

DEMOCRATIC REPUBLIC OF TIMOR-LESTE

GOVERNMENT

Decree-Law No. 15/2003

Of

CODE OF COURT COSTS

The Government has been listening with apprehension to complaints by citizens as to the amounts of money required and charged in terms of court costs.

During the time of Indonesian occupation, court costs were calculated, charged and distributed in accordance with rules set forth in loose legislative acts that led in fact to acts of doubtful transparency.

UNTAET Regulation No. 30/2000, of 25 September, and UNTAET Regulation No. 30/2001, of 14 September, amending the former and dealing essentially with rules of criminal procedure, provide vaguely for court costs, setting out the principle of compulsory payment of the costs of a criminal proceeding.

There is a need to regulate court costs in a clear and easy fashion in order to ensure that the administration of justice is not either questioned or denied on grounds of insufficient financial means.

It is important to ensure that access to the courts is not obstructed by the imposition of inappropriate monetary values and to allow that citizens themselves are able to calculate the costs to be charged and channelled them into the coffers of the State and Justice.

Pursuant to section 115.3 of the Constitution of the Republic, the Government enacts the following that shall have the force of law:

CHAPTER I
GENERAL PROVISIONS

Part I
Scope of costs and exemptions

Section 1

Scope of costs

1. Costs comprise legal fees and remuneration to be paid to those expected to intervene in the proceedings.
2. Proceedings are subject to costs, except where they are exempt under the terms established by law.

Section 2 Subjective exemptions

1. Without prejudice to the provisions of any other legal arrangement, the following entities are exempt from costs:
 - (a) The State and its services or agencies;
 - (b) The Public Prosecution Service;
 - (c) Legally constituted political parties;
 - (d) The Catholic Church and all other Religious Denominations;
 - (e) Social solidarity institutions;
 - (f) The disabled, minors or persons equated with minors;
 - (g) Local governments.

Section 3 Objective exemptions

1. Without prejudice to the provisions of any other legal arrangement, the following cases are exonerated from costs:
 - (a) Applications for a legal-aid lawyer;
 - (b) Adoption proceedings;
 - (c) Minors' proceedings
 - (d) Labour dispute proceedings where fees are the worker's responsibility;
 - (e) Applications for the granting of legal assistance.

Section 4 Refund of a party's fees

Exemptions from costs shall not cover refunds to the prevailing party in respect of the other party's costs.

PART II Value of the matter in controversy for the purpose of determining costs

Section 5 General rule

1. In cases not expressly provided for herein, the economic benefit that the applicant intends to derive from the proceeding shall be taken into account for the purpose of determining costs.
2. The value declared by the parties shall be taken into account where such value is not lower than that resulting from the criterion referred to in the previous subsection.
3. In proceedings on the status of a person and in proceedings on immaterial interests, the value for the purpose of determining costs shall be US\$ 100.

Section 6

Illiquid, unknown or inaccurate value

Where, in the face of a proceeding, the value is illiquid or unknown, the judge may determine such value as he or she may deem accurate for the matter in controversy, notably ordering the valuation of the asset in dispute.

CHAPTER II

LEGAL FEES

Section 7

Rates of legal fees

1. Legal fees in a civil proceeding are those set out in the schedule attached to the present regulation, being calculated over the value of the legal action or appeal.
2. Legal fees in a criminal proceeding shall be determined in accordance with the criteria as established by UNTAET Regulation 2000/30, and shall vary between the following rates:
 - (a) in a criminal proceeding with a single judge taking part, between US\$ 5 and US\$ 100;
 - (b) In a criminal proceeding with a panel of judges taking part, between US\$ 10 and \$ US 500.

Section 8

Legal fees in higher courts

Fees in an appeal shall be equal to one half of those set out in the attached schedule.

Section 9

Refund of legal fees

Parties not liable for the payment of costs who have wrongly done so shall be refunded the fees paid.

Section 10
Prepayment of costs

A Plaintiff with a petition and a Defendant with a plea shall pay, as prepayment of costs, a legal fee corresponding to one-quarter of that set out in the attached schedule.

