

**DEMOCRATIC REPUBLIC OF TIMOR-LESTE  
GOVERNMENT**

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**GOVERNMENT DECREE NO.../2008  
OF**

**REGIME FOR EVALUATING THE PERFORMANCE OF CIVIL SERVANTS**

Performance evaluation is a key tool in introducing a new culture of public management. It enables a correct examination of resources to be allocated to each and every organism and functions and helps putting in place the necessary conditions for promoting higher professional motivation, qualification, and on-going training of human recourses.

The objective of conducting performance evaluation is to improve workers output and assist them in attaining higher performance levels with a view to increasing career opportunities in accordance with the potentialities evidenced by each and every worker and valuing individual contributions towards the team.

With the approval of the Regime for Evaluating the Performance of Civil Servants, a further step is given towards the establishment of the legislative framework of Timor-Leste's Public Administration.

Thus, pursuant to subparagraph p) of article 115 of the Constitution of the Republic and to articles 18.4 and 119.2 of Law No. 8/2004 of 16 June, as combined with article 25 of Decree-Law No. 7/2007 of 5 September, the Government enacts the following, to have the force of law:

**CHAPTER I  
Section I  
General provisions**

**Article 1  
Object**

The present Decree-Law establishes the regime for evaluating the performance of managers, civil servants and agents of Public Administration.

**Article 2  
Scope**

1. The present Decree-Law is applicable to civil servants and agents of organisms under direct State administration, including public institutes and other autonomous entities.

2. The present Decree-Law shall also apply to other workers under direct State administration, including public institutes and other autonomous entities, irrespective of the legal title of the work relation, as long as the respective work contract is established for a period longer than six months.

### **Article 3** **Objectives of the evaluation**

1. Performance evaluation is intended to evaluate, hold accountable, and recognize the merit of managers, civil servants, and agents of the Public Administration, depending on productivity and the materialization of the objectives of the respective services and public organisms.
2. Performance evaluation shall also be a tool for evaluating civil servants on probation to ascertain the degree to which they meet the conditions enabling them to embark on a career path in the civil service.
3. Performance evaluation also aims at pursuing the following objectives:
  - a) Motivate civil servants and agents;
  - b) Improve their professional performance;
  - c) Encourage communication between managers and their subordinates;
  - d) Improve integrated human resources management;
  - e) Promote quality excellence in the provision of public services.

## **Section II** **Evaluation principles**

### **Article 4** **General principles**

1. Performance evaluation is based on objective criteria and is subject particularly to principles of justice, equality, impartiality, and proper justification.
2. Performance of managers, civil servants, agents and other Public Administration workers shall be evaluated taking into account their functional areas as well as the structure, objectives and plan of activities of their respective service or entity.
3. The objectives should be drafted in a clear manner and concretely defined, taking into account the proportional relation between the results to be attained by the workers and the means available to them for attaining such objectives.
4. Before evaluation results are announced, civil servants and agents shall be given the possibility to, based on their self-evaluation, inform evaluators of what they consider to have been their performance during the period under evaluation.

**Article 5**  
**Confidentiality**

1. Performance evaluation processes shall be confidential in nature, and evaluation records shall be filed in the individual file of the evaluatee.
2. With exception of the evaluatee, all parties involved in the performance evaluation process shall be subject to the duty of secrecy.

**Article 6**  
**Guarantees of impartiality**

No civil servant or agent may act as evaluator or otherwise intervene in the evaluation process of his or her spouse, relative, or similar, related to him or her in the direct line or until the third degree of the collateral line.

**Article 7**  
**Periodicity**

Performance evaluation shall be conducted on an annual basis, and the respective process shall take place between the months of January and February, without prejudice to the provisions contained in the present decree-law insofar as extraordinary evaluations are concerned.

