

# DEMOCRATIC REPUBLIC OF TIMOR LESTE

## Ministry of Defence

DECREE-LAW NO. 18/2006  
OF THE

### SYSTEM OF MILITARY PROMOTIONS

According to the Constitution of the Democratic Republic of Timor-Leste, FALINTIL – Forças Armadas de Timor-Leste (F-FDTL) shall guarantee national independence, territorial integrity and the freedom and security of the populations against any aggression or external threat, in respect for the constitutional order

According to the Constitution, the Government is the organ of sovereignty responsible for conducting and executing the general policy of the country. The Government, through the Ministry of Defence, is responsible for designing, executing, co-ordinating and assessing the policy defined and approved at the Council of Ministers for the sectors of National Defence.

In order to ensure the development of these policies, particularly in what concerns human resource management, it is necessary to set up a system of selection and promotion based on the experience, training and merit of service members, which simultaneously constitutes an incentive for the said members to prepare themselves and excel in the ranks of the Armed Forces.

As laid down in Decree-Law no. 7/2004, of the 5 May, the Organic Law of the F-TLDF, the system of military careers should be the object of a specific Government decree-law.

Pursuant to Article 26, number 1, of Decree-Law no. 7/2004, and of Article 116, paragraph (d), of the Constitution of the Republic, the Government establishes the following to be enforced as law.

### CHAPTER ONE GENERAL PROVISIONS

#### Article 1 Objectives

1. This decree-law sets up the system of promotions for the service members of FALINTIL-Forças Armadas de Timor-Leste (F-FDTL), based on fitness, behaviour, commitment, proven performance and future potential.
2. Service members shall be selected for promotion irrespective of descent, sex, race, land of origin, political, religious or ideological beliefs, economic or social status.

## **Article 2**

### **Scope of application**

1. This decree-law shall apply to all promotions that should be made in the framework of F-FDTL.
2. In spite of the previous provision, promotions to the grade of general, appointments and exoneration of the Chief of Joint Military Staff, the Adjutant Chief of Joint Military Staff and the Chiefs of Army, Navy and Air Force, shall be ruled by specific provisions.

## **Article 3**

### **Ranks, sub-ranks and grades**

1. Service members shall be grouped, by decreasing hierarchical order, into the following ranks:
  - a) Officers;
  - b) Sergeants;
  - c) Corporals/Private.
2. Sub-ranks correspond to sub-sets of ranks different among them by increasing level of autonomy, functional complexity and responsibility.
3. Grade is the position that the service member holds in the respective rank in the military career, established in accordance with the contents and qualification of his function or functions:
4. Ranks, sub-ranks and grades are laid down in Annex I to this decree-law, of which it is a full part.

## **Article 4**

### **Access to rank**

Service members shall access the officer, sergeant and corporal/private ranks respectively in the grades of second-lieutenant, sergeant and private.

## **CHAPTER TWO**

### **ON THE QUALIFICATION OF SERVICE MEMBERS TO PROMOTION**

## **Article 5**

### **Promotion**

1. Each grade in the military career shall be accessed by way of promotion.
2. As a rule, promotion consists in rising to the next upper grade in the respective rank.
3. Promotions should be made according to what has been established in the Organic Framework of the F-FDTL, namely as regards the availability of vacancies in each grade, save those cases laid down in this decree-law.
4. Promotion or graduation should be drafted in writing and signed by the competent authority.

## **Article 6**

### **Promotion requirements**

1. Service members, in order to be able to be promoted, must meet the general and special promotion requirements, save in those cases laid down in this decree-law.
2. Cases shall include all documents required as grounds for promotion.

## **Article 7**

### **Modalities of promotion**

1. Modalities of promotion are the following:
  - a) Seniority;
  - b) Merit;
  - c) Appointment;
  - d) Distinction;
  - e) Exception.
2. While respecting the provisions of Article 2, number 2, of this decree-law, and the cases of promotion by distinction and exception, the modalities of promotion applicable to the promotion to grades higher than the access grade into the officer and sergeant ranks are those laid down in Annex II of this decree-law, of which it is a full part.

## **Article 8**

### **Promotion by seniority**

Promotion by seniority consists in accessing the next upper grade to fill an existing vacancy, meeting the promotion requirements and keeping the relative seniority, after hearing advice from the F-FDTL Council of Promotions.

