

**DECREE-LAW NO. 22/2009
OF 10 JUNE**

STATUTE FOR THE OFFICE OF THE INSPECTOR-GENERAL

The Office of the Inspector-General, set in July 2000 by the United Nations Transitory Administration in Timor-Leste to verify and control Public Administration activities, is dependent from the Government, in conformity with article 7.1-A of Decree-Law no. 7/2007, of 5 September, under the wording given to it by Decree-Law no. 14/2009, of 4 March.

In order to ensure the full exercise of public control regarding Public Administration activities, it is necessary to provide the Office of the Inspector-General with the proper judicial framework, bestowing upon it the attributions and competences befitting a body that will inspect and audit public monies and provide the Government and the Prime Minister with clear and objective information on transparency and accountability in the financial and management activities of Public Administration.

Within this context it is important to create the organic statute for the Office of the Inspector-General, reaffirming its nature as a service to ensure high level performance in Public Administration, guided towards the reviewing of the legality and regularity of financial, budget, material and human resources, seeking the proper management of Public Administration and ensuring that the respective administrative and financial operations of the Government are done with transparency, efficiency and effectiveness, in accordance with the legal arrangements.

It is also important to determine expressly a set of principles that, by shaping the conditions in which the Office of the Inspector-General will perform its activities, constitutes a true ethical statute for the financial control function.

Thus,

Under article 115.3 of the Constitution of the Republic, the Government decrees the following, to prevail as law:

**CHAPTER I
NATURE, PURPOSE AND SCOPE OF INTERVENTION**

**Article 1
Nature and purpose**

1. The Office of the Inspector-General, henceforth designated OIG for short, is the Government's body for controlling and supervising Public Administration, and is responsible for controlling the good management of financial, budget and material resources in the services of Public Administration.
2. The OIG has technical independence and administrative autonomy, and works directly under the Prime Minister.
3. The OIG may perform audit and inspection functions at other sovereignty bodies, at their request.

**Article 2
Scope of intervention**

1. The OIG is required to exercise control in the fields of budget, economic, financial, patrimonial, material resource and human resource discipline, in accordance with the principles of legality, regularity and good financial management, thereby contributing to the legality, economy, effectiveness and efficiency of Public Administration activities.
2. The OIG is namely responsible for:
 - a) Performing routine and extraordinary audits and inspections, as well as other actions for controlling public entities under the government, namely investigations, inquiries and inquests;
 - b) Performing technical actions to coordinate, articulate and assess the reliability of internal control systems, proposing measures meant to improve the structure, organization and operation of the said systems, and monitoring their respective implementation and evolution;
 - c) Performing investigations, inquiries and inquests on the entities covered by its intervention, as well as proposing disciplinary procedures when applicable;
 - d) Coordinating with the inspection and audit services of each Ministry the joint decentralized execution of various control activities related to each sector, subject to their own activities;
 - e) Performing the further functions resulting from the law, as well as others given to it from above.
3. Being a technical support service specialized in verification and control, the OIG is responsible for the following tasks:
 - a) Executing programs seeking to promote and socialize activities related with good governance, transparency and functional discipline;
 - b) Drafting internal rules and regulations concerning discipline, control and verification activities, and providing opinions on draft rules and regulations submitted to it;
 - c) Ensuring, within the scope of its mission, articulation and connection with national and international counterparts;
 - d) Performing any other specialized technical support tasks within the scope of its attributions.
4. The OIG's intervention covers all Public Administration entities, as well as private sector entities that involved in financial relations with the State, subject to the competences of the Courts, the Office of the Attorney-General of the Republic, the *Provedor* of Human Rights and Justice and other entities with competence over the matters in question.

CHAPTER II EXERCISE OF CONTROL ACTIVITIES

SECTION I ACTION PRINCIPLES, RIGHTS AND GUARANTEES

Article 3 Intervention by the Office of the Inspector-General

The intervention of the OIG is characterized by actions included in the annual activity plan, actions by its own initiative, within the limits set by law, and other actions determined by the Prime Minister.

Article 4
Principle of proportionality

When exercising their functions, OIG auditors and inspectors shall display conducts befitting the procedures and the purposes of the action.

Article 5
Principle of cooperation

Whenever the success of the control action or the duty of secrecy are not in question, the OIG shall supply the requested information or other clarifications with justified interest to the entities covered by its investigation, within the scope of open administration to civil servants and the citizens in general.

Article 6
Duty of secrecy

In addition to being subjected to the general duties inherent to civil service, all OIG personnel are especially obligated to keep the utmost secrecy regarding all issues they become aware of during or because of the exercise of their functions.