**SECTION III**  
**Rights, duties and guarantees**

**Article 8**  
**Rights and duties**

1. In compliance with the principles enunciated in the present decree-law, it is the right and the duty of the evaluator to make a joint analysis of the factors considered for the evaluation as well as the factors of the self-evaluation.
2. It is also the duty of the evaluatee to undertake his or her own self-evaluation as a guarantee of his or her own active involvement in, and accountability for, the evaluation process.
3. Service managers shall be responsible for the timely setting up and dissemination of the evaluation process, thereby guaranteeing compliance with the respective principles.

**Article 9**  
**Claim and appeal**

While the right to claim and to appeal is guaranteed, invoking mere differences of classification based on comparisons made among attributed evaluation results shall not constitute valid reasons for filing appeals.

**CHAPTER II**  
**Performance evaluation results and consequences**

**Article 10**  
**Performance evaluation results**

Performance evaluation results shall be classified as “Very Good”, “Good”, “Satisfactory”, and “Unsatisfactory” and shall be obtained through an evaluation system based on the quantitative and qualitative review of the services provided vis-à-vis pre-established evaluating factors.

**Article 11**  
**Performance evaluation consequences**

1. Performance evaluation shall be mandatorily required for the following purposes:
  - a) Promotion and progression within careers and categories;
  - b) Conversion from provisional appointment into definitive appointment;
  - c) Renewal of contracts.
2. A minimum performance evaluation classification of *Good* shall be required for the purposes of the preceding paragraph, except in cases where classification of *Very Good* is legally indispensable and where, in any of the situations, the length of service legally established so requires.
3. For purposes of promotion and progression within careers and categories, the number of classifications granted shall be equal to the number of years of service required as minimum time of permanence in the previous category or echelon.
4. A performance evaluation classification of *Very Good* in two consecutive years shall reduce by one year the length of period legally required for progression.

**Article 12**  
**Consequences resulting from “unsatisfactory” classification**

1. Where, by virtue of special applicable legislation, granting *Unsatisfactory* classification does not imply immediate cessation of functions, measures should be adopted with a view to improving the performance of the evaluatee, namely through training, professional reclassification or reconversion, redistribution of tasks, or assignment of the evaluatee to another work sub-unit.
2. As regards civil servants appointed on a permanent basis, granting *Unsatisfactory* classification shall imply initiating a verification process on the basis of which the evaluatee can be preventively suspended whenever his or her presence proves to be inconvenient for the service.

**CHAPTER III**  
**Evaluation factors, verification, and records**

**Article 13**  
**Evaluation factors**

1. Performance evaluation shall be based on a system in which civil servants and agents shall be mandatorily evaluated in relation to each of the following factors:
  - a) “Sense of responsibility” – evaluates the degree of commitment and efficiency with which the civil servant or agent accomplishes pre-established objectives in accordance with his or her functions, including the management of existing human, material and financial resources;
  - b) “Continuous improvement” – evaluates the zeal continually demonstrated by the civil servant or agent in improving his or her professional performance, as well as his or her personal and professional development;
  - c) “Relations in the work place and with the public” – evaluates the relationship between the civil servant or agent and the people he or she works with, his or her contribution towards the establishment of a good global work environment, as well as his or her readiness in attending to the public and orientation towards meeting the needs of the citizens;
  - d) “Regularity and assiduity in the work place” – evaluates the actual time of reporting and permanence at the duty station by the civil servant or agent, as well as his or her compliance with the established work schedule;
  - e) “Innovation, creativity and flexibility” – evaluates the development and presentation by the civil servant or agent of new methods, techniques and procedures for solving problems and for optimizing work, taking into

account the characteristics of the concrete circumstances under which his or her functions are exercised;

