

## **DECREE-LAW No. 5/2012**

**of 15th February**

### **Single Lump Sum for National Liberation Combatants and families of Martyrs**

Under the terms of article 11 of the Constitution of the Democratic Republic of Timor-Leste, *“The State shall guarantee special protection to war disabled, orphans and other dependents of those who dedicated their lives to the struggle for independence and national sovereignty and shall protect all those who were part of the resistance against foreign occupation, under the terms of the law”*.

In March 2006, National Parliament approved the status of National Liberation Combatants, by establishing three dimensions for public policies addressing National Liberation Combatants: (1) the moral dimension of recognition and appreciation, (2) the material dimension of solidarity and retribution of social or socio-economic protection and (3) the dimension concerning the preservation of the memory, the conservation and dissemination of values and achievements of the resistance.

Within the scope of the material dimension, National Parliament amended the Status of National Liberation Combatant, by way of Law no. 9/2009 of 19<sup>th</sup> July, and has established, under the terms of its article 28, the payment of a Single Lump Sum to *“National Liberation Combatants who were full-time participants in the struggle for national independence for between four and seven years”* and to *“relatives up to the fourth degree of the collateral line in the event there are no relatives of the National Liberation Martyr entitled to a Survival Pension”*.

To this effect, the 4<sup>th</sup> Constitutional Government regulates such Single Lump Sum.

Thus, the Government hereby decrees the following to be considered law under the terms of the legal regime set out in article 28 of the Statute of National Liberation Combatants approved by Law no. 3/2006 of 12<sup>th</sup> April, altered by Law no. 9/2009 of 29<sup>th</sup> July, and by Law no. 2/2011, of 23<sup>rd</sup> March, and under the joint terms of sub-paragraph p) of no. 1 of article 115 of sub-paragraph d) of article 116 of the Constitution of the Republic:

#### **CHAPTER I**

#### **GENERAL PROVISIONS**

##### **Article 1**

##### **Object**

The object of the present diploma is to define entitlement and the requirements necessary to initiate the process whereby a single lump sum, hereinafter referred to as PPU, is assigned to National Liberation Combatants or families of Martyrs as set out in article 28 of Law no. 3/2006 of 12<sup>th</sup> April, altered by Law no. 9/2009 of 29<sup>th</sup> July, and by Law no. 2/2011, of 23<sup>rd</sup> March, which defines the Status of the National Liberation Combatants, hereinafter referred to as “Status”.

##### **Article 2**

##### **General Principles**

1. The regulation of the PPU shall be governed by the principles of objectivity, transparency, financial rationality and legal certainty.

2. The processing of the PPU shall be guided by the principles of legitimacy, accessibility and procedural simplicity, taking into consideration the administrative reality of the Country.

3. A person may only benefit from one PPU and, in the event he/she is the beneficiary of more than one, may opt for the one of the highest value.

#### **CHAPTER IV**

#### **SINGLE LUMP SUM**

#### **Article 3**

#### **Definition**

1. PPU means a lump sum of one single payment.

2. PPU shall have the following modalities:

a) PPU for National Liberation Combatants, hereinafter referred to as PPU-COMBATANT; and

b) PPU for families of National Liberation Martyrs, hereinafter referred to as PPU-MARTYR.

#### **Article 4**

#### **Conditions to assign a PPU-COMBATANT**

1. Those National Liberation Combatants who have been full time participants in the struggle for national independence of between four and seven years shall be entitled to a PPU-COMBATANT, under the terms of the provisions set out in no. 1 article 23 of the Statute.

2. The assignment of the PPU-COMBATANT shall depend on:

a) the recognition of such applicant as a combatant, under the terms of article no. 13, paragraph 1 of the Statute;

b) the length of time to which paragraph 1 of article 18 of the Statute refers, notwithstanding appeal, or a decision rendered on an appeal, to which paragraph 2 of the same article of the Statute refers.

3. For the purposes of the preceding paragraph, the data included in the register of National Liberation Combatants shall be considered, namely regarding full-time participation in the struggle, including time of imprisonment or exile, and capacity as National Liberation Combatants.

#### **Article 5**

#### **Conditions to assign a PPU-MARTYR**

1. The families of National Liberation Martyrs up to the fourth degree of the collateral line shall be entitled to a PPU-MARTYR if they:

a) Are not beneficiaries of one of the pensions intended for National Liberation Combatants and families of Martyrs, under the terms of the applicable legislation;

b) are in the preferential class calculated under the terms of the following article;

c) have suffered torture, exile or arrest inflicted because of the militancy of the National Liberation Martyr;

d) have not voluntarily collaborated with the enemy against the interest of National Liberation.

2. The assigning of a PPU-MARTYR depends:

a) on the recognition of the quality of National Liberation Martyr, under the terms of paragraph 2 of the preceding article; and

b) on the application process of the corresponding survival pension, with no other family member entitled to such pension, under the terms of the applicable legislation.

