

DEMOCRATIC REPUBLIC OF TIMOR-LESTE

GOVERNMENT

GOVERNMENT DECREE No. 4/2004

19 MAY 2004

REGULARISATION OF FOREIGNERS IN THE NATIONAL TERRITORY

The Immigration and Asylum Act No. 9/2003 of 15 October, referred to as LIA for short, came to define a new legal regime for the entry, stay, exit and expulsion of foreigners from the territory of Timor-Leste.

In the face of the need to establish procedures for regularizing foreigners who have entered Timor-Leste as from 7 December 1975 and who are carrying out in the national territory an activity that is allowed only to residents or holders of an appropriate visa, under the terms of that law.

Pursuant to section 131 of Law No. 9/2003 of 15 October, the Government enacts the following that shall have the force of law:

Article 1
Scope

This decree shall be applicable to foreigners who have entered Timor-Leste as from 7 December 1975 and who are engaged in activities in the national territory that, under the terms of the Immigration and Asylum Act, only residents or holders of an appropriate visa are allowed to carry out.

Article 2
Deadline

Visa applications made under the present decree shall be filed within 90 days counted from the date on which the present decree comes into force.

Article 3
Visas

1. A foreigner who intends to regularise his or her situation under the present decree must obtain a settlement visa in order to apply for a Residence Permit, or other appropriate visa.

2. A foreigner who has, not later than the date of publication of this decree, registered with the immigration service and complied with the legal provisions relative to his or her stay shall be exempt from the settlement visa for the purposes of applying for a Residence Permit.

3. For the purposes of the previous subarticle, a foreigner must, not later than the date of publication of the Immigration and Asylum Act, produce proof of his or her entry into Timor-Leste and that he or she has ever since stayed habitually in the country.

Article 4 **Means of Proof**

The proof of entry and stay referred to in subarticle 3.3 above is produced by exhibiting the passport with an entry stamp affixed thereto prior to 15 October 2003, or any other appropriate document attesting to his or her stay in the national territory.

Article 5 **Visa application**

1. The visa application to be filed by the applicant with the Immigration Service, or at the Border Control of Sakato/Wini, Oe-Cusse, shall be in a proper form signed by the applicant and accompanied by all the required documents.

2. Where the applicant is a minor or disabled, the visa application shall be signed by his or her legal representative.

3. Under exceptional and well-founded circumstances, the application may be filed by a third person bearing a proxy and a document justifying why the applicant is unable to do it himself or herself.

Article 6 **Elements of an Application**

An application shall contain the following elements:

- (a) equal passport-sized colour photographs, with single colour background;
- (b) full identification of the applicant and, where the latter is the holder of a family or collective passport, of the spouse, dependants or group members included therein who wish to benefit from the visa;
- (c) type, number, date and place of issuance and date of expiry of the travel document and the identification of the issuing authority;
- (d) purpose of the stay;
- (e) length of the stay and residential address;

Article 7

Admissibility of Visa Application

1. A duly filled-in visa application form, a valid travel document and proof of residence are required for the purpose of admissibility of an application, and the remaining documents may be handed in within the deadline for regularisation established in this decree.
2. In the case of loss or expiry of the travel document, proof of application for the issuance of a new travel document must be filed.
3. A receipt shall be issued upon lodgement of the application, which shall be a proof that the foreigner is in the process of being regularised.

Article 8

Documents to be attached to new visa application

1. Without prejudice to the specific documents required for each type of visa, applications shall be accompanied by the following documents:
 - (a) certificate of criminal record issued by the competent authority of the applicant's country of nationality or of the country in which he or she is a resident for over one year;
 - (b) medical certificate attesting to the physical and psychological suitability of the applicant;
 - (c) proof of residence, namely lease contract, a written statement made by the lessor or a written letter from the District Administrator;
 - (d) proof of means of subsistence, taking into account the nature of the type of visa being applied for.
2. Where a visa application concerning a person aged under 18 is filed by a person other than the one exercising parental power must be accompanied by due authorization.