CHAPTER III
CHARGES

Section 11
Remuneration of likely intervenors

Experts, translators, interpreters, witnesses and other persons who are likely to intervene in a proceeding, or who might assist with any services, are entitled to remuneration the amount of which is to be determined by the judge, and shall vary between US\$ 5 and US\$ 100.

CHAPTER IV
ACCOUNT AND PAYMENT OF COSTS

Section 12
Time for the preparation of accounts

Without prejudice to the provision of the section below, accounts of proceedings shall be prepared in court, upon the rendering of a final decision.

Section 13
General counting rules

1. The account is prepared in conformity with the decision issued by a court of last resort, covering the costs of the legal action and of the appeal.
2. Only one account will be prepared where the same party is liable for the payment of the costs of more than one proceeding or appeal or the costs of the latter and those of the legal action.

Section 14
Rules to comply with while preparing an account

1. While preparing an account, the following procedures shall be observed:
 - (a) Indication of the account number, of the value of the matter in controversy or appeal, and of the respective legal fees;
 - (b) Breakdown and sum of the applicable legal fees, including penalties;
 - (c) Deduction of the fees paid in the course of the proceeding;
 - (d) Assessment of the legal fees to be refunded or recouped; breakdown of the refund to be made, of fines and other dues;

- (e) Break down state revenues and revenues of other entities or services;
- (f) Pay a refund to the prevailing party; assessment of the cost of the proceeding; deduct overpaid legal fees; break down costs in accordance with the decision; determine the value to be paid or collected;
- (g) Close the account by indicating the outstanding costs, the value to be refunded and the notices to be served to the person liable for the payment thereof, mention the date and affix the signature.

Section 15

Doubts about an account

1. Where an officer has doubts about an account, he or she shall expound these doubts and issue his or her opinion, and shall forthwith refer the concluded case file to the judge, for consideration.
2. Once the account has been prepared, the parties concerned and their respective defence counsel shall be notified thereof, within 5 (five) days, for the purposes of claim, recovery or payment of costs.

Section 16

Account claims and amendments

1. At his or her will, or at the request of the parties concerned, the judge shall have the account amended where the latter is not in compliance with the legal provisions.
2. An account claim may be filed by:
 - (a) the person liable for the payment of costs, within the voluntary payment deadline (10 days), insofar as payment has not been made;
 - (b) the person who is to receive any sum of money, pending the receipt of such sum, unless that person has previously been notified of the account, in which case the claim shall only be made after 10 (ten) days from the date of notification.

Section 17

Account claim procedures

1. Once an account claim has been lodged, the case file shall forthwith be referred to the officer who processed it, that the latter shall express his or her opinion within 5 (five) days, and thereafter to the judge who shall make a decision within the same deadline.
2. A second claim by the parties concerned shall not be admissible unless outstanding costs have been paid.

Section 18

Appeal against a decision on an account claim or the doubts of a bookkeeper

A decision rendered in respect of an account claim or the doubts of a bookkeeper shall be appealed against to the Court of Appeal.

Section 19
Deadline for the voluntary payment of costs

1. The deadline for the voluntary payment of costs shall be 10 (ten) days.
2. The deadline for the payment of the costs calculated in an account that is the subject of a claim shall start from the date of notification of the amended account or of the final decision dismissing such claim.
3. Upon lodging an appeal against the decision on an account claim, the person liable for the payment of costs shall be notified to do so when the case is lowered to the court that has handled it in the first instance.

Section 20
Payment of costs by instalments

1. Where the amount of costs is in excess of US\$ 50 (Fifty American Dollars), the judge may, at his or her prudent discretion, at the request of the person liable for the payment thereof, and within the voluntary payment deadline, authorize the payment by monthly instalments up to a maximum period of six months.
2. Each monthly instalment shall be accrued by legal fees equivalent to late payment charges of 2% per month.

Section 21
Payment before execution is initiated

Once the deadline for the payment of a debt of costs has expired and before the execution thereof is initiated, the debtor may still make the payment, accrued by late payment charges of 2% per month.

Section 22
Payment of costs and initiation of an execution

1. Where the deadline for the payment of a debt of costs has expired without such payment having been made, the processing unit shall refer the case file to the central unit, which shall issue a warrant to the Public Prosecution Service to initiate an execution for the coercive payment of the debt.
2. The execution shall be attached to the case file in relation to which the costs are due.

