

DEMOCRATIC REPUBLIC OF TIMOR-LESTE

GOVERNMENT

**GOVERNMENT DECREE NO. 9/2004
OF 3 NOVEMBER 2004**

**LEGAL REGIME FOR THE ASSESSMENT OF PROBATIONAL PUBLIC
PROSECUTORS**

The definitive appointment of public prosecutors still serving a probationary period needs to be predicated on the appraisal of their professional merit.

This decree, like all others on justice administration careers, establishes the rules on which such assessments shall be based.

The set conditions shall contribute in a relevant fashion to a transparent access to and the exercise of judicial functions in Timor-Leste.

Pursuant to article 3 of Decree-Law No. 1/2002, of 24 May, the Government enacts the following, to have the force of regulation:

Article 1

Scope of the appraisal

1. Every public prosecutor serving as a probational practitioner for more than 3 years has the right to be assessed in respect of his or her professional merit to allow him or her to be admitted to his or her respective career as a tenured practitioner, under the terms established by article 3 of Decree-Law No. 1/2002, of 24 May.
2. This decree establishes the rules and criteria on which such assessment shall be based.
3. The assessments referred to in this decree must be completed by 15 December 2004.

Article 2

Assessment method

1. The assessment of the professional merit of probational public prosecutors consists of a job performance appraisal component and a technico-legal knowledge appraisal component, whose score shall correspond to 30% and 70% in the final mark, respectively.
2. Within 8 days of the approval of this decree by the Council of Ministers, the CFJ Managing Board shall appoint the members of the Appraisal Committee charged with coordinating and executing the appraisals referred to in the previous subarticle.
3. The Appraisal Committee is presided over by the President of the Court of Appeal, which may exercise his or her casting vote in case of a draw in the vote, and is composed of another four (4) members to be appointed by the CFJ Managing Board.

Article 3

Appraisal Criteria

1. The Committee appraising the professional performance of public prosecutors shall base the individual report concerning each practitioner being assessed on the following criteria:
 - (a) the curriculum vitae, with a special emphasis on his or her employment history and positions held;
 - (b) his or her intervention in proceedings and other acts of an essentially judicial nature;
 - (c) his or her integrity, dedication, work attendance and all other aspects relating to an ethical behaviour on the part of the practitioner being assessed, while performing his or her functions;
 - (d) the capacity evidenced by the practitioner being assessed to face new professional challenges and to assimilate new knowledge arising from legislative reforms;
 - (e) other relevant aspects in the field of professional qualification and the characterisation of his or her individual personality, namely the knowledge of the official languages.
2. The technico-legal appraisal committee shall, not later than 30 days before the date the test is to be taken, circulate to the practitioners being assessed the thematic and legislative contents upon which the appraisal shall be based.
3. With regard to the elements referred to in subarticle 3.1 above, the committee shall review those that have either been submitted to it or that have been accessed through its inspective activity.

Article 4

Scoring Performance Appraisals

1. In the appraisal undertaken by the committee, probational public prosecutors are awarded a score on a scale of 0 to 20 points, in each of the areas subject to appraisal.
2. The final average score is obtained by awarding the performance appraisal 30% and the technico-legal appraisal 70%, on the same scale of points.

Article 5

Effects of the Scoring

1. Prosecutors who obtain not less than 10 points are admitted as tenured practitioners and need to meet no other requirements.
2. Those prosecutors 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 6
Career seniority

Career seniority for the prosecutors referred to in subarticle 5.1 is established in accordance with the order of final score, and, in the case of a draw, the longest-serving prosecutor or the most senior one, if such draw prevails, shall take precedence.

Article 7
Prosecutors on temporary assignment

Those public prosecutors, who, at the time of the entry into force of this decree-law, find themselves on a temporary assignment extraneous to the judicial function, are subject to an assessment at the end of such assignment.

Article 8
Interpretation and filling of lacunae

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

Article 9
Entry into force

This decree 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 Sarmiento)