## **Article 9**

### **Promotion by merit**

1. Promotion by merit consists in selecting the service members considered the most competent and fittest to perform the functions inherent to the next upper grade.
2. Promotion by merit consists in accessing the next upper grade to fill an existing vacancy, meeting the promotion requirements in the terms of this decree-law, on the basis of an ordered list of service members to be promoted to the next upper grade, submitted by the F-FDTL Council of Promotions to the Chief of the Joint Military staff and ratified by him.
3. Promotions by merit take immediate effect as soon as there is a vacancy in the grade.

## **Article 10**

### **Promotion by appointment**

1. Promotion by appointment takes place in special situations, namely to meet specific requirements of the F-FDTL.
2. Promotion by appointment consists in accessing the next upper grade to fill an existing vacancy, meeting the promotion requirements in the terms of this decree-

- law, irrespective of the service member's rank in the scale of seniority of the previous grade.
3. Promotions by appointment are made at the initiative of the Chief of the Joint Military Staff, after mandatory reception of a favourable advice from the F-FDTL Council of Promotions.

#### **Article 11**

##### **Promotion by distinction**

1. Promotion by distinction consists in accessing a higher grade, as a rule the next upper grade, regardless the existence of vacancy, the service member's rank in the scale of seniority and the compliance with special promotion requirements.
2. Promotion by distinction rewards exceptional qualities and gifts of command, steering or leadership proven in campaign or in actions that contributed to the glory of the Motherland, or the prestige of the military institution.
3. Service members promoted by distinction to a grade that requires a promotion training course should attend it without being graded.
4. Promotions by distinction are an initiative of the Chief of the Joint Military Staff, at all times requiring favourable advice from the F-FDTL Council of Promotions.
5. Any case of promotion by distinction should include all documents required to fully account for the rewarded deeds which are the grounds for promotion and it may involve an opposing investigation.
6. Any service member may be promoted by distinction on more than one occasion and such promotion can be posthumous.

#### **Article 12**

##### **Promotion by exception**

1. Promotion by exception consists in accessing the next upper grade, regardless the existence of any vacancy. It applies particularly to the following cases:
  - a) By qualification as disabled service member, when provided for by special legislation;
  - b) By rehabilitation, following a successful appeal in a criminal or disciplinary process;
  - c)
2. Promotion by exception can be posthumous.

#### **Article 13**

##### **General requirements for promotion**

General requirements for promotion applicable to all service members are the following:

- a) Compliance with the respective duties;
- b) Successful performance of the respective grade functions;
- c) Personal, intellectual and professional qualities and skills required to be promoted to the next upper grade;
- d) Appropriate physical and psychic fitness.

## **Article 14**

### **Checking general requirements**

1. Fulfilment of the general requirements for promotion is checked through:
  - a) Individual evaluation, carried out at the different levels of command;
  - b) Disciplinary records;
  - c) Other documents included in the individual record of the service member, or subsequently incorporated in it, after superior decision.
2. No matter pending any suit of any nature can be appraised, until a final decision is made on such suit.
3. Competences for checking that the general requirements for promotion have been met are those defined in this decree-law.
4. Rules and instructions complementary to this decree-law establish the procedures that shall be adopted to assess the promotion factors, namely those considered required for a good performance of the F-FDTL Council of Promotions.

## **Article 15**

### **General requirements unmet**

1. Competence for deciding that the general requirements for promotion have not been met, as laid down in Article 13, belongs to:
  - a) The Chief of the Joint Military Staff, after hearing the advice of the F-FDTL Council of Promotions on paragraphs a), b) and c) of the said article:
  - b) The bodies of the health department and the medical councils competent for the matters laid down in paragraph d) of the said article.
2. The F-FDTL Council of Promotions issue their advice based on the data mentioned in Article 14. In case the general requirements for promotion are not met, the Council shall hear that service member and other people whose opinion is considered relevant to draft the said advice.
3. The decision referred to in number 1, above, shall take into account the advice given by the entities referred to in number 2, above. It should be adequately founded and it shall be reported to the concerned service member.

