

## DECREE LAW No. 34/2008

Of the 27th of August

### REGIME FOR COMPETITIONS, RECRUITMENT, SELECTION AND PROMOTION OF PUBLIC ADMINISTRATION PERSONNEL

Recruitment to the Public Administration of East Timor is still regulated by Instruction no. 1/GVM/MAY/2003 in accordance with Regulation 2000/03 of the Ministry for State Administration and Territorial Planning, which has been shown to be inadequate to the current reality of the Public Administration.

As a result, there is need for integrated regulation of the procedure for the recruitment, selection and promotion of personnel for the Public Administration staff, with a view, firstly to improving the management of human resources on one side and, secondly, to allowing more dynamic careers and satisfying the professional expectations of the functionaries and agents who serve in the Public Administration, in accordance with the legal framework of careers and management and board responsibilities.

Under this regime, and in regard to selection methods, it is appropriate to point out the relevance attributed to proof of knowledge, specifically in regards to the rights and duties of public function and professional obligations and to professional experience, formalising the selection on merit defended by the Government Programme.

From the perspective of avoiding excess bureaucracy and swiftness of competitions, the intention is to simplify procedures, removing, wherever possible, dispensable formalities and sending suitable vacancy notices to the respective recipients, without, however, compromising the principles of publicity and equality of conditions between candidates.

Thus under the terms of articles 37.4 and 119.2 of Law 8/2004 of the 16<sup>th</sup> of June, and of line p) of number 1 of article 115 of the Constitution of the Republic, the Government decrees the following, to have the standing of a law:

#### CHAPTER I GENERAL DISPOSITIONS

##### Article 1 Objective

The present decree law regulates competition as a form of recruiting, selecting and promoting personnel in the Public Administration staff, as well as the principles and general guarantees that must be complied with.

## Article 2 Scope of application

The regime set out in the present decree law is applicable to all bodies of the State Public Administration, including autonomous entities, in all national territory and foreign representations.

## Article 3 Definitions

For the purposes of the present diploma, it is considered that:

- a) Recruitment – consists of the combination of acts or operations that are intended to meet the needs of the personnel of the Public Administration services and bodies.
- b) Selection of personnel - consists of the combination of acts or operations within the recruitment process, with the use of methods and techniques that allow the assessment and classification of candidates according to their skills and professional abilities that are indispensable to carrying out the functions of the given career.
- c) Promotion – consists of the transition from one career grade to a higher grade on a vertical scale, taking on more complex tasks and greater responsibility.

## Article 4 Principles and guarantees

1. The competition complies with the principle of selection on merit, freedom of application and equality of conditions and opportunities for male and female candidates.
2. To fulfil the disposition of the previous number, the following are guaranteed:
  - a) The impartiality of the panel composition;
  - b) Prior disclosure of the selection methods to be used, of the programme for proving knowledge and the final classification system;
  - c) The application of objective assessment methods and criteria;
  - d) The right to appeal.

Article 5  
Types of competitions

The competition may be classified as a public or internal competition.

Article 6  
Public competition

Public competitions are open to all individuals who meet the general requirements established in the Statutes of the Public Function and the specific requisites of the competition notice.

Article 7  
Internal Competition

1. Internal competitions are open to all public functionaries, independently of the service or body to which they belong, and have the objective of personnel promotion.
2. Of the vacancies that are forecast annually for each body, a third shall be filled by internal competition.

CHAPTER II  
GENERAL CONDITIONS, COMPETENCE AND VALIDITY PERIOD

Article 8  
Vacancies to be filled

The competition is intended:

- a) To fill vacancies that exist on the date the competition opens;
- b) To fill vacancies that exist and those that arises before the end of the competition's validity period.

Article 9  
Competence to authorise holding a competition

1. The member of the Government who protects and superintends a body is competent to authorise a competition being held for the respective body.
2. Other sovereign State bodies have the respective competence to authorise a competition being held.
3. The competence set out in the previous numbers may be delegated to the Director General, or to the highest ranking official in the case of other Public Administration bodies.

Article 10  
Competition validity period

1. The competition validity period is fixed by the entity competent to authorise it being held at between a minimum of three months and a maximum of six months.
2. Until the end of the period, the vacancies posted in the competition shall be available, independently of the date of the respective process for taking up such posts.
3. A competition open solely to fill existing vacancies expires when these are filled.

Article 11  
Centralised recruitment

1. To recruitment process for public competitions may be centralised in the National Board of Public Functions.
2. The categories to be encompassed and the regime that the centralised recruitment must comply with are contained in the diploma itself.

CHAPTER III  
PANEL AND SELECTION METHOD

SECTION I  
PANEL

Article 12  
Composition

1. The competition panel is composed of a president and two to other members.
2. The panel must include in its composition at least two women.
3. The president and the members may not be of a lower grade than the category for which the competition is being held, except in the case of board positions.
4. Whenever possible, the members of the panel must be employed in the functional area or areas for which the competition is being held.

