

**DECREE-LAW NO. 3/2009**  
**OF**

**NATIONAL INTELLIGENCE SERVICE**

The consolidation of the democratic State based the rule of law and the affirmation of Timor-Leste as an independent country capable of facing the new threats emerging from the commission of acts of terrorism, sabotage, espionage and transnational organised crime demand the approval by the Government of the present juridical regime that establishes the National Intelligence Service, hereinafter referred to in short as SNI.

Pursuant to the law, SNI is a personalised service of the State with the responsibility to produce intelligence that contributes to the safeguarding of national independence, national interests, external security and the guarantee of internal security, the prevention of sabotage, terrorism, espionage, organised crime, as well as the prevention of acts which, by their nature, may alter or destroy the constitutionally established State based on the rule of law.

SNI is a personalised service of the State with internal and external competence and is barred from committing acts involving violation of rights, liberties and guarantees enshrined in the Constitution or acts falling under the exclusive competence of other authorities exercising internal security functions, including the Public Prosecution and the Courts, and its members are prevented from arresting people and from initiating criminal proceedings.

The present law reaffirms the competence of the Government in conducting the national security policy and determines the direct tutelage of the Prime Minister over SNI. It also reaffirms that this body is exclusively at the service of the State and is strictly barred from pursuing any political or partisan activity.

The present law further determines that the Interministerial Commission on Internal Security (established in the framework of the Internal Security Law) also operates as a consultative body insofar as intelligence is concerned, with a new body for operational coordination being established, to be known as Technical Commission, which will allow a

better efficacy and articulation in the exchange of intelligence between SNI and security and defense services.

A political-parliamentary monitoring system to oversee the activity and processing of data collected by SNI is hereby established. Such activity is to be carried out by an independent commission referred to as Monitoring Council and composed of one member designated by the President of the Republic and two members elected by absolute majority of the Members of the National Parliament for a five-year term. In addition, the possibility for each and every citizen to request the Monitoring Council to cancel or rectify erroneous and irregularly obtained acts or acts that violate individual rights, liberties and guarantees is equally guaranteed by the present statute.

Such options are commonly associated to the need to establish a public service that contributes to the affirmation of Timor-Leste as an independent country, capable of protecting itself from threats that may jeopardise national sovereignty or subvert the constitutionally established State based on the rule of law.

Thus, pursuant to subparagraph d) of article 116 of the Constitution, the Government enacts the following to have the force of law:

## **Chapter I**

### **NATURE, FUNCTIONS, COMPETENCES AND DUTIES**

#### **Article 1**

##### **Establishment**

The Organic of the National Intelligence Service, hereinafter referred to as SNI, is hereby established.

#### **Article 2**

##### **Nature**

1. The National Intelligence Service (SNI) is a personalised service of the State falling under the direct responsibility of the Prime Minister and enjoys administrative and financial autonomy.

2. SNI is exclusively at the service of the State and exercises its functions in compliance with the Constitution of the Democratic Republic of Timor-Leste and the laws, and in accordance with the provisions of the present law.

### **Article 3 Functions**

SNI is the sole organism entrusted with the responsibility to produce intelligence that contributes towards the safeguarding of national independence, national interests and external security, including the guarantee of internal security in preventing sabotage, terrorism, espionage, organised crime and actions that, by their nature, may alter or destroy the constitutionally established State based on the rule of law.

### **Article 4 Limits to its activities**

SNI is barred from committing acts falling under the exclusive competence of any of the other authorities exercising internal security functions, including the Public Prosecution and the Courts, and its members are prevented from detaining people and initiating criminal proceedings.

### **Article 5 Material competence**

It is incumbent upon SNI, in the framework of its functions, to:

- a) Systematically promote research, collection, analysis, interpretation and storage of intelligence and data.
- b) Whenever so requested, inform the Prime Minister and the entities contained in a list designated by the latter, with the President of the Republic coming first on the list, of the result of its activities.
- c) Prepare studies and documents in accordance with instructions from the Prime Minister;

- d) Study and propose to the Prime Minister the adoption of mechanisms for collaboration and coordination between SNI and foreign intelligence and security forces and services.
- e) Inform the competent authorities of the facts likely to constitute criminal offences with a view to their investigation and prosecution, safeguarding however the provisions contained in the law on State Secrecy.
- f) Inform the competent authorities, in accordance with the law, of news and intelligence that come to its knowledge relating to internal security and to crime prevention and repression.

### **Article 6** **Territorial competence**

SNI shall be competent throughout the entire territorial space under the sovereign powers of the Democratic Republic of Timor-Leste.

### **Article 7** **General and special duties of collaboration**

1. Citizens have the duty to collaborate in fulfilling the objectives of national security by observing the provisions contained in the present law, by complying with the instructions and lawful warrants of the authorities and by not obstructing the regular exercise of the competences of the security forces and services.
2. Functionaries and agents of the State or of public law corporate bodies, including members of public companies management organs, have the special duty to collaborate with the security forces and services, in accordance with the law.
3. Any individual vested with senior and middle-level management functions, including inspection or monitoring functions within any Public Administration organ or service, has the duty to promptly inform the competent security forces and services of facts that come to their knowledge in the exercise, or by virtue, of their functions and that constitute a preparation, attempt, or execution of particularly serious criminal acts, namely acts of sabotage, espionage,

terrorism, trafficking in stupeficients and psychotropic substances, trafficking in weapons, as well as other forms of organised crime, including the commission of acts which, by their nature, may jeopardise, alter or destroy the constitutionally established democratic State.