## **Article 16**

### **Special requirements**

1. Requirements for promotion specific to each grade are those indicated in Annex III to this decree-law, of which they are a full part, including:
  - a) Serving a minimum time in that grade;
  - b) Performing certain functions, or holding certain positions;
  - c) Completing a training or promotion course – or any other course, with final grading;
  - d) Other requirements of specific nature.
2. Special requirements for promotion to access the next upper grade should be timely granted to every service member and it is up to the staff management bodies to take the appropriate steps.

3. Completion of training or promotion course – or any other course, with final grading, is not per se a right to the said promotion.
4. In the framework of training or promotion – or any other, courses, the factor relevant to appraise promotions is the final grade obtained.
5. Staff management bodies are responsible for ensuring that the special requirements for promotion are met.

#### **Article 17**

##### **Temporary exclusion**

Service members may be temporarily excluded from promotion and given the Delayed or Pretermitted status.

#### **Article 18**

##### **Delayed promotion**

1. Promotions are delayed,
  - a) When service members await a decision by the Chief of the Joint Military Staff on advice given by the F-FDTL Council of Promotions;
  - b) When promotions depend upon a court decision becoming a sentence in rem iudicatam;
  - c)
2. Delayed service members should not serve under the orders of more junior service members who have been promoted in the meantime.
3. Delayed service members shall be promoted as soon as the reasons for their delayed promotion cease to exist, regardless the existence of any vacancy, rising to their new grade in the same position in the scale of seniority as they would have if the promotion had not been delayed.

#### **Article 19**

##### **Pretermitted promotion**

1. Promotions are pretermitted:
  - a) When the service member does not meet one of the first three general requirements for promotion laid down in paragraphs a), b) and c) of Article 13;
  - b) When the service member does not meet any of the special requirements for promotion, for reasons ascribable to him;
  - c) When the service member is on leave, having lost the right to receive pay;
  - d) In those cases defined in special legislation.
2. Service members, as soon as the reasons for pretermittance cease to exist, shall be appraised for the purpose of promotion to the next upper grade, on equal foot with the service members of the same grade, rank, arm, service or specialty.

## **Article 20**

### **Organisation of promotion processes**

Staff management bodies, by hierarchical level of command, have the responsibility of organising the promotion processes, which should include all elements required for meeting the promotion requirements.

## **Article 21**

### **Confidentiality in promotion processes**

Promotion processes are confidential, but each service member concerned has the right to consult his individual process, provided that he requests it.

## **Article 22**

### **Upgrade**

1. Service members may be graded to an upper grade, in an exceptional and temporary situation:
  - a) When it is not possible to appoint service members with an appropriate grade to perform indispensable functions;
  - b) In other situations laid down in this decree-law or in special legislation.
2. Upgraded service members benefit from the rights inherent to the attributed grade, save those derived from the time served in that grade for the purpose of seniority;
3. Upgrade is determined by the Chief of the Joint Military Staff and shall always require the positive advice from the F-FDTL Council of Promotions, following the procedure established for the promotion process, with the necessary adaptations.
4. Upgrade shall cease when the service member:
  - a) Is discharged from the functions that accounted for his upgrading;
  - b) Is promoted to the grade in which he has been upgraded;
  - c) Abandons the respective training course, or fails to be upgraded.
5. Once the upgrading ends, the said upgrading cannot be mentioned as a means to obtain any advantages or benefits.
6. Upgrade shall always correspond to its equivalent compensation.
7. Nevertheless a service member temporarily performing upper grade functions without having been upgraded shall not receive compensation for his upper grade, unless otherwise determined.
8. Upgrades have no time limits or minimum qualifications, other than meeting service requirements. Even so, efforts should be made to look for the best qualified service member for performing the new functions – hence the one to be upgraded, among the universe of service members that may potentially be upgraded.

## **Article 23**

### **Seniority**

1. Service member seniority, in each grade, reports back to the date written on the respective official document of promotion. More recently promoted service members are considered less senior, unless otherwise provided for by this decree-law or special legislation.