CHAPTER V
PROCEDURAL PENALTIES

Section 23
Applicable penalties in civil and criminal proceedings

Applicable penalties in a civil or criminal proceeding shall be determined by the judge, without any accrued value, and shall vary between US\$ 5 and US\$ 100.

Section 24
Settlement and payment of penalties

1. The settlement of penalties shall be conducted by the processing unit and the payment thereof shall be made upon the rendering of the final decision that imposed such penalties.
2. The deadline for the payment of penalties in a civil or criminal proceeding shall be 10 days.

Section 25
Initiation of execution

The Public Prosecution Service shall initiate an execution where the debtor of a penalty is known to have property, and such execution shall be attached to the respective case file.

CHAPTER VI
MOVEMENT OF REVENUES

Section 26
Deposits

Sums of money derived from costs and penalties, whatever the disposal thereof, shall be deposited directly, through delivery notes, into an open account with a Bank to be designated by the Government, in cash, by certified cheque or postal order, in the name of the respective Court.

Section 27
Bank Accounts

1. Each Court shall have an account with the Bank referred to in the previous section, for the purpose of deposits and withdrawals.
2. The account referred to in the previous subsection shall be jointly handled by the Judge President or the Court Administrator and by the bookkeeper of the central unit.

Section 28
Deposit or payment orders

1. As soon as the payment of any amounts of costs is due, the unit shall issue the respective orders and shall record the fact in the case file, handing out such orders to the parties or their defence counsel, when so requested by the latter.
2. Should there be any notice for the payment of any amounts of costs, the unit shall attach the orders thereto, and the deadline shall be counted from the date of that act.
3. The person concerned may ask the unit directly for any payment orders, which shall forthwith be issued and handed out.

Section 29
Information contained in a deposit or payment order

1. Payment orders of any amount shall contain the following information:
 - (a) Identification of the account and the branch of the Bank;
 - (b) Cut-off date to make the deposit or payment;
 - (c) Indication of the issuing court, the nature and number of the case file and of the account of costs, where applicable;
 - (d) The name of the person liable for the payment;
 - (e) Breakdown and disposal of the sums of money.
2. Orders shall be issued in triplicate, with a copy being retained by the Bank, another kept in the file, and the third one delivered to the depositor;

Section 30
Listing and control of amounts paid

1. The central unit shall draw up a daily list of the orders paid, which shall be signed by the bookkeepers of the processing units.
2. The central unit shall check, on a monthly basis, those lists against the bank statement, and shall enquire about the differences encountered.
3. The secretary, or his or her substitute, shall reconcile, on a daily basis, the entries in the payment book with orders, accounts or their respective duplicates, and shall endorse them.

Section 31
Disposal of revenues

There shall accrue to the Justice Coffer and the state coffers in the proportion of 30% and 70%, respectively:

- (a) Proceeds from penalties of any nature levied in court;
- (b) Criminal justice fees;
- (c) Civil justice fees;
- (d) Late payment charges;

CHAPTER VII
MANDATORY BOOKS

Section 32
Books of the central unit

The central unit shall use the following mandatory books of:

- (a) Recording of accounts;
- (b) Payments;
- (c) Current account on budget appropriations.

Section 33

Payment book

In the payment book are recorded revenues, payments, correcting entries and refunds derived from the account, identifying the file, unit and number of the account of costs, and recording the entries in orders, notes, accounts or their respective duplicates, as well as the monthly fees of loose acts and interest on such accounts.

Section 34

Current account book on budget appropriations

The current account book on budget appropriations shall include budget appropriations from the court coffer, and budget appropriations, increments or cancellations, concerning each economic year, budget pooling, sub-pooling or line, charges incurred and expenditures paid, shall be entered therein.

CHAPTER VIII

PAYMENTS

Section 35

Closing of the payment book and signing of cheques

1. Cheques for bank account transactions shall be signed by the President Judge or the Court Administrator and also by the bookkeeper of the Central Unit.
2. The cut-off date to cash a cheque shall be indicated therein.