4. Violating the provisions contained in the preceding paragraphs shall imply disciplinary and criminal liability, pursuant to the law.

## **Chapter II Organs and Services**

### **Article 8 Organs**

The following are organs of SNI:

- a) The Director-General;
- b) The Administrative Council.

### **Article 9 Director-General**

1. SNI shall be headed by a Director-General appointed by the Prime Minister whose post, for remuneration purposes, shall be equated to that of a Minister.
2. The appointment referred to in the preceding paragraph shall be mandatorily preceded by information to, and consultation with, the President of the Republic.
3. The Director-General shall be assisted by two Deputy Directors-General and substituted, in his or her absence and impediments, by any one of them nominated to that effect.

### **Article 10 Competence of the Director-General**

It shall be particularly incumbent upon the Director-General:

- a) To represent SNI;
- b) To superiorly guide the activity of SNI and the respective Data Centre, as well as to exercise the functions of inspection, superintendence and coordination;
- c) To preside over the Administrative Council;
- d) To execute the generic and specific instructions of the Prime Minister, as well as the decisions of the Monitoring Council;
- e) To guide the preparation of the SNI budget;
- f) To prepare the plan of activities for the ensuing year, including the report of activities of the preceding year, and submit them to the Prime Minister for approval;
- g) To preside over the Technical Commission.

**Article 11**  
**Duties of the Director-General**

The following shall be duties of the Director-General:

- a) To ensure the normal internal functioning of SNI and assign the human and material resources in an efficient manner;
- b) Not to interfere in any activity of a political nature and not to be a member of a political party.
- c) To keep the Prime Minister permanently informed of the activities of SNI;
- d) Not to make statements on the activities of SNI to the media unless authorised by the Prime Minister where the need exists do to so;
- e) To keep an impartial and neutral stance insofar as the treatment of matters and operations entrusted to him or her is concerned.

**Article 12**  
**Competence of the Administrative Council**

1. The Administrative Council shall be composed of the Director-General, the Deputy Directors-General and the head of the administrative service.
2. It shall be incumbent upon the Administrative Council:
  - a) To prepare the draft annual budget and submit it to the Prime Minister for approval;
  - b) To manage the budget appropriations;
  - c) To authorise the commitment of expenses within the limits determined by instruction of the Prime Minister.

**Article 13**  
**Central Services**

1. The following shall be central services of SNI:
  - a) The Department of Internal Intelligence;
  - b) The Department of External Intelligence;
  - c) The Administrative Service.
2. The internal organisation of each service or department shall be determined by instruction of the Prime Minister following a proposal by the Director-General.

**Chapter III**  
**RECRUITMENT, SELECTION AND TRAINING STAFF**

**Article 14**  
**Staffing Table**

1. The organs and services of SNI shall be staffed with permanent or hired functionaries of the Public Administration.

2. The senior and middle-level management posts, as well as the technical posts of the services composing SNI, may be filled with civilian, police or military specialists, pursuant to the Statute of the Civil Service.
3. The exercise of functions by police or military members or civil servants on secondment shall not prejudice their career progression rights.

### **Article 15 Training**

1. Recruitment and training of the SNI staff shall take into account the special nature of the service and shall cover specialised training in the respective activity.
2. For the purposes of the preceding paragraph, the organisation and nature of the respective training courses shall be regulated in a specific statute.

### **Article 16 General Requirements for recruitment**

The following shall be indispensable requirements for the recruitment and appointment of technical staff for SNI:

- a) Recognised civic idoneity;
- b) High professional competence;
- c) Minimum academic qualifications corresponding to grade 12.

### **Article 17 Special requirements for recruitment**

The following shall be special requirements for recruiting staff for SNI:

- a) To have Timorese original nationality;
- b) To be aged between 25 and 35 years;



- c) To subject himself or herself to the conditions for recruitment and selection;
- d) Not to exercise any political or partisan functions;
- e) Not to have been judicially sentenced for committing a common crime corresponding to a penalty of imprisonment;
- f) Not to have participated in any acts against the constitutionally established State based on the rule of law;
- g) Not to have collaborated with any foreign intelligence service.

### **Article 18 Rights**

In addition to the rights provided for in the Statute of the Civil Service, members of SNI shall have the following rights:

- a) The right to receive specific training for the exercise of their functions;
- b) The right to use and carry a fire arm under conditions to be regulated by the Director-General of SNI;
- c) The right to free movement in public places with restricted access against exhibition of their respective identification card;
- d) The right to a specific remuneration statute;
- e) For purposes of retirement, the right to benefit from a 25% increase in the period of time of service rendered.