Article 9

Ordinary Class III Visa

1. An application for an ordinary class III visa shall, as provided for in subarticle 35.4 of the Immigration and Asylum Act, be accompanied by the proof of enrolment in an education institution or an attestation of attendance issued by the relevant institution.
2. Applicants for study permit shall produce a document attesting to the availability of income in the national territory or, in the case of scholarship students, attesting to the existence of said scholarship.
3. Production of a document attesting that an applicant is the beneficiary of a scholarship precludes the presentation of proof concerning the possession of means of subsistence.

Article 10

Ordinary Class IV Visa

1. An application for the ordinary class IV visa shall, as provided for in subarticle 35.5 of the Immigration and Asylum Act, be accompanied by the return travel bookings and documents justifying the purpose and conditions of the intended stay.
2. The supporting documents referred to in the previous subarticle shall take into account different situations and shall be as follows:
 - (a) letter from the official education institution(s) of the country of origin, where a cultural visit or scientific research is invoked as the purpose of the trip;
 - (b) invitation letter issued by, or contract entered into with, duly accredited entities, public or private, based in Timor-Leste;
 - (c) letter from the medium for which the applicant is working and his or her professional licence, when applying for a visa as a journalist.
3. The applicant must produce proof that he or she has sufficient means of subsistence for the length of his or her stay.

Article 11

Work permit

1. The work permit application provided for in article 36 of the Immigration and Asylum Act shall, with respect to dependent workers, be accompanied by an employment contract signed by both parties or, in the event that the company or institution for which he or she is working is headquartered in a foreign country, the employment contract from the country of origin and a letter from the local company or institution to which he or she is providing services.
2. The work permit application provided for in article 36 of the Immigration and Asylum Act shall, with respect to independent workers, be accompanied by a service-provision contract or proof of registration of the commercial activity being carried out.
3. The work permit application shall be lodged along with a favourable opinion issued by the Secretariat of State for Labour and Solidarity.
4. Workers and volunteers operating in the national territory, within the framework of non-governmental organisations (NGOs), are considered “dependent workers” for the purposes of obtaining a work permit.

Article 12

Settlement visa

1. A settlement visa shall be accompanied by a letter from the applicant explaining the purpose of the intended stay.

2. Proof of the means of subsistence may be produced as follows:

- (a) in the case of a retired foreign national, through a document attesting to his or her entitlement to a pension and the amount thereof, as well as guaranteeing that such pension will be paid in the national territory;
- (b) in the case of a foreign national living on income deriving from movable or immovable property, intellectual property or financial applications, through a document attesting to the existence of such income and the amount thereof, as well as to the possibility of having it available in Timor-Leste;
- (c) employment contract signed by both parties or, in the event that the head office of the company or institution for which he or she is working is based overseas, an employment contract from the country of origin and a letter from the local company or institution to which he or she is providing services;
- (d) service-provision contract or proof of registration of the economic activity being carried out;
- (e) subsistence statement under the terms of Article 18 of the Immigration and Asylum Act.

3. A settlement visa application for the purpose of practicing a profession shall be lodged along with a favourable opinion from the Secretariat of State for Labour and Solidarity and proof that the situation of the applicant has been regularized with the Revenue Service.

4. For the purpose of applying for a settlement visa, the employment contract must be valid for a period not shorter than 2 years.

Article 13

Employment or service-provision contracts

1. Employment or service-provision contracts referred to in articles 11 and 12 shall conform to a standard format to be approved by the Secretariat of State for Labour and Solidarity.

2. Contracts entered into in a foreign language shall only be approved with the respective official translation in either of the official languages, Portuguese or Tetum, attached thereto.

Article 14

Documents to be attached to an application

1. The application-receiving authority shall:

- (a) cross-check the identity of the applicant;
- (b) make sure that the applicant is not included on the national list of non-admissible persons;
- (c) check the regularity, authenticity and validity of the travel document produced by the applicant, taking into account the provision of subarticle 16.2 of the Immigration and Asylum Act;

- (d) make sure that the travel document allows the applicant to return to his or her country of origin or to enter a third country;
- (e) ascertain the existence and validity of an exit authorization or of a visa allowing the applicant to return to his or her country of provenance where such a formality is required by competent authorities, the same procedure being applicable in relation to an authorization to enter a third country;
- (f) require the exhibition of such elements as necessary to clarify any doubts regarding the elements contained in the application;
- (g) issue a duly well-founded opinion on the application.

