

**DEMOCRATIC REPUBLIC TIMOR-LESTE**

**GOVERNMENT**

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**Decree-Law No. /2003**

**Of .....**

**Criminal Registration Regulation**

Knowing a citizen's criminal background is indispensable to the proper administration of justice, particularly in regard to the correct application of concrete penalty assessments.

Thus, it behoves the Government to establish a criminal registration office, define its purpose, organise data and allow an easy access by criminal justice officers, when necessary, while ensuring the protection of those data in order that they cannot be accessed for improper purposes or by people without a legitimate interest in knowing or using such data.

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**

**Purpose of criminal identification**

**Section 1  
(Purpose)**

1. The purpose of criminal identification is to collect and preserve in an orderly fashion summaries of criminal decisions handed down by Timorese courts against every individual convicted therein and of facts that impact such decisions, with the aim of making his or her criminal background known.
2. Summaries of decisions of the same nature handed down against Timorese citizens by foreign courts are also collected.

**Section 2**  
**(Criminal registration)**

1. Criminal registration is organised in personal records comprised of reporting forms or of a photocopy thereof in such a way that all reporting forms concerning the same individual are placed together in one record.
2. Each personal record is assigned a filing number that corresponds to one or more onomastic entries in alphabetical order.
3. Whenever possible, a reporting form containing fingerprints and matching each record shall be catalogued in the dactyloscopic file, following the order of the respective formula.

**Section 3**  
**(Content of criminal records)**

There shall be subject to criminal registration:

- (a) Convicting decisions relating to crimes, offences punishable by a prison sentence, and decisions relating to offences punishable by a fine, where, as a result of recidivism, such offences carry a prison sentence;
- (b) Decisions revoking the suspension of the execution of a sentence, as well as decisions relating to persons immune from legal culpability living with mental disorders, or the expulsion of foreign nationals;
- (c) Decisions granting or revoking parole, rehabilitation or cancellation in the record;
- (d) Decisions granting amnesties, pardons, acquittals or commutation of sentences;
- (e) Decisions determining the non-inclusion of criminal convictions that have been applied in criminal record certificates
- (f) Decisions awarding an extraordinary review of decisions;
- (g) Dates on which a prison sentence or conditional release began, was completed or suspended;
- (h) The death of a convicted accused.

**Section 4**  
**(Criminal Record Reporting Forms)**

1. Criminal record reporting forms, also referred to as CRF, shall contain:
  - (a) an indication of the remitting court and of the file number, as well as the date, name and signature of the officer responsible for the completion of such reporting forms;
  - (b) the defendant's identification;
  - (c) The content of the decision or of the fact subject to registration;
2. A defendant's identification includes the name, nickname, name of father and mother, place of birth, sub-district, district, nationality, date of birth, marital status, occupation, home address, number of the ID card and, whenever possible, the defendant being present in court, his or her fingerprints.

3. The decision shall be recorded, specifying its date and the crime or offence designation and indicating the provisions that have been breached; the sentence imposed or the prison term determined.

**Section 5**  
**(Identification of suspects and accused in criminal proceedings)**

1. It shall be incumbent upon the Public Prosecution Service, or whoever exercises criminal jurisdiction, to make sure that the particulars of the defendant referred to in the preceding section are entered into the records
2. Court summons to appear in proceedings, where issued to a suspect or accused, shall entail an obligation to produce one's civil registration card, ID card or passport.

**Section 6**  
**Deadline for remitting a Criminal Record Reporting Form (CRF)**

1. Criminal record reporting forms shall be remitted to the criminal identification service within five (5) days from the date on which a final sentence has been rendered, a fact subject to registration has been notified or a case has been remitted to a court of first instance.
2. Completion and remittal of reporting forms are the responsibility of the relevant clerk from the section where the case is being handled or of the person who exercises the corresponding functions.
3. Remittal of reporting forms shall consist of a note entered in the case file and shall only be proved through the respective receipts.
4. Upon remittal, if it is determined that the individual about whom the reporting form was issued has provided a false identity, another reporting form shall be completed and remitted, along with the respective explanatory note.