#### **Article 6**

##### **Order of preference of beneficiaries of a PPU-MARTYR**

1. The applicant or group of applicants whose family affiliation to the National Liberation Martyr is considered preferential shall be entitled to a PPU-MARTYR.
2. Family affiliation shall be determined by the order set out in the table annexed to this diploma, in consideration of the following rules:
  - a) Relatives in direct line shall take preference over those of the collateral line;
  - b) When there are relatives in the direct line, the nearest degree shall take preference over the furthest degree, and within the same degree, the descending line shall take preference over the ascending line;
  - c) When there are relatives only in the collateral line, the nearest degree shall take preference over the furthest degree, and within the same degree, nephews and nieces shall take preference over uncles and aunts, great nephews over first cousins and first cousins over great uncles and great aunts.
3. For the purposes of processing a PPU-MARTYR, the authority responsible shall analyse all applications concerning the same National Liberation Martyr in one single process, analysing them according to the order of preference set out in this article, applications regarding excluded classes of beneficiaries being rejected.

#### **Article 7**

##### **Amounts of the PPU**

1. The amount of the PPU-COMBATANT shall correspond to twelve months the amount of the minimum salary of a public servant and the amount of the PPU-MARTYR shall correspond to twelve months the amount of the survival pension to which the corresponding martyr would be entitled.
2. For the purposes of the preceding paragraph, the amounts shall be considered as those in force in the year in which payment of the PPU is made to the beneficiary.

#### **Article 8**

##### **Division of PPU-MARTYR**

Once the preferential category of relatives is calculated, in those cases in which more than one application from relatives of the same category are accepted, the corresponding PPU-MARTYR shall be divided equally among them.

### **CHAPTER III**

#### **PROCESSING A PPU**

#### **Article 9**

##### **General Principles**

1. In accordance with institutional and financial capacities of the Government, speed and simplicity shall be guaranteed in the processing of the PPU.
2. In all matters that are not regulated in the present diploma, the processing of the PPU shall, with the necessary adjustments, follow the legal regime in force for the processing of Pensions of National Liberation Combatants and Relatives of National Liberation Martyrs.

3. The deadlines for decisions, complaints and appeals, as far as PPU are concerned, shall be of 30 days.

#### **Article 10**

##### **Entity Responsible**

The Government body responsible for national liberation combatants, in close cooperation with the Homage, Supervision of Registration and Resources Committee, shall be the authority responsible for the administrative procedures involved in the processing of benefits set out in this diploma

#### **Article 11**

##### **Application reception period**

1. It shall be incumbent upon the Government member responsible for affairs related to National Liberation Combatants to issue an order approving application reception periods, taking into consideration existing financial and administrative capacities, endeavouring to give priority to PPU – COMBATANTS processes.

2. For reasons of speed and economy, the application reception periods for PPU – MARTYRS may be opened in phases, those interested being called on to submit their corresponding applications by the order of preference, as set out in article 6.

#### **Article 12**

##### **Procedure**

1. The process whereby PPU are assigned depends on the submission of the application and the documents required by law by the interested party, without which the formal procedure to assign the PPU shall not be considered as having been initiated.

2. The PPU application shall be submitted within a maximum deadline of 30 days from the date of the official opening of the application reception period, under the terms of the provisions set out in the preceding article.

#### **Article 13**

##### **PPU – COMBATANT application**

The PPU – COMBATANT application shall be initiated with the following documents:

- a) Form in the model approved by the services of the authority responsible, duly completed and signed;
- b) Photocopy of applicant's Voter's Card or Voter's Certificate and presentation of the corresponding original;
- c) The documents required to attest to the family affiliation between the Martyr and the applicant, in accordance with that established in the table attached to this diploma;
- d) Declaration, endorsed and signed by the applicant, in which he or she declares on oath that he or she has suffered torture, exile or arrest inflicted because of the militancy of the relative who was a National Liberation Combatant and that he or she did not voluntarily collaborate with the enemy against the interest of national liberation, in a model approved by the services of the authority responsible, signed by two witnesses and attested by a former leader of the resistance who occupied an intermediate or high ranking post/position in the struggle, under the terms of paragraph 4 of article 28 of the Statute;
- e) Photocopy of document with the data concerning the applicant's bank account.

2. In the event there is no birth certificate or baptism certificate of people already deceased, these may be submitted by way of a birth declaration issued by an official or by a priest, vicar, Chief of Suco or District Administrator, and authenticated by a former leader of the Timorese Resistance.

#### **Article 15**

##### **PPU Payment**

1. A PPU shall be paid in one lump sum by bank transfer to the account indicated by the applicant whose process has been accepted.
2. In the event there is no complaint, appeal or contestation, payment shall take place in the month following the deadlines for such complaints, appeals and contestations.
3. Any complaint, appeal or contestation shall suspend payment of the corresponding PPU until a decision regarding such issues has been arrived at.