2. Upgraded service members are always considered more junior than service members promoted to the same, or equivalent, grade on the same date.
3. All periods served by service members are counted for establishing seniority in the grade, except the following:
  - a) Periods in which the service member was placed in a status whereby he had no right to receive pay;
  - b) Periods in which the service member served prison sentences, be it military be it civil;
  - c) Periods that should not be considered, according to the applicable disciplinary legislation;

## **CHAPTER THREE ON COMPETENCE**

### **Article 24**

#### **Competence of the F-FDTL Council of Promotions**

The Council of Promotions is the Chief of the Joint Military Staff's advisory body for promotions and has the following competences:

- a) State whether the general requirements for promotion laid down in Article 13, paragraphs a), b) and c) have been met, in all modalities of promotion, save promotion by exception;
- b) Order, pursuant to this decree-law, the list of service members to be promoted by merit to the next upper grade;
- c) Give individual advice on the service members in the course of promotion by appointment and distinction, as well as on graduations;
- d) In cases of failure to meet the general requirements for promotion of one service member, hear that service member and other people whose opinion is considered valuable to give its advice;
- e) Exempt the F-FDTL service members from one or more special requirements for promotion.
- f) At the request of the Chief of the Joint Military Staff, give advice on the preferable area of future service of a given service member, in view of his promotion or not;
- g) Give advice on other matters regarding the service member promotion policy, which may be expressly committed to it by the Chief of the Joint Military Staff.

### **Article 25**

#### **Membership of the F-FDTL Council of Promotions**

1. Membership of the Council of Promotions may vary as a function of the universe of grades being appraised, pursuant to Annex IV of this decree-law of which it is a full part.
2. When a given service member who sits in the Council of Promotions is being appraised, he must leave the room during the proceedings of his appraisal.



## **Article 26**

### **Functioning of the F-FDTL Council of Promotions**

1. The Council of Promotions shall meet as often as required, at least once a year.
2. The ordered list of service members to be promoted by merit, after being drafted at a meeting of the Council of Promotions, should be submitted to the Chief of the Joint Military Staff for ratification.
3. In case the latter does not agree with the said list, the Council shall meet again for drafting a new list.
4. The ordered list of service members to be promoted by merit, in the terms mentioned above, shall remain valid until the next meeting of the Council and will be replaced by the list drafted at that meeting.
5. Following the ratification by the Chief of the Joint Military Staff of the ordered list of service members to be promoted by merit, this list shall be divulged to the concerned service members and may be made public by way of an Administrative Order, or any other appropriate manner.
6. The ordered list of service members to be promoted by merit, once ratified by the Chief of the Joint Military Staff, establishes the order of promotions for the next period of promotions and must be complied with as a function of available vacancies.
7. In the sequence of promotions, the ordered list of service members to be promoted by merit becomes the seniority list of service members promoted to that grade.
8. General procedures governing the functioning of the Council of Promotions are laid down in Annex V to this decree-law, of which it is a full part.

## **Article 27**

### **Competent authorities**

1. The President of the Republic has the power to appoint and discharge, pursuant to the law, the Chief and the Vice-Chief of the Joint Military Staff.
2. Irrespective of a service member's original grade, the Chief of the Joint Military Staff is competent for graduations and promotions, whichever the modality, of F-FDTL service members up to the grade of colonel, inclusive.
3. The Chief of the Joint Military Staff may exempt a service member of one or more special requirements for promotion, after hearing advice from the F-FDTL Council of Promotions.

## **Article 28**

### **Competence of the Supreme Council of Defence and Security**

The Supreme Council of Defence and Security, as regards the promotion of service members, has the competences established by law.

## **Article 29**

### **Competence of the Chief of the F-FDTL General Staff**

1. The Chief of the F-FDTL General Staff should be permanently informed of the existing situation of promotions and graduations within the F-FDTL.
2. The Chief of the F-FDTL General Staff shall submit the promotion processes to the decision of the Chief of the Joint Military Staff.

3. The Chief of the F-FDTL General Staff has the competence to perform the tasks assigned by this decree-law, in the framework of the F-FDTL Council of Promotions.

#### **Article 30**

##### **Competence of the Head of the F-FDTL Staff Department**

1. The Head of the Staff Department should be permanently informed of the processes of graduation and promotion currently being planned or executed. He is technically responsible for controlling the vacancies in each grade, in the entire structure of the F-FDTL.
2. The Head of the Staff Department shall ensure the timely submission to the Chief of the F-FDTL General Staff of promotion processes, so that they can be taken to decision by the Chief of the Joint Military Staff.
3. The Head of the Staff Department shall perform the tasks assigned by this decree-law, in the framework of the Council of Promotions.