2. The receiving authority may, at any stage of the application process, require the presence of the applicant in order to collect elements deemed convenient for the review of, and the decision regarding, the application.

Article 15

Immediate refusal of an application

1. The receiving authority shall immediately refuse those applications that have not the required documents attached thereto or that are not sufficiently substantiated.
2. A person whose application has been declined shall be notified for the purpose of leaving the national territory, and none of the penalties provided for in Article 74 of the Immigration and Asylum Act shall be applicable to such a person.

Article 16

Granting of visas

1. Visas shall be granted in valid travel documents issued by competent State authorities or by international organisations of which Timor-Leste is a member.
2. Visas shall, once duly authorized, be issued and granted, in the national territory, by the PNTL Migration Police Service.

Articles 17

Expulsion proceedings

Acceptance of an application under the present decree shall suspend any ongoing expulsion proceeding and the deadline set out in a notification for the purpose of leaving the national territory under Article 64 of the Immigration and Asylum Act.

Article 18

Standard form

The visa application form shall have the same format as the attached specimen and shall be obtained from the Immigration Service.

Article 19
Entry into force

The present Decree shall come into force on the day following the date of its publication.

Approved by the Council of Ministers on 7 May 2004.

To be published.

The Prime Minister

[Signed]
(Mari Bim Amude Alkatiri)

The Senior Minister of Foreign Affairs and Cooperation

[Signed]
(José Ramos-Horta)

The Minister of the Interior

[Signed]
(Rogério Tiago de Fátima Lobato)



**MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
E COOPERAÇÃO
DAC/MNEC**

ANEXO (ARTIGO 18.º)

**PEDIDO DE VISTO
VISA APPLICATION FORM**

(A preencher pelo requerente / To be completed by the applicant)
(Por favor, escreva em maiúsculas/Please, use block letters)

1.	IDENTIFICAÇÃO / APPLICANT			
1.1	Nome Completo / Full Name _____			
1.2	Nacionalidade / Nationality País / Country _____		<div style="border: 1px solid black; width: 150px; height: 100px; margin: 0 auto; text-align: center; padding-top: 50px;">FOTO PHOTO</div>	
1.4	Data Nascimento / Date of Birth ____ / ____ / ____			
1.5	Sexo / Gender M <input type="checkbox"/> F <input type="checkbox"/>			
1.5	País e Local de Nascimento / Country and Place of Birth ____ / ____			
1.6	Filiação e Nacionalidade / Parent's name and Nationality			
Pai / Father _____		_____		
Mãe / Mother _____		_____		
1.7	Estado civil / Marital status			
Solteiro <input type="checkbox"/> Casado <input type="checkbox"/>		Divorciado <input type="checkbox"/> Viuvo <input type="checkbox"/>		
Single		Married Divorced Widowed		
2.	DOCUMENTO DE VIAGEM / TRAVEL DOCUMENT			
No Passaporte / Passport No _____		Válidade / Expiry date	____ / ____ / ____	
Emitido em / Issued by _____		Data / Date	____ / ____ / ____	
Passaporte / passport:		Pessoal/ Personal <input type="checkbox"/> Familiar / Family <input type="checkbox"/>		
Familiares no passaporte / Relatives in the passport				
Nº	Parentesco Relationship	Nome Name	Data Nascimento Date of Birth	Sexo Gender
			____ / ____ / ____	
			____ / ____ / ____	
			____ / ____ / ____	
			____ / ____ / ____	