### **Article 19 Restrictions**

1. Members of SNI shall be subject to the following restrictions:

- a) Exercise their functions on an exclusive basis and refrain from exercising any other activity, including that of a liberal or entrepreneurial nature;
  - b) Refrain from convening or participating in any political, partisan or trade unionist activity;
  - c) Refrain from making public statements of a political, partisan or trade unionist character;
  - d) Refrain from exercising the right to strike.
2. Members of SNI shall be considered to be permanently available for their service.

## **Chapter IV Discipline**

### **Article 20 Applicable Rules**

On matters of a disciplinary nature, the provisions for Public Administration in general shall apply subsidiarily to SNI staff in all that is not expressly provided for in the present statute.

### **Article 21 Disciplinary offences**

1. Disciplinary offence shall mean the violation, by SNI functionaries or agents, of their respective functional duties, namely:
  - a) The commission of an act that is outside of the functions and competences of SNI;
  - b) The access to, use, or communication of data or intelligence in violation of rules relating to such activities.
  - c) Attempt and negligence are punishable.

**Article 22**  
**Disciplinary sanctions**

1. The disciplinary sanctions provided for in the Civil Service Disciplinary Statute shall be applicable to the functionaries and agents of SNI.
2. The following shall be special sanctions applicable to functionaries and agents of SNI;
  - a) Cessation of the secondment;
  - b) Rescission of the administrative contract of appointment.

**Article 23**  
**Disciplinary competence**

1. The Director-General of SNI shall have competence to apply any disciplinary sanction.
2. The Deputy Directors-General shall have competence to apply any disciplinary sanction up to the penalty of suspension in relation to functionaries assigned to the services falling under their competence.

**Article 24**  
**Preventive suspension**

A preventive suspension of the functionary or agent may be decreed whenever his or her presence is considered to be inconvenient for the service or for establishing the truth.

**CHAPTER V**  
**DATA CENTRE**

**Article 25**  
**Data Processing Centre**

1. SNI shall possess a Data Centre compatible with the nature of its services and it shall be incumbent upon it to process and store the data and intelligence collected in the framework of its activity.

2. The Data Centre shall be established in a compartmented manner and shall be based on the specific nature of each of the organs and services of SNI.

### **Article 26**

#### **Functioning**

The criteria and rules necessary to the functioning of the Data Centre, as well as the regulations indispensable for guaranteeing the security of the processed intelligence, shall be approved by the Council of Ministers. The Inter-Ministerial Commission on Internal Security shall be consulted to that effect.

### **Article 27**

#### **Access to the Data Base**

1. Functionaries or agents, civilian or military, may only have access to the data and intelligence stored in the Data Centre as long as they are authorised by their respective hierarchical superiors and any use of such data and intelligence for purposes alien to SNI shall be prohibited.
2. Without prejudice to the monitoring powers provided for in law for the Monitoring Council, no entity alien to SNI may have access to the data and intelligence stored in the Data Centre.

### **Article 28**

#### **Cancellation and rectification of data**

1. Where an error occurs in the process of entering data or intelligence, or where an irregularity occurs in their processing, the processing entity shall be obliged to inform of such error to the Monitoring Council.
2. Any person who, by an act of any functionary or agent of authority, or in the course of a judicial or administrative proceeding, becomes acquainted with data related to him or her and which he or she considers to be erroneous, irregularly obtained or of a nature that violates his or her personal rights, liberties and guarantees may, without prejudice to the right to resort to courts, request the

Monitoring Council to undertake the necessary verification and order the cancellation or rectification of data found to be incomplete and erroneous.

## **CHAPTER VI SECURITY**

### **Article 29 Security rules**

1. Activities of SNI shall for all purposes be considered classified and of interest for national security.
2. All documents relating to matters referred to in article 3 shall be covered by the State Secrecy.
3. The activity of research, collection, analysis, interpretation, classification and storage of intelligence relating to the competences of SNI, including the respective results, shall be subject to the duty of secrecy.

### **Article 30 Depositions or statements**

1. No member of SNI summoned to depose or to make statements before judicial authorities may disclose facts covered by the State Secrecy or be subjected to enquiries on the same matters.
2. Where the judicial authority considers that the refusal to depose or make statements pursuant to the preceding paragraph is unjustified, it may request confirmation with the Prime Minister.

## **CHAPTER VII FINAL PROVISIONS**

**Article 31**  
**Appointment and dismissal**

1. Instructions to appoint and dismiss functionaries and agents of SNI shall not require endorsement from the National Budget Commission nor their publication in the Official Gazette.
2. Functionaries and agents of SNI shall be considered on duty as from the date of their installation.

**Article 32**  
**Omissions**

The doubts and omissions arising from the interpretation and application of the present law shall be settled subsidiarily by the Statute of the Civil Service.

**Article 33**  
**Entry into force**

The present statute shall enter into force 30 days after its publication.

Approved by the Council of Ministers on 6 October 2008.

The Prime Minister,

-----  
Kay Rala Xanana Gusmão

Promulgated on 18/12/2008

For publication

The President of the Republic

-----  
**José Ramos-Horta**