox"/>
CLASSE I	<input type="checkbox"/>
CLASSE II	<input type="checkbox"/>
CLASSE III	<input type="checkbox"/>
CLASSE IV	<input type="checkbox"/>
<b>TRABALHO</b>	<input type="checkbox"/>
<b>PARA FIXAÇÃO DE PERMANÊNCIA</b>	<input type="checkbox"/>
<b>VÁLIDO ATÉ: / / PERMITIDA A PERMANÊNCIA POR:</b>	
<b>AUTORIZAÇÃO N. DE / / POR:</b>	
<b>NOME:</b>	
<b>NUMERO FAMILIARES:</b>	<b>NUMERO DE ENTRADAS:</b>
<b>LOCAL, DATA E ENTIDADE EMISSORA:</b>	
(ARTIGO 17 E 34 DA LEI DE IMIGRAÇÃO E ASILO)	

MEASUREMENTS: LENGTH 8 CM

WIDTH 6 CM

MUST BE AUTHENTICATED WITH OIL STAMP WITH THE NAME AND CATEGORY OF THE ISSUING ENTITY.