

## **LAW No. /2005**

### **LAW ON THE SUPERIOR COUNCIL FOR DEFENCE AND SECURITY**

The Superior Council for Defence and Security is the consultative organ of the President of the Republic on “matters relating to defence and sovereignty”, directly established by the Constitution (Article 148 of the Constitution of the Democratic Republic of Timor-Leste).

The actual establishment of this body proves to be indispensable for the full exercise of the constitutional competencies of the President of the Republic, as the guarantor of national independence and unity of the State and the Supreme Commander of the Defence Force.

The composition, organisation and functioning of the Superior Council for Defence and Security shall be defined by law as provided for in the Constitution. The execution of this constitutional command is aimed at guaranteeing the highest level of strategic articulation between the defence and security forces, preventing any conflicts of competencies, fostering institutional solidarity between the organs of sovereignty and between the latter and other authorities represented at the Council, thus contributing to the indispensable strengthening and credibility of the defence and security forces.

Pursuant to subsection 92.1, subsection 95.2, paragraph (o), and article 148, of the Constitution of the Republic, the National Parliament enacts the following, to have the force of law.

#### **CHAPTER I Nature and Composition**

##### **Article 1 (Definition)**

The Superior Council for Defence and Security is the consultative body of the President of the Republic on matters relating to defence, security, and sovereignty.

##### **Article 2 (Composition)**

1. The Superior Council for Defence and Security is presided over by the President of the Republic and is composed as follows:

- (a) the Prime Minister;
- (b) the Ministers or Secretaries of State responsible for the areas of defence, justice, interior, and foreign affairs;
- (c) three representatives from the National Parliament;
- (d) the Joint Chief of Staff of the Defence Force, or whoever performs such functions;
- (e) the PNTL General Commander;
- (f) the