- f) “Initiative and autonomy” – evaluates the manner in which the civil servant or agent searches for solutions on his or her own initiative and presents suggestions conducive to an effective work improvement, as well as the independence with which he or she exercises the respective functions;
  - g) “Team work” – evaluates the degree of participation and cooperation of the civil servant or agent in a team work, as well as his or her contribution towards obtaining the results of the team work;
  - h) “Leadership and team management” – evaluates the manner in which the holder of a middle or senior level management post establishes the strategies deemed necessary for attaining the objectives and results of the sub-unit he or she is in charge of, as well as the manner in which he or she guides, motivates and communicates with the respective civil servants or agents;
  - i) “Coordination and articulation” – evaluates the manner in which the holder of a middle or senior level management post collaborates in articulating among the units of the organs they belong to with a view to promoting a unitary and integrated action for attending to policies and objectives defined for that organ;
2. Subparagraphs h) and i) above shall apply exclusively for evaluating holders of middle and senior level management posts.
3. Before entering the period to be evaluated, middle and senior level managers shall establish two work objectives the results of which shall be considered as evaluating factors for civil servants and agents.

#### **Article 14** **Verification of evaluation results**

Results of performance evaluation shall be obtained through the global sum of evaluation factors as expressed in the following qualitative mentions:

- a) *Very Good* – 33 points or more;
- b) *Good* – from 24 to 32 points;
- c) *Satisfactory* – from 15 to 23 points;
- d) *Unsatisfactory* – up to 14 points.

**Article 15**  
**Evaluation records**

1. Performance evaluation shall take place upon filling out the evaluation records attached to the present statute.
2. Evaluation records shall mandatorily contain instructions on how to fill out the “Performance Evaluation Records” identifying the evaluation factors the civil servant or agent is or may be subject to, depending on his or her respective category and functions.

**CHAPTER IV**  
**Competence to evaluate and validate**

**Article 16**  
**Evaluation process participants**

1. Performance evaluation processes shall involve the evaluatee, the direct evaluator, and the highest manager of the service or autonomous service.
2. The absence or impediment of the direct evaluator shall not constitute a valid reason for preventing the evaluation from taking place.

**Article 17**  
**Evaluators**

1. Performance evaluation shall be the competence of the immediate hierarchical superior or of the civil servant with coordination responsibilities over the evaluatee.
2. Evaluators shall have at least six months of functional interaction with the evaluatee.
3. Where the conditions provided for in the preceding paragraph have not been met, the evaluator shall be the hierarchical superior at the immediate higher level.
4. It shall be incumbent upon evaluators to correctly apply the evaluation principles in accordance with the objectives established for the organism and the respective organic unit.

**Article 18**  
**Highest official**

1. For the purposes of applying the present decree-law, highest official shall mean the holder of the post of Director-General or other official responsible for the service or organism directly under the Government member.

2. It shall be incumbent upon the highest official to:
  - a) Coordinate and control the annual performance evaluation process;
  - b) Advise and decide on claims of the evaluatees;
  - c) Validate the classifications.

**CHAPTER V**  
**Performance evaluation procedure**

**SECTION I**  
**Modalities**

**Article 19**  
**Evaluation modalities**

1. Performance evaluations may be ordinary or extraordinary in nature.
2. Ordinary evaluations shall refer to the time of service rendered in preceding non-evaluated civil year.

**Article 20**  
**Ordinary evaluation**

Ordinary performance evaluations shall be conducted for managers, civil servants and agents who, along the preceding civil year, have rendered over six months of effective service in functional contact with the respective direct evaluator.

**Article 21**  
**Extraordinary evaluation**

1. Managers, civil servants and agents not covered by the preceding paragraph shall be evaluated extraordinarily, and the interested party shall submit his or her request in writing to the highest service official.
2. Extraordinary performance evaluations shall observe the rules for ordinary performance evaluation process, *mutatis mutandis*.