Article 7
Guarantee of the exercise of functions

1. OIG auditors and inspectors in the exercise of their respective activity shall be granted all necessary conditions for ensuring the efficiency of their attributions by public authorities and by entities subjected to their intervention.
2. Provided they are duly identified and in the exercise of their functions, OIG auditors and inspectors have the right to:
 - a) Access freely and remain, for the time required to perform the tasks given to them, in all services and dependences from entities subjected to the intervention of the OIG;
 - b) Use proper facilities for the exercise of their tasks, with conditions of dignity and efficiency;
 - c) Request and reproduce documents, for consultation, support or attachment to cases, as well as exam any documents needed for the inspection or audit held by entities whose activity is subjected to the intervention of the OIG;
 - d) Enter and move freely in any public locations, against the presentation of professional identification cards;
 - e) Request police and administrative authorities to provide the necessary collaboration for their tasks;
 - f) Promote, within the legal terms, the closing of any facilities, dependences, safes or movable assets, as well as the seizing of any documents and evidence, drafting the respective record, which can only be waived in the case of a simple reproduction of documents;

- g) Issue notifications in relation to inquiries, investigations or disciplinary cases where the OIG is involved, whether by itself or through ministry inspection services.

SECTION II EFFICIENCY OF THE ACTIONS

Article 8 Duties of collaboration and information

1. Entities subjected to the intervention of the OIG shall provide access or supply the information documents it considers necessary to perform its tasks successfully, in the manner and with the periodicity that is convenient, following the parameters of good faith.
2. The holders of bodies of the entities subjected to the intervention of the OIG must provide or have information, clarifications and documents provided to it, as well as collaborate with it as requested, within their tasks, with the possibility of requesting the presence of the heads, staff and agents from State services and bodies, namely for providing statements or depositions.
3. Refusal to collaborate and opposition to the action of the OIG may make the transgressor disciplinarily and criminally accountable, in conformity with the applicable legislation.
4. The OIG shall indicate in its annual activity report the obstacles it met with during the execution of its tasks.

Article 9 Adversarial principle and self defence

1. Without prejudice to the guarantees of defence set in the law, the OIG shall conduct its interventions respecting the adversarial principle. It must inform the investigated institution in advance of the draft control report, so that it can explain itself freely before a final report is completed, except when such a procedure might damage the purposes of the control.
2. The Inspector-General shall set the time limit for the adversarial principle somewhere between 5 and 15 working days, as well as the modalities and the guiding principles that enable ensuring the proper application of the said adversarial principle.

Article 10 Guarantee of efficiency

1. The OIG ensures the referral of its reports to the offices of the Government members that supervise or are responsible for the entities in question, as well as to them, if applicable.
2. Without prejudice to the duty by the OIG to monitor the outcomes of recommendations and proposals, the public entities in question shall provide to it, within 60 days after the reception of the report, information on the measures and decisions adopted meanwhile following the OIG intervention. They may also pronounce on the effect of the action.

Article 11 Duty of participation

1. Regardless of article 10.1, the OIG has the duty of reporting to the competent entities the facts that it becomes aware of in the performance of its duties, should they be susceptible of

having interest in terms of penal, administrative offence or disciplinary actions, as well as in terms of the fight against corruption and irregularities damaging the national budget.

2. Auditors and inspectors who learn or are informed of a crime shall refer it to the Public Prosecution as soon as possible, without prejudice to the adoption of the necessary and urgent temporary measures for assuring evidence, as set in penal procedural law.

CHAPTER III ORGANIZATION AND MANAGEMENT

SECTION I GENERAL PRINCIPLES

Article 12 Principles

1. In terms of organization and management, the OIG adopts a flexible and participative model, guided directly towards the performance of its tasks.
2. The structure of work units and its functions, as well as hierarchic and functional relations applicable in the organization, are defined directly by the Prime Minister on his initiative or through proposal by the Inspector-General of the State.

Article 13 Areas of specialization

1. Taking into consideration the principles listed in article 12, the OIG ensures its purpose and performs its competences through the following specialization areas:
 - a) National system of internal control for central and decentralized (and municipal?) services of the Public Administration;
 - b) Public management control;
 - c) Revenue and expenditure control.
2. The areas listed in article 13.1 are specialized intervention groups, the activity of which shall be coordinated with the internal inspection and audit services of each ministry.

Article 14 Management instruments

1. The OIG guides its activity towards the strategic control of public administration, based on programs involving the different specialization areas listed in article 13.
2. The realization of the OIG goals, as well as the execution and assessment of its activities, is ensured through the following management instruments:
 - a) Annual Strategic Plan, covering the prevention programs listed in article 2.3 (a), approved by the Prime Minister;
 - b) Annual activity plan, including the training plan, covering the various programs to be developed, detailed according to types of control actions, approved by the Prime Minister;
 - c) Annual activity report, concerning the performance of the OIG in the previous year, to be submitted to the Prime Minister.