Article 13  
Appointment

1. The panel members are appointed by the entity with competence to hold the competition.
2. The same act shall appoint the member who will replace the president in the absence of the latter, as well as two additional replacement members.

Article 14  
Competence

1. The panel is competent to carry out all the operating procedures of the competition.
2. Without prejudice to the disposition of the previous number, the panel may request the National Board of Public Functions or other public or private entities or holders of specific technical knowledge to carry out all or part of the competition operations, specifically the drawing up and correction of tests.

Article 15  
Functioning

1. The panel may only operate when all its members are present, taking its decisions by majority vote.
2. The decisions of the panel will be set out in minutes containing the foundations for the decisions made.
3. In the event of an appeal, the minutes must be provided to the entity that will decide on them.
4. The president of the panel shall choose one member of the panel to act as secretary.

Article 16  
Prevalence of the panel's functions

The exercise of its tasks by the panel prevails over all others; with its members being liable when they do not, unjustifiably, comply with the periods set out in the present Decree Law or does not proceed with the speed required by the nature of the recruitment and selection procedure.

SECTION II  
SELECTION METHODS

Article 17  
General Principle

The definition of the selection methods and their respective content is, when applicable, of the programmes for proving applicable knowledge in each category, is done as a function of the combination of tasks and responsibilities inherent in the respective functional content and of the combination of requisites of a physical, skill or professional nature demanded for its exercise.

## Article 18 Methods

1. The following methods must be used, in an eliminatory fashion, in the competitions:
  - a) Proof of knowledge;
  - b) Professional selection interview;
  - c) Curriculum assessment.
2. Internal competitions also demand the use of the classification of the service resulting from evaluation of performance,
3. A medical selection exam may also be used, of a complementary nature.
4. The weighting between the methods must be contained in the opening notice.

## Article 19 Proof of knowledge

1. Proofs of knowledge are intended to evaluate the candidates' levels of academic and professional knowledge, required and appropriate for the exercise of the determined function.
2. The proofs will comply with the approved programme and must evaluate general and specific knowledge, may be written or oral, and have a theoretical or practical nature.
3. Proofs of knowledge may have more than one phase, and any of them may have an eliminatory nature.
4. The nature, form and duration of the proofs must be contained in the opening notice for the competition, as must an indication of the bibliography or legislation necessary to its realisation when it deals with materials that are not set out in the school curriculum, in relation to the demanded literary or professional skills.

## Article 20 Programme

1. The programme for proof of general knowledge is approved by the Minister of State Administration and Territorial Planning.
2. The programme for proof of general knowledge must contain the themes related to the rights and duties of the public positions and to professional obligations.

3. The programme for proof of specific knowledge is approved by legal diploma jointly by the Minister of State Administration and Territorial Planning and the member of the Government whose stewardship the body or service comes under.

#### Article 21

##### Professional selection interview

1. The professional selection interview is intended to evaluate, through interpersonal relationships and in an objective and systematic manner, the professional and personal skills of the candidates.

2. An individual file is set up for each professional selection interview, containing the summary of the subjects covered, the relevant parameters and the classification obtained in each one of them, duly supported.

#### Article 22

##### Curriculum vitae evaluation

1. The curriculum vitae evaluation is intended to evaluate the professional skills of the candidate in the area for which the competition is opened, based on an analysis of the respective professional curriculum vitae.

2. The following demands of the position must be considered and weighted during the curriculum vitae evaluation:

a) Academic qualifications, containing details of academic achievements or legally recognised qualifications;

b) Professional training, which will consider training actions and professional improvement, in particular where related to the operating areas of the positions encompassed in the competition;

c) Professional experience, which will consider effective performance of functions in the area for which the competition is opened, as well as other suitable experience, with an evaluation of their nature and duration.

competition, as must an indication of the bibliography or legislation necessary to its realisation when it deals with materials that are not set out in the school curriculum, in relation to the demanded literary or professional skills.

3. Supporting documents must be submitted to the panel as originals.

4. For internal competitions, the service classification is considered to be an obligatory factor during the curriculum vitae assessment.

Article 23  
Knowledge of an official language

The candidates must demonstrate fluency in at least one official language.

Article 24  
Medical selection exam

1. The medical selection exam is intended to assess the physical and mental condition of the candidates, with a view to establishing their aptitude to carry out the position.
2. The medical selection exam may only be used in public competitions and has an eliminatory nature.
3. Privacy is guaranteed for the medical selection exam with the result transmitted to the competition panel under the form of global assessment referring to the aptitude of the candidate in relation to the functions to be carried out.
4. The disclosure or transmission of the result of the medical exam to any person other than the candidate or to the competition panel constitutes a breach of the duty of secrecy and will lead to disciplinary proceedings against the functionary or agent for the infraction.