**Article 22**  
**Evaluation of managers**

1. For counting purposes, performance of holders of senior and middle level managing posts, even where such posts are held on an interim basis, shall start on the date of the commencement of the respective functions and shall, as a matter of rule, refer to a period of one year, based on the following particulars:

- a) Holders of posts of National Director shall be evaluated by the Director-General or the person responsible for the service or organism directly under the Government member;
  - b) Holders of posts of Head of Department shall be evaluated by the National Director on whom they depend hierarchically.
2. For purposes of promotion and progression, holders of posts of Director-General shall not be subject to performance evaluations and shall be attributed the classification obtained in the year immediately preceding their appointment.
  3. Without prejudice to the provisions of the preceding paragraph, holders of posts of Director-General may request an extraordinary evaluation pursuant to the provisions of the preceding article.

## **SECTION II Procedure**

### **Article 23 Evaluation process stages**

Evaluation processes shall comprise the following stages:

- a) Self-evaluation;
- b) Evaluation and announcement of results;
- c) Claim presented to the highest official;
- d) Validation;
- e) Hierarchical appeal.

### **Article 24 Self-evaluation**

1. Self-evaluation is intended to involve the evaluatee in the evaluation process and encourage the relationship with the hierarchical superior in order to identify professional development opportunities.
2. Self-evaluation shall have a preparatory nature and shall not be binding insofar as the final classification of the evaluation process is concerned.
3. Self-evaluation shall take place upon filling out a specific record to be handed over to the evaluator by 5 January.

**Article 25**  
**Evaluation**

Evaluation shall consist of the filling out of the performance evaluation records by the evaluator and shall take place between 10 and 30 January.

**Article 26**  
**Evaluation notice**

After the final filling out of the evaluation record, the evaluation classifications attributed shall immediately be communicated to the evaluatee, who shall be provided with a copy of the respective evaluation record.

**Article 27**  
**Claim to the highest official**

1. After taking notice of his or her evaluation classification, the evaluatee may, within five working days, submit a claim in writing, together with the remarks of the evaluator, to the highest service official.
2. Claims shall be well grounded, and invoking mere differences of classification based on comparisons with other workers or on results of evaluations conducted in preceding years shall not constitute a valid reason for submitting claims.
3. Decisions on claims shall be announced within a maximum period of 5 working days and shall be immediately communicated to the evaluatee.

**Article 28**  
**Validation**

1. Once the deadline for presenting claims or for announcing decisions thereof has elapsed, evaluation results shall be submitted for validation;
2. Holders of competent organs for validating evaluation results may alter the evaluation made by the evaluator as long as they justify duly each of the classifications to be attributed.
3. Once the validation decision has been announced, the evaluatee shall be notified thereof within a period of three days.
4. Performance evaluations shall be validated by 28 February the latest.

**Article 29**  
**Hierarchical appeal**

1. Validation of evaluations can be appealed to the competent Government member and shall be filed within a period of 5 working days from the day of their announcement.
2. Appeals cannot be justified based on evaluations made to other workers or on results of evaluations conducted in preceding years.
3. Decisions shall be announced within a period of 10 working days from the date of filing the claims and shall be immediately communicated to the evaluatee.
4. Evaluation process shall close by 15 March.

**CHAPTER VI**  
**Final and transitional provisions**

**Article 30**  
**Database**

1. After the performance evaluation process has been completed, each service or autonomous entity shall forward to the National Directorate for Civil Service the data relating to the number of evaluated workers together with the classifications for purposes of data processing and for establishing a database specific to Civil Service Performance Evaluation.
2. The National Directorate for Civil Service shall prepare a global annual report which shall serve as support base for defining the public employment policy and for implementing the human resources management and development system.

**Article 31**  
**Entry into force**

The present decree-law shall enter into force on the day immediately after its publication.

**Article 32**  
**Revocations**

All legal provisions contrary to the present Decree-Law are hereby revoked.

Seen and approved by the Council of Ministers on 2008.

The Prime Minister

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*Kay Rala Xanana Gusmão*

The Minister for State Administration

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*Arcângelo Leite*

Enacted on

For publication

The President of the Republic

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José Ramos-Horta