3.	INFORMAÇÃO REPORTADA A TIMOR LESTE INFORMATION ABOUT TIMOR LESTE	
3.1	Fronteira de entrada e data / Border station of entry and date _____ / _____ / _____	
3.2	Morada completa / Full address _____ No Telefone / Telephone No _____ Distrito / District _____	
3.3	Condição Perante o Trabalho / Employment details	
	Activo / Working <input type="checkbox"/> Empregado / Employed <input type="checkbox"/> À procura do 1º emprego / Seeking first job <input type="checkbox"/> Outra / Other _____ <input type="checkbox"/>	Não Activo / Not working <input type="checkbox"/> Doméstico / Housewife <input type="checkbox"/> Reformado / Retired <input type="checkbox"/> Estudante / Student <input type="checkbox"/> Outra / Other _____ <input type="checkbox"/>
3.4	Profissão / Occupation	
3.5	Situação na Profissão / Professional Situation	
	Trabalhador por conta própria (patrão) / Employer <input type="checkbox"/> Trabalhador por conta própria (isolado) / Self-employed <input type="checkbox"/> Trabalhador por conta de outrem / Employed worker <input type="checkbox"/> Outra / Other <input type="checkbox"/> Entidade empregadora / Employer Nome / Name _____ Morada / Address _____ Telefone / Telephone _____	
4.	REQUERIMENTO / APPLICATION	
4.1.	Tipo de Visto / Visa type	
	Visto Comum / Ordinary Visa	
	Classe III / Class III <input type="checkbox"/> Classe IV / Class IV <input type="checkbox"/>	Visto Trabalho / Work Visa <input type="checkbox"/> Visto Para fixação de Permanência / Permanent residence visa <input type="checkbox"/>
4.2.	Junta os seguintes documentos / Attach the following documents	
	<input type="checkbox"/> Fotocópia Autenticada do passaporte Authenticated Passport photocopy	<input type="checkbox"/> 2 fotos 2 photos
	<input type="checkbox"/> Contrato de trabalho (aprovado) Work Contract (approved by Labor department)	<input type="checkbox"/> Meios de subsistência e alojamento Means of support and accommodation

<input type="checkbox"/> Atestado de robustez física e psíquica Medical certificate attesting to the physical and psychological suitability	<input type="checkbox"/> Registo criminal Criminal record Certificate			
<input type="checkbox"/> Outros _____ Others				
4.2. Pessoas a seu cargo em Timor Leste / Persons under your care in East Timor				
Parentesco Relationship	Nome Name	Nacionalidade Nationality	Data Nascimento Date of Birth	Sexo Gender
			____/____/____	
			____/____/____	
			____/____/____	
			____/____/____	
Se o requerente for menor de 18 anos, assinatura dos pais ou tutor, e documento de autorização em anexo If the applicant is under 18 years of age, signature of approval by parents or guardian, and attach document proof				
<div style="text-align: right;">____/____/____</div>				
Declaro prestar estas informações de boa fé e que as mesmas são exactas e completas. As falsas declarações serão punidas nos termos da lei, assumindo desde já inteira responsabilidade pelas informações por mim prestadas, bem como pelos documentos apresentados ou juntos a este pedido. Autorizo, no âmbito do meu pedido o processamento informático dos dados constantes neste requerimento. I declare that to my best knowledge and belief the information given is true. I am aware that is an offence under the present law to make false statements and I hereby declare to be responsible for all information given by me as well as for the documents presented or attached to this application. I hereby accept that the data given may be computerized within the scope of my application				
<div style="text-align: right;">____/____/____</div>				
_____ Assinatura/Signature				

(A preencher pelo Serviço / For official use only)

Contrato de trabalho	Aprovado Approved	<input type="checkbox"/>	Desaprovado Not Approved	<input type="checkbox"/>
Parecer da imigração	Favoravel	<input type="checkbox"/>	Desfavoravel	<input type="checkbox"/>
Assinatura / Signature _____		Data / Date ____/____/____		

DAC/MNEC			
Processo nº / File _____	Ano / Year _____		
Deferido Approved	<input type="checkbox"/>	Indeferido Not Approved	<input type="checkbox"/>
Assinatura / Signature _____		Data / Date ____/____/____	