**Section 7**  
**(CRF Completion)**

1. Where a reporting form cannot be completed in its entirety, the case judge shall attach thereto a statement about the occurrence of such impossibility.
2. Reporting forms filled out incorrectly or incompletely, as well as those which are not accompanied by the statement mentioned in the subsection above, shall be returned.

**Section 8**  
**(Acknowledging receipt of a CRF)**

1. The receipt of a reporting form filled out correctly shall be acknowledged through the return of the respective receipt by the criminal identification service, within five (5) days from the date of receipt.

2. Where the receipt of a reporting form filled out correctly is not acknowledged within eight (8) days of its transmission, the officer handling the case shall report this fact to the criminal identification service.

## **CHAPTER II**

### **Access to criminal information**

#### **Section 9**

##### **(Criminal record certificate)**

Information handled by the criminal identification service can be obtained by applying for or requisitioning a criminal record certificate.

#### **Section 10**

##### **(Application)**

1. The following persons may apply for a criminal record certificate:

- (a) the information holder or any person who proves to be making the request in the name or in the interest of the former;
- (b) Descendants or ascendants and the tutor or guardian of the information holder who is unable to do so;

2. A person who, under the conditions described in paragraph (a) of the preceding subsection, approaches the criminal identification service to apply for a certificate relating to another person shall, on pain of his or her application being rejected, have to be in possession of a written statement by the holder of such information, with the following specifications:

- (a) The reason why the information holder cannot turn up;
- (b) The purpose for which the certificate will be used;
- (c) The full name, number and date of issue of the civil registration card, ID card or passport of the person who, in the stead of the information holder, may file the application.

3. Applications shall be made in a proper form, mentioning in which capacity the applicant is making the application and the purpose for which the certificate will be used, and application forms shall be rejected whenever filled out incompletely or incorrectly or containing unaccounted amendments, erasures or interlineations.

4. An applicant shall identify himself or herself by producing his or her civil registration card, ID card or passport and shall sign the application in the presence of the officer, who shall enter in the application form the corresponding note, dating it and signing it.

5. In the application form, the indication of the civil registration card, ID card or passport of the person about whom the certificate will be issued shall only be waived by the criminal identification service where such indication proves to be impossible or very difficult to obtain or where there are no doubts as to the accuracy of the stated particulars.

**Section 11**  
**(Where to file an application)**

1. Applications meant to obtain criminal record certificates may be filed directly with the criminal identification service main office, or any of its branches, with judicial secretariats and district or sub-district administration secretariats where a court is not in place.
2. Applicants residing overseas may send their application directly to the criminal identification service.

**Section 12**  
**(Requisition for a criminal record certificate)**

1. The following persons may requisition a criminal record certificate:
  - (a) Judicial and public prosecution magistrates, for the purposes of prosecuting criminal cases;
  - (b) Entities that conduct criminal investigations, under the terms established by law, and under the guidance or monitoring of the public prosecution service, but for no other purpose;
  - (c) Entities that have legal powers to prosecute individual cases of inmates, but for no other purpose;
2. Requisitions shall be made in a proper form, and those requisition forms filled out incompletely or incorrectly, containing unaccounted amendments, erasures or interlineations, or not indicating the name or the capacity of the signing person, shall not be accepted. Nevertheless, those requisition forms that are silent on the identification of the civil registration card, ID card or passport, shall be accepted, if the individual concerned is not a holder thereof or his or her home address is unknown, provided such fact is mentioned in the requisition form itself.
3. Foreign diplomatic and consular authorities or entities may be authorised to requisition criminal record certificates, under the same conditions as their corresponding national authorities, for the purposes of prosecuting criminal cases.

**CHAPTER III**  
**Issue of criminal record certificates**

**Section 13**  
**(Issue of certificates)**

1. The content of the criminal record certificates shall be certified against personal records, in keeping with the provisions of this Chapter.