### **CHAPTER FOUR FINAL PROVISIONS**

#### **Article 31**

##### **On complementary rules and instructions**

The Minister of Defence, on his initiative or by proposal of the Chief of the Joint Military Staff, may, by government order, establish the complementary rules or instructions required to implement this decree-law.

#### **Article 32**

##### **Revoked rules**

All rules contrary to the provisions of this decree-law are revoked.

#### **Article 33**

##### **Entry into force**

This decree-law shall enter into force on the day following its date of publication.

Approved by the Council of Ministers on the 27 September 2006.

The Prime Minister

*(Signature)*

José Ramos-Horta

The Minister of Defence

*(Signature)*

José Ramos-Horta

Enacted on the 30 October 2006.

To be published.

The President of the Republic  
(*Signature*)  
Kay Rala Xanana Gusmão

**ANNEX I – RANKS, SUB-RANKS AND GRADES (referred to in Article 3)**

<b>RANK</b>	<b>SUB-RANK</b>	<b>GRADE (or equivalent)</b>
<b>Officers</b>	<b>General officers</b>	<b>Brigadier-general and other upper-rank general officers, if any</b>
	<b>Senior officers</b>	<b>Colonel</b>
		<b>Lieutenant Colonel</b>
		<b>Major</b>
	<b>Captains</b>	<b>Captain</b>
	<b>Petty officers</b>	<b>First Lieutenant</b>
<b>Second Lieutenant</b>		
<b>Sergeants</b>	-----	<b>Sergeant Major</b>
		<b>Master Sergeant</b>
		<b>Sergeant First Class</b>
		<b>Staff Sergeant</b>
		<b>Sergeant</b>
		<b>Corporal Specialist*</b>
<b>Corporals/Private</b>	-----	<b>Corporal</b>
		<b>Private</b>

\* Grade to be extinguished

**ANNEX II – MODALITIES OF PROMOTION (referred to in Article 7)**

<b>Rank</b>	<b>Sub-rank</b>	<b>Grade (or equivalent)</b>	<b>Modality of Promotion</b>
Incorporate column here for			
<b>Corporals/Private</b>		Corporal	Merit
<b>Sergeants</b>	-----	Sergeant*	Seniority
		Staff Sergeant	Seniority
		Sergeant First Class	Merit
		Master Sergeant	Merit
		Sergeant Major	Appointment
<b>Officers</b>	<b>Petty officers</b>	First Lieutenant	Seniority
	<b>Captains</b>	Captain	Merit
	<b>Senior officers</b>	Major	Merit
		Lieutenant Colonel	Appointment
		Colonel	Appointment

\*Rule also applicable to Corporal Specialists

**ANNEX III – SPECIAL REQUIREMENTS FOR PROMOTION (referred to in Article 16)**

<b>Rank</b>	<b>Sub-rank</b>	<b>Grade (or equivalent)</b>	<b>Special Requirements and Conditions for Promotion to the Grade</b>
<b>Corporals/ Privates</b>		<b>Private</b>	<ul style="list-style-type: none"> <li>• To have completed a recruit for privates, with grading.</li> </ul>
		<b>Corporal</b>	<ul style="list-style-type: none"> <li>• To have completed a corporal training course, with grading.</li> </ul>
<b>Sergeants</b>	-----	<b>Sergeant</b>	<ul style="list-style-type: none"> <li>• To have completed a sergeant training course, with grading.</li> <li>• <u>Temporary provisions:</u> when promotion does not stem from the above mentioned course, to have served as corporal specialist for 2 years.</li> </ul>
		<b>Staff Sergeant</b>	<ul style="list-style-type: none"> <li>• To have served in the grade of sergeant for 8 years.</li> </ul>
		<b>Sergeant First Class</b>	<ul style="list-style-type: none"> <li>• To have served in the grade of staff sergeant for 6 years</li> <li>• To have performed, as staff sergeant, the functions of platoon sergeant for at least 2 years</li> <li>• To have completed a course of promotion to sergeant first class, with grading.</li> </ul>
		<b>Master Sergeant</b>	<ul style="list-style-type: none"> <li>• To have served in the grade of sergeant first class for 6 years</li> <li>• To have performed, as sergeant first class, the functions of adjutant to the company commanding officer for at least 2 years</li> <li>• To have completed a course of promotion to master sergeant, with grading</li> </ul>
		<b>Sergeant Major</b>	<ul style="list-style-type: none"> <li>• To have served in the grade of master sergeant for 4 years</li> <li>• To have performed, as master sergeant, the functions of adjutant to battalion commanding officer for at least 2 years</li> </ul>