#### **CHAPTER IV**

##### **OFFENCES AND SANCTIONS**

#### **Article 16**

##### **General Principles**

1. Individuals shall be liable for offences included in this diploma.
2. The liability for offences set out in this diploma shall not exclude criminal liability under the terms of the applicable criminal law.

#### **Article 17**

##### **Offences**

1. Notwithstanding the provisions set out in criminal legislation, the provision of false information within the scope of the process to determine a beneficiary shall constitute an offence within the scope of the present diploma.
2. The offences set out in the preceding paragraph shall be punished with a fine of up to 500 dollars and shall imply the return of the benefits set out in this diploma.
3. The procedures whereby fines are applied shall be the object of Government regulation.

#### **CHAPTER V**

##### **TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 18**

##### **Budget**

The financing of the administrative system and payment of PPUs shall be covered in their entirety by the General State Budget.

#### **Article 19**

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

The present diploma shall come into force on the day following its publication.

Approved in Council of Ministers on 14<sup>th</sup> February 2011.

The Prime Minister

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**Kay Rala Xanana Gusmão**

Minister of Social Solidarity

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**Maria Domingas Fernandes Alves**

Promulgated on 6/2/2012

To be published

The President of the Republic

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**José Ramos-Horta**

**ANNEX**

**Potential beneficiaries of PPU-MARTYR. Order of Preference and Documents to be submitted to attest to the family affiliation to the National Liberation Martyr (NLM), under the terms of article 14, paragraph, no. 1, sub-paragraph c)**

<b>Line</b>	<b>Degree</b>	<b>Direction</b>	<b>Family affiliation to the NLM</b>	<b>Documents to be submitted by the applicant</b>
Direct	2nd	Descending	Grandson / granddaughter	Birth or baptism certificate: Of the applicant; Of the Martyr; and Of the father/mother of the applicant who is the son/daughter of the martyr
		Ascending	Grandfather/grandmother	Birth or baptism certificate: Of the applicant; Of the Martyr; and Of the son/daughter of the applicant who is the father/mother of the martyr
	3 <sup>rd</sup>	Descending	Great grandson / great granddaughter	Birth or baptism certificate: Of the applicant; Of the Martyr; Of the father/mother of the applicant who is the grandson/granddaughter of the Martyr; and Of the grandfather/grandmother of the applicant who is the son/daughter of the Martyr
		Ascending	Great grandfather / great grandmother	Birth or baptism certificate: Of the applicant; Of the Martyr; Of the son/daughter of the applicant who is the grandfather/grandmother of the martyr; Of the grandson/granddaughter of the applicant who is the father/mother of the Martyr.
	4 <sup>th</sup>	Descending	Great-great grandson / great-great granddaughter	Birth or baptism certificate: Of the applicant; Of the Martyr; Of the father/mother of the applicant who is the great grandson/ great

				<p>granddaughter of the Martyr;</p> <p>Of the grandfather/grandmother of the applicant who is the grandson/granddaughter of the Martyr;</p> <p>Of the great grandfather / great grandmother of the applicant who is the son / daughter of the martyr</p>
		Ascending	Great-great grandfather / great-great grandmother	<p>Birth or baptism certificate:</p> <p>Of the applicant;</p> <p>Of the Martyr;</p> <p>Of the son/daughter of the applicant who is the great grandfather/ great grandmother of the martyr;</p> <p>Of the grandson/granddaughter of the applicant who is the grandfather/grandmother of the Martyr;</p> <p>Of the great grandson/ great granddaughter of the applicant who is the father/ mother of the Martyr</p>
Collateral	3rd		Nephew / Niece	<p>Birth or baptism certificate:</p> <p>Of the applicant;</p> <p>Of the Martyr;</p> <p>Of the father/mother of the applicant who is the brother / sister of the Martyr;</p>
			Uncle / Aunt	<p>Birth or baptism certificate:</p> <p>Of the applicant;</p> <p>Of the Martyr;</p> <p>Of the brother/sister of the applicant who is the father / mother of the Martyr</p>
	4th		Great Nephew / Great Niece	<p>Birth or baptism certificate:</p> <p>Of the applicant;</p> <p>Of the Martyr;</p> <p>Of the father/mother of the applicant who is the nephew/niece of the Martyr; and</p> <p>Of the grandfather/grandmother of the applicant who is the brother/sister of the Martyr</p>
			First cousin	<p>Birth or baptism certificate:</p> <p>Of the applicant;</p> <p>Of the Martyr;</p>



				<p>Of the father/mother of the applicant who is the brother/sister of the father / mother of the Martyr; and</p> <p>Of the uncle / aunt of the applicant who is the father / mother of the Martyr</p>
			Great uncle / Great aunt	<p>Birth or baptism certificate:</p> <p>Of the applicant;</p> <p>Of the Martyr;</p> <p>Of the brother/sister of the applicant who is the grandfather / grandmother of the Martyr; and</p> <p>Of the nephew /niece of the applicant who is the father / mother of the Martyr</p>