2. Criminal record certificates may be issued on the requisition or application form itself by affixing the stamp, seal or mechanic imprint thereto.
3. Positive certificates may consist of photocopies of reporting forms, in which case a stamp indicating the number of photocopied reporting forms shall be affixed to the requisition or application form.
4. Certificates issued manually may be authenticated by affixing a seal or stamp to the signature of the officer responsible for the onomastic search or examination of the record, or by photocopying the reporting forms, be they negative or positive; certificates issued by computer may be authenticated by affixing the signature of the relevant operator to the seal or stamp.
5. Certificates containing unaccounted amendments, erasures or interlineations, in either the text filled out by the applicant or requisitioner or in the certificate itself, shall be null and void.
6. Regardless of the format certificates may take on, in accordance with the previous subsections, certificates shall not contain any indication, number or reference from where one can infer the existence, in the file, of other facts or decisions other than those which, under the terms established by law, need to be expressly stated in the certificates.
7. Certificates shall be valid for six (6) months from the date of issue and exclusively for the purposes indicated in the requisition or application form.

**Section 14**  
**(Certificate meant to prosecute criminal proceedings)**

1. Certificates requisitioned to prosecute criminal cases shall contain the full transcript of the criminal record, with the exception of that which may have been cancelled under the terms established by section 17.
2. Only certificates requisitioned to prosecute criminal cases shall contain decisions handed down by foreign courts.

**Section 15**  
**(Claims)**

It is incumbent upon the senior officer of the criminal identification service to settle any claim on the legality of transcribing notes from a criminal record into a certificate, and his or her decision may be appealed to the Dili District Court.

**Section 16**  
**(Cancellation of criminal registration)**

1. There shall be cancelled in a criminal record:
  - (a) Convictions and sentences declared null and void;
  - (b) Facts covered by amnesty;
  - (c) Any decisions declared null and void by a legal provision.
2. Any facts or decisions that are a consequence of decisions that need to be omitted under the terms established by the previous subsection shall be equally cancelled.

**CHAPTER IV**  
**Final provisions**

**Section 17**  
**(Filing and removal of reporting forms)**

1. Criminal record reporting forms shall be placed in the file and removed therefrom one (1) year after the individuals concerned have passed away or, in case of declaration of presumed death, during the year subsequent to that in which the information holder has turned 70 years of age.
2. Any other documents inherent in the functioning of the criminal registration service containing no decisions of a permanent nature shall be filed after one (1) year.

**Section 18**  
**(Standard forms)**

Standard forms relating to the criminal registration required to implement the present Decree-Law shall be approved by instruction of the Minister of Justice, on the basis of a proposal from the Director of Registrars and Notaries.

**Section 19**  
**(Entry into force)**

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

Seen and approved by the Council of Ministers on 12 March 2003.

The prime Minister

**[Signed]**  
(Mari Bim Amude Alkatiri)

The Minister of Justice

**[Signed]**  
(Domingos Sarmento)

Promulgated on 14 April 2003. -

To be published.

The President of the Republic

**[Signed]**  
(Kay Rala Xanana Gusmão)

**THE JUDICIARY**  
**CRIMINAL RECORD REPORTING FORM**

Court (Section 4 A)

Court Seal

Procedure

In regard to the records labelled and processed in this central office, the Director of Registrars and Notaries, Criminal Identification Service (Section 6.1), has directed me to report this decision to the Criminal Registration Office, for recording purposes, which is transcribed as follows:

No.:

(of Court decision)

Venue:

(of decision)

Date:

(of sentence)

Designation of crime or offence:

Provisions breached:

Penalty imposed or prison term determined:

CONTENT OF THE DECISION OR OF THE FACT SUBJECT TO REGISTRATION  
(subsections 4.1 (a) and 4.3)



IDENTIFICATION OF THE DEFENDANT (subsection 4.2)

Name:

Nickname:

Date of birth:

Place of birth:

Name of the father:

Name of the mother:

Marital status:

Occupation:

Home address:

Sub-district:

District:

Nationality:

No. of ID card:

No. of the previous personal record with the Criminal Registration Office, if any:

Fingerprints:

Right-hand thumb:

PERSON REMITTING THE REPORTING FORM (the relevant clerk) (Subsection 6.2)

Mr/Mrs

(Position held in court)

No. of the ID card:

Signature:

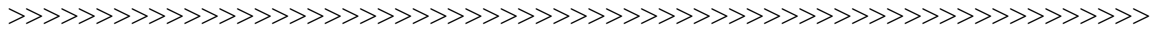
Explanation or stamp:

Date of remittal: (Subsection 6.1- five (5) days from the date on which a final sentence has been rendered, a fact subject to registration has been notified or a case has been remitted to a court of first instance.)