<b>Officers</b>	<b>Petty officers</b>	<b>Second Lieutenant</b>	<ul style="list-style-type: none"> <li>• To have completed an officer training course, with grading.</li> </ul>
		<b>First Lieutenant</b>	<ul style="list-style-type: none"> <li>• To have served in the grade of Second Lieutenant for 3 years</li> </ul>
	<b>Captains</b>	<b>Captain</b>	<ul style="list-style-type: none"> <li>• To have completed a course of promotion to captain, with grading</li> <li>• To have served in the grade of first lieutenant for 5 years</li> <li>• To have performed, as petty officer, the functions of platoon commanding officer for at least 1 year</li> </ul>
	<b>Senior Officers</b>	<b>Major</b>	<ul style="list-style-type: none"> <li>• To have completed a course of promotion to major, with grading</li> <li>• To have served in the grade of captain for 8 years</li> <li>• To have performed, as captain, the functions of company commanding officer for at least 3 years</li> </ul>
		<b>Lieutenant Colonel</b>	<ul style="list-style-type: none"> <li>• To have served 6 years in the grade of major</li> </ul>
		<b>Colonel</b>	<ul style="list-style-type: none"> <li>• To have completed a general staff course, with grading</li> <li>• To have served in the grade of lieutenant colonel for 4 years</li> <li>• To have performed, as major or lieutenant colonel, the functions of battalion commanding officer (or equivalent) for at least 2 years</li> </ul>

**ANNEX IV – MEMBERSHIP OF THE F-FDTL COUNCIL OF PROMOTIONS (referred to in Article 25 above)**

1. The Council of Promotions has the following members:
  - a) For the Sergeants and Corporals/Private rank:
    - I) The Chief of the F-FDTL General Staff;
    - II) The F-FDTL Heads of Department;
    - III) The F-FDTL Heads of Unit;
    - IV) The Sergeant Major of the F-FDTL;
    - V) The Master Sergeant of each battalion, or the most senior if there is more than one;
    - VI) The most senior Sergeant in each independent unit lower in echelon than a battalion, provided that he is at least Sergeant First Class;
  - b) For the Officers rank:
    - I) The Chief of the F-FDTL General Staff;
    - II) The F-FDTL Heads of Department;
    - III) The F-FDTL Unit Commanding Officers.
2. The Chief of the F-FDTL General Staff shall always be the Chairman and the Head of the Quarter-General Staff Department shall be the Secretary.
3. International Advisors may be invited to participate in the meetings of the Council as observers, at the invitation of the Chairman, and may address the Council if he requests or permits them to speak, but in no case will have the right to vote.
4. When appraising the promotion of any service member, the presence of members less senior than him in the Council will not be allowed.



**ANNEX V – GENERAL PROCEDURES GOVERNING THE FUNCTIONING OF THE F-FDTL COUNCIL OF PROMOTIONS (referred to in Article 26 above)**

The F-FDTL Council of Promotions functions according to the following main rules:

1. The Council of Promotions requires a minimum quorum of 4/5 (four fifths) to operate legitimately;
2. Unjustified absence of Council members constitutes breach of discipline;
3. All members of the Council of Promotions have the right to one (1) vote;
4. Members may vote Yes, No or Abstain.
5. Abstentions should also be recorded on the Council's Minutes.
6. The Chairman may determine that the members be identified on the Minutes by their vote, or that the ballot be secret.
7. In those cases where ballot is not secret and there is a tie, the Chairman shall have a tie break vote.
8. In those cases where, during the proceedings of the F-FDTL Council of Promotions, there is a tie in voting on the ordered list of service members, the Council has the power to add extra points to those service members considered deserving, to allow for tie-break. Extra points may vary from 0 to 1 unit value. Point reductions are absolutely forbidden.