SECTION II STRUCTURE

Article 15 Structure

The organic structure of the OIG includes:

- a) The Inspector-General of the State;
- b) The Inspection Council;
- c) The operational services.

Article 16 Inspector-General of the State

1. The Inspector-General of the State is appointed by the Council of Ministers for a renewable four-year mandate.
2. The Inspector-General of the State is namely responsible for:
 - a) Directing the Office of the Inspector-General;
 - b) Presiding over the Inspection Council;
 - c) Proposing to the Prime Minister the annual inspection and internal audit plan for Public Administration, as well as approving other necessary inspections and audits;
 - d) Approving the verification and audit reports drafted by the OIG, issuing them to the Prime Minister in order to determine compliance with suggested recommendations;
 - e) Designating work teams and inspection and audit commissions to perform control actions approved from above;
 - f) Coordinating with the public institutions the implementation of recommendations suggested in OIG reports and approved by the Prime Minister;
 - g) Referring to the Attorney-General of the Republic or to any other legally competent entity situations that indicate criminal behaviour, of which the OIG becomes aware as a result of its activities;
 - h) Setting the internal rules required for complying with the control principles for the public entities under the Government (and municipalities?);
 - i) Representing the OIG at national and international level.
3. The Inspector-General of the State is assisted by the Deputy Inspector-General, upon whom he/she may delegate acts under his/her power, with possibility of sub-delegation.
4. The Inspector-General of the State is replaced in his/her absences and impediments by the Deputy Inspector-General.

Article 17 Removal from office

1. The Inspector-General may be removed from office by the Prime Minister whenever he or she:
 - a) accepts or performs an office, task or activity that is incompatible with his or her mandate;
 - b) suffers from physical or mental disability that prevents him or her from performing his or her tasks;
 - c) is considered incompetent;
 - d) is condemned to actually spend time in jail, through a sentence passed into judgement;
 - e) commits acts or omissions contrary to his or her oath.
2. The mandate of the Inspector-General ceases automatically in the following cases:
 - a) end of the mandate;
 - b) death;
 - c) resignation.

Article 18 Inspection Council

1. The Inspection Council is the body that provides support and consultation to the Inspector-General of the State, as well as discusses internal organization and operation and reports on inspections and audits performed by the OIG.
2. The Inspection Council consists of the Inspector-General of the State, who presides over it, as well as the Deputy Inspector-General and the heads of the operational departments.
3. The Inspection Council is summoned by the Inspector-General of the State whenever he/she considers it necessary.

Article 19 Operational services

1. The operational services of the OIG assure the execution of technical activities in compliance with the quality policy regarding processes and operational products of the national control system.
2. The internal structure of the OIG is approved through a ministerial diploma by the Prime Minister, under proposal of the Inspector-General of the State.

CHAPTER IV HUMAN RESOURCES

Article 20 Appointment of leaders

In view of the specificity of high level control functions, the following leaders are appointed:

- a) The Inspector-General of the State, through resolution by the Council of Ministers, from within individuals with acknowledged moral and personal competence, higher education diploma or certified years of experience in civil service positions compatible with the office in question;

- b) The Deputy Inspector-General of the State, through dispatch by the Prime Minister, under proposal by the Inspector-General of the State, from within persons holding a higher education diploma in a relevant field that have sufficient experience in civil service, proper skills and competence for the office, and that meet the recruitment requirements and procedures applicable for civil service leaders;

Article 21
Impediments and incompatibilities

1. The OIG staff members are subjected to the general regime of impediments and incompatibilities applicable in Public Administration.
2. Furthermore, OIG directors, auditors and inspectors may not:
 - a) Carry out any audits or inspections in relation to any relatives or the likes in any degree of the straight line or up to the third degree of the collateral line;
 - b) Carry out any other public or private activities that are foreign to the service, except those resulting from their right to participate in public life.

CHAPTER V
TRANSITORY AND FINAL ARRANGEMENTS

Article 22
Structure and staffing profile of the OIG

The organic structure and the staffing profile of the OIG are approved through a ministerial diploma by the Prime Minister and the Government member responsible for the area of finance.

Article 23
Repeal of the previous law

All provisions that contradict the present diploma are hereby revoked.

Article 24
Coming into force

The present diploma comes into force on the day after its publication.

Approved by the Council of Ministers on 29 April 2009.

The Prime Minister,

Kay Rala Xanana Gusmão

Promulgated on 28 May 2009.

Let it be published.

The President of the Republic,

José Ramos-Horta