Reference to a previous remittal: (Subsection 6.4)

STATEMENT BY THE CASE JUDGE (Subsection 7.1)

Signature and stamp of the Case Judge



ACKNOWLEDGING RECEIPT OF A CRF (subsections 8.1 and 8.2)  
(for use by the Criminal Registration Office only)

Date of receipt:

Date of return: (Subsection 7.2)

Observations by the Registrar:

No. of personal record: (subsection 2.2)

Onomastic entry: No.

Signature of the registration officer:

Stamp of the Criminal Registration Office

Stamp

Original (Duplicate)

No.:
Date:

THE JUDICIARY  
CRIMINAL RECORD CERTIFICATE  
Section 10  
Criminal Information Application

1) Application by the information holder

Name:

Nickname:

Date of birth:

Place of birth:

Name of the father:

Name of the mother:

Marital status:

Occupation:

Home address:

Sub-district:

District:

Nationality:

No. ID card:

No. of the previous personal record with the Criminal Registration Office, if any:

SIGNATURE

2) Application by a descendant, ascendant or tutor of the information holder. (Section 10(b))

Kinship: (child, grandchild, father, mother, maternal and paternal grandparents, etc.)

Legal proof of kinship: (birth certificate, marriage certificate, etc., in most cases issued by the Civil Registry Office).

Identification of the applicant's representative: (Subsection 10.4)

Name:

Home address:

ID card:

SIGNATURE

Tutor or guardian: documents and date of granting of tutorship or guardianship.

Identification of the tutor or guardian:

Name:

Home address:

ID card:

SIGNATURE

3) Application by a prosecutor (Subsection 10.1(a))

Attorney: Subsection 10.2

(a) Statement by the applicant explaining the reason why he or she cannot come to the Criminal Registration Office.

(b) Granting of Power of Attorney.

To this effect, I designate as my attorney:

Date of designation:

SIGNATURE OF THE IMPEDED APPLICANT

Identification of the Attorney:

Name:

Home address:

ID card:

SIGNATURE OF THE ATTORNEY



Stamp

Original

No.:
Date:

**THE JUDICIARY**  
**CRIMINAL RECORD CERTIFICATE**  
**Subsections 12.1 and 12.2(a)-(c)**  
**Criminal Information Requisition**

The following information is required:

**IDENTIFICATION OF THE INFORMATION HOLDER**

Name:

Nickname:

Date of birth:

Place of birth:

Name of the father:

Name of the mother:

Marital status:

Occupation:

Home address:

Sub-district:

Nationality:

District:

No. of the ID card:

No. of the previous personal record with the Criminal Registration Office, if any.

**WAIVER OF PARTICULARS (Subsection 12.2)**

Justification:

PURPOSE FOR WHICH THE CERTIFICATE WILL BE USED

Records:

Court file No:

Others:

APPLICANT

a. JUDICIAL MAGISTRATE (Section 12(a))

Name:

ID card:

Magistracy:

Signature and stamp

b. PUBLIC PROSECUTION SERVICE (section 12(a))

Name:

ID card:

Magistracy;

Signature and stamp

c. ENTITY UNDER THE GUIDANCE OR MONITORING OF THE PUBLIC PROSECUTION SERVICE (Section 12(b))

Guidance and monitoring agreement:

Particulars of the entity:

Senior officer of the entity:

ID card:

Signature and stamp

d. ENTITY LEGALLY EMPOWERED TO PROSECUTE INDIVIDUAL CASES OF INMATES (Section 12(c))

Mention of the enabling law:

Senior officer of the entity:

ID card:

Signature and stamp

e. FOREIGN DIPLOMATIC AND CONSULAR AUTHORITIES OR ENTITIES (Subsection 12.3)