Article 25  
Classification

1. The results obtained in application of the selection methods are classified on a scale of 0 to 100 points, without prejudice to the terms of the following number.
2. The following qualitative notes are attributed in the medical selection exam:
  - a) Suitable; or
  - b) Not suitable.



CHAPTER IV  
PROCEDURE

SECTION I  
OPENING THE COMPETITION

Article 26  
Opening Notice

The competition is opened by a notice published under the terms of the following article, containing the following elements:

- a) Decree authorising opening of the competition;
- b) The category, career, functional area and service for which the competition is opened, and whether it is public or internal;
- c) Description of the functional content of the position to be filled;
- d) Location of the place of work, number of places to be filled and validity period;
- e) General and special requisites for admission to the competition;
- f) Remuneration index and working conditions;
- g) Composition of the panel;
- h) Selection methods, their eliminatory nature and the existence of various phases, where applicable;
- i) Reference to the publication of the proof programme, when applicable;
- j) An indication of the criteria for appreciation and weighting the selection methods, as well as the system of final classification, including the respective classification formula and, as an obligation, the minutes of the competition panel's meetings;
- k) The entity to which the application must be presented and respective indications of the location, delivery period, form of presentation, documents to be attached and other documents needed to formalise a candidacy;
- l) Location for publishing the candidates' report and final classification standings.

Article 27  
Publicity

The opening notice is published in the Journal of the Republic, Series II, and is also published by means of an advertisement in the national press containing reference to the competition, to the category, and where to obtain the published notice.

## SECTION II CANDIDACIES AND ADMISSION

### Article 28 Admission requirements

1. Only those candidates who meet the requirements set out in Law no. 8/2004 of the 16<sup>th</sup> of June (Statutes of Public Positions) and the special requisites established in the opening notice will be admitted.
2. The candidates must comply with the legal requisites until the end of the period fixed for presentation of the candidacies.

### Article 29 Admission requirement

1. The presentation to the competition is carried out by an application accompanied by the other documents demanded in the notice until the end of the period fixed for presentation of the candidacies, and is delivered personally against a receipt.
2. Delivery of the application is confirmed by means of the receipt.

### Article 30 Documents

1. The candidates must present those documents proving fulfilment of the general requirements as well as the special requirements legally demanded the positions to be filled.
2. Academic or professional qualifications are proved by presentation of an original certificate or another similar legally-recognised document.
3. Failure to present documents proving compliance with the admission requirements demanded under the terms of the present legal diploma and contained in the opening notice will exclude the candidate from the competition.

### Article 31 Period

1. The entity competent to authorise opening of the competition establishes in each case, in the opening notice, the period for presentation of candidacies, up to the following limits:

- a) Between 10 and 15 working days for public competitions;
- b) Between 5 and 10 working days for internal competitions.

2. The period starts on the date of publication of the opening notice in the Journal of the Republic, or the respective fixing, when dealing with an internal competition.

### Article 32 Verification of admission requirements

1. On completion of the period for presentation of candidacies, the panel will verify compliance with the admission requirements within a maximum period of 10 working days.

2. After concluding the procedure set out in the following number, or where there are no candidates excluded in the period set out in the previous number, a list of the candidates admitted is fixed in the service.

### Article 33 Exclusion of candidates

1. Excluded candidates are notified so that, within a period of 5 working days, they can lodge an appeal with the authority that determined the opening of the competition.

2. The notification contains a summary of the reasons for exclusion and is carried out in the following manner:

- a) When the number of candidates to be excluded is 100 or higher, notification is made by means of publication of a notice in the Journal of the Republic, Series II;
- b) By personal notification or other suitable method in all other cases.

3. When an appeal is lodged and there is no reconsideration of the panel's decision, the authority will decide in 5 days.

Article 34  
Convocation of admitted candidates

The admitted candidates are called to the selection method procedures by means of a notice published in the Journal of the Republic, personal notification, or other method when shown to be more suitable.

SECTION III  
CLASSIFICATION AND PROOF

Article 35  
Final classification

1. A scale of 0 to 100 points is adopted for the final classification, with candidates who obtain a score of 60 points or less during the eliminatory selection phases or methods, as well as those who are considered not suitable in the medical selection exam, being disqualified.
2. The final classification is a result of the simple or weighted arithmetic average of the classifications obtained in all the selection methods.

Article 36  
Preference criteria

1. In the event of equal classifications in internal competitions, preference will be given as follows, in descending order:
  - a) The candidate with most seniority in the category, the corer and the public services;
  - b) The candidate with the service or body for which the competition is opened.
2. In public competitions, where there is equal classification, the female candidate will be preferred.
3. The panel is responsible for establishing other preference criteria, whenever equality remains after application of the criteria referred to in the previous numbers.

