

**DEMOCRATIC REPUBLIC OF TIMOR-LESTE**

**GOVERNMENT**

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**GOVERNMENT DECREE No. 8/2004**

**OF 3 NOVEMBER 2004**

**Legal Regime for the Assessment of Probational Public Defenders**

The appointment of public defenders as tenured practitioners needs to be preceded by the appraisal of their professional performance as probational public defenders, under the terms of the combined provisions of articles 14 and 16 of UNTAET/REG/2001/24, of 5 September.

This decree establishes, in a coincidental fashion, to the extent possible, the conditions in which the assessment of those public defenders serving for more than 3 years shall be undertaken.

The rules hereby established are aimed at contributing in a relevant manner to the moralisation of the access to and the exercise of functions pertaining to the administration of justice in Timor-Leste.

Pursuant to article 1 of Decree-Law No. 1/2002, of 24 May, the Government enacts the following, to have the force of regulation:

**Article 1**  
**Scope**

1. Every public defender serving a probationary period for more than 3 years is entitled to have their professional merit assessed in order for them to be admitted to their respective career as a tenured public defender.
2. This decree sets out the conditions and criteria for carrying out such assessment.
3. The assessments referred to in this decree must be completed by 15 December 2004.

**Article 2**  
**Assessment method**

1. The assessment is based on the job performance of the practitioners at the Office of the Public Defender, whose grade shall correspond to 30% of the final mark.

2. In addition to job performance appraisal, public defenders still serving a probationary period are subject to an appraisal of their technico-legal knowledge, to be undertaken through a written test, the final mark of which shall not be lower than 70%.

### **Article 3 Appraisal Committee**

1. Within 8 days of the approval of this decree by the Council of Ministers, the Minister of Justice shall appoint the Committee members charged with coordinating and executing the appraisals referred to in the previous article.

2. The committee referred to in the previous subarticle is presided over and directed by the President of the Court of Appeal, which may exercise his or her casting vote in case of a draw.

3. All other Committee members, in a number not lower than 4, to be appointed under the terms of subarticle 1 above, must include a person to be nominated by the CFJ Managing Board.

### **Article 4 Performance Appraisal**

1. Performance appraisal is conducted on the basis of the following criteria:

- (a) review of the *curriculum vitae* and employment history of the practitioner being assessed;
- (b) performance achieved in concrete procedural acts of a judicial nature and whether the deadlines for the completion of such acts were met;
- (c) integrity, regular attendance, dedication and all other ethical values evinced in the exercise of one's functions;
- (d) demonstrated capacity to assimilate new legal knowledge, namely in the field of administrative reforms;
- (e) other relevant aspects in the field of professional qualification, namely the knowledge of the official languages and the characterisation of an individual's personality.

2. Committee members access the elements referred to in preceding subarticle through adequate inspective actions and the practitioners being assessed may provide the documents and elements deemed relevant.

3. The grade of the performance appraisal component is expressed on a scale of 0 to 20 points and has a relative weight of 30% in the final mark.

**Article 5**  
**Technico-legal evaluation**

1. The technico-legal evaluation component is conducted through a written test on thematic and legislative contents that the evaluation committee circulate to the practitioners being assessed, not later than 30 days before the date the test is to be taken.
2. The grade of the technico-legal knowledge evaluation component is expressed on a scale of 0 to 20 points and has a relative weight of 70% in the final mark.

**Article 6**  
**Effects of the evaluation**

1. Defenders who obtain not less than 10 points are admitted into the public defender career as tenured practitioners and need to meet no other requirements.
2. Those defenders who fail to obtain a 10-point mark, but attend the in-service training course referred to in article 30 of *Decree-Law on the Recruitment and Training for the Professional Careers of the Judiciary and the Office of the Public Defender*, have the right to be assessed, once they have attended preparatory training sessions during the period between September and November 2004, provided at the Legal Training Centre, in order for them to have access to the in-service training course scheduled for 2005.

**Article 7**  
**Career seniority**

Career seniority for the defenders referred to in subarticle 6.1 is established in accordance with the order of final mark, and, in the case of a draw, the longest-serving defender or the most senior one, if such draw prevails, shall take precedence.

**Article 8**  
**Interpretation and filling of lacunae**

Any doubts arising from the application of this decree-law shall be settled by the CFJ Managing Board.

**Article 9**  
**Entry into force**

This decree-law shall come into force on the day subsequent to the date of its publication.

Approved by the Council of Ministers on 18 August 2004.

To be published.

The Prime Minister

[Signed]  
(Mari Bim Amude Alkatiri)

The Minister of Justice

[Signed]  
(Domingos Maria Sarmento)