Section 37

Sending off, listing and controlling cheques

1. Cheques shall be sent off not later than the 10th day of each month, accompanied by an itemised list.
2. The Court shall provide the Bank, on the date cheques are sent off, with a list of these cheques, indicating in the right columns, the date of issue, the corresponding number, the name of the payee, the amount and the expiry date.
3. The Central Unit shall check, on a daily basis, the list of cheques against the bank statement and shall record in the duplicate of such list the date on which each cheque was cashed.

Section 38

Expiry date of cheques

1. Cheques shall expire and shall be accrued to the state coffers if not cashed until the last day of the third month subsequent to that in which they have been issued.
2. Upon expiry of cheques that have not been cashed, the Bank shall notify the court not later than 10 (ten) days from the expiry date of those cheques.

3. Upon receipt of such information, the credit amount written on expired cheques shall be entered in the payment book and accrued to the Justice Coffe.

Section 39
Balance information, monthly balances
and the verification thereof by the Judge

1. The bookkeeper of the Central Unit shall prepare a monthly balance sheet intended to ascertain whether the sum of balances of the current account book on case files and the current account book on budget appropriations, indicating the worth of cheques issued and not yet cashed, corresponds to the sum of the amounts deposited into the accounts with the Bank and to the cash amount of the permanent fund.
2. For the purposes of the provision of the preceding subsection, the Bank shall inform the secretary, at the end of each month, of the balance of the accounts.
3. The balance sheet referred to in subsection 1 shall be verified by the Judge.

Section 40
Notes to be sent to the Ministry of Justice

The bookkeeper of the Central Unit shall send to the Ministry of Justice, not later than the 5th day of each month, a note containing an itemised list of revenues and refunds pertaining to the previous month.

CHAPTER IX
JUSTICE COFFER

Section 41
Offices of the Justice Coffe

There shall be an office of the Justice Coffe, whereby revenues shall be collected and expenditures realised.

Section 42
Charges borne by the Justice Coffe

Without prejudice to the provisions of any other legal arrangement, the Justice Coffe shall meet the following charges:

- (a) Payment of announcements and of any other charges that should have been realised by entities who are exempt or have been exonerated from paying costs;
- (b) Compensation to witnesses, remuneration of experts, interpreters and other intervenors under the terms established by procedure law;
- (c) Operating expenditures of courts offices of prosecutors;
- (d) Expenditures on the improvement of working conditions of magistrates, and of judicial and prosecutorial staff;
- (e) Other expenditures as authorised by instruction of the Minister of Justice on the basis of a substantiated proposal by the Coffe Administrator.

CHAPTER X

FINAL AND PROVISIONAL PROVISIONS

Section 43

Limits on time of application

The present Decree-Law shall apply to pending case files, except in respect of the determination of legal fees, costs and penalties arising out of a final decision.

Section 44

Entry into force

The present Decree-Law shall enter into force on the day subsequent to its publication date.

Approved by the Council of Ministers, on 13 February 2003.

The Prime Minister,

[Signed]
Mari Bim Amude Alkatiri

The acting Minister of Justice,

[Signed]
Domingos Maria Sarmiento

The Minister of Planning and Finance,

[Signed]
Madalena Boavida

Promulgated on 14 April 2003.

To be published.

The President of the Republic,

[Signed]
Kay Rala Xanana Gusmão

SCHEDULE REFERRED TO IN SECTION 7

Amount Up to....x 1 \$USD inclusive	Legal Feesx 1 \$USD	Amount Up to x 1 \$USD inclusive	Legal Fees.... x 1 \$USD
30	6	1,600	52
60	8	1,800	54
100	10	2,000	56
150	12	2,300	60
200	14	2,600	64
250	16	2,900	68
300	18	3,200	72
350	20	3,500	76
400	22	3,800	80
450	24	4,100	84
500	26	4,400	88
550	28	4,700	92
600	30	5,000	96
650	32	5,500	100
700	34	6,000	104
750	36	6,500	108
800	38	7,000	112
850	40	7,500	116
900	42	8,000	120
950	44	8,500	124
1,000	46	9,000	128
1,200	48	9,500	132
1,400	50	10,000	136

Above US\$ 10,000: for each US\$ 100 or fraction thereof, US\$ 10 of legal fees.