Article 37  
Final decision and appeal

1. On completion of application of the selection methods, the panel will set out, within a period of 10 working days, the decision relation to the final classification and standing of the candidates.
2. Notification is made personally or by another method shown to be more suitable, and contains an indication of the location and times for consulting the process.

3. When the number of candidates is 100 or higher, notification is made by means of publication of a notice in the Journal of the Republic, Series II, informing interested parties of the fixing in the service of the final clarification list and the minute that defines the respective criteria.

4. If there are no appeals, the panel will proceed with the final classification and standing of the candidates.

#### Article 38 Certification

1. Until the implementation of the Public Position Commission, the certification of the competition procedures, including the minute that contains the final classification list, is the responsibility of the member of the Government who determined the opening of the competition.

2. Once the minute is certified, the final classification list is notified to the candidates, under the terms set out in the following article.

#### Article 39 Publicity

1. The final classification list is notified to the candidates by means of:

- a) Sending a document, or another suitable means, with a copy of the list;
- b) Publication of a notice in the Journal of the Republic, Series II, informing interested parties of the fixing in the service of the list, when the number of candidates is 100 or higher;
- c) Fixing the list in the service.

2. The final classification list contains the ranking of the candidates and, in a summarised note, the reasons for non-approval, if applicable, as well as an indication of the period of 10 working days to lodge a hierarchical appeal with the member of the Government.

3. For internal competition, when all the candidates are employed by the service, they may be notified in personal.

#### Article 40 Appointments

1. The approved candidates are appointed based on the order of the respective final classification lists.

2. No appointments may be made prior to decision on any appeals lodged.

Article 41  
Reduction of the list

Approved candidates will be removed from the final classification list when they:

- a) Refuse the position to which they are entitled in accordance with their standing;
- b) Do not take possession or accept within the legal period, for reasons that are imputable to them;
- c) Do not present the documents proving they comply with the necessary conditions for the procedure or do not do so within the period established.
- d) Present false documents.

Article 42  
Possession

- 1. Confirmation of the role is given by possession of the appointment, by means of the signature of the term and acceptance of the appointment, with the respective oath, as set out in the Statutes for Public Positions.
- 2. The position is taken up within a period of up to 10 days counting from the decision on any appeals lodged.
- 3. The acceptance document is public and personal.
- 4. The acceptance document is drawn up in three copies, with the original for the service's archives and the copies for the functional area and the new appointee.

Article 43  
Probationary period

- 1. A functionary recruited via a public competition is subject to a probationary period of twelve months.
- 2. During this period the functionary is observed, guided and evaluated and must demonstrate the suitability, dedication and ability to develop a career in the public service.

## CHAPTER V GUARANTEES

### Article 44 Hierarchical appeal

1. A candidate excluded from the competition or certification on the final classification list may lodge an appeal within a period of 5 working days with the authority that determined the opening of the competition.
2. On a request from an interested party, the panel is obliged to supply a copy of the minutes or of any other documents produced during the competition, in order to support the appeal.

### Article 45 Calculation of periods

The period for lodging an appeal is calculated, depending on the case, as follows:

- a) From the date of the document containing the reasons for exclusion or a copy of the final classification list, allowing for a delay of three days;
- b) From publication of the notice in the Journal of the Republic containing the reasons for exclusion or publication of the final classification list;
- c) From the date of fixing the final classification list in the service;
- d) From the date of personal notification.

### Article 46 Effects of the appeal on exclusion from the competition

The appeal against exclusion from the competition does not suspend the respective operations, except when there is place for the application of selection methods that require the simultaneous presence of all candidates.

CHAPTER VI  
FINAL AND TRANSITORY DISPOSITIONS

Article 47  
False documentation

In addition to exclusion or failure to proceed, the presentation or delivery of false documents will imply participation by the competent entity in disciplinary and legal procedures, depending on the case.

Article 48  
Return and destruction of documents

1. The documentation presented by excluded candidates is destroyed if its return is not requested within a maximum period of one year after the end of the validity period for the respective competition.
2. The documentation presented by the candidates in regard to competitions that have been the object of a disputed appeal may only be destroyed or returned after execution of the sentence.

Article 49  
Exception to the previous conditions

The present legal diploma does not apply to competitions whose opening notice was published on or before the 16<sup>th</sup> of April of 2008.

Article 50  
Revocations

All legal dispositions that are contrary to this present Decree law are revoked.



Article 51  
Entry into force

This present Decree Law comes into force on the date of its publication in the Journal of the Republic.

Approved in the Council of Ministers on the 16<sup>th</sup> of April of 2008

The Prime Minister

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Kay Rala Xanana Gusmão

The Minister for State Administration and Territorial Planning

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Arcângelo Leite

Promulgated on 18-8-08

To be published

The President of the Republic

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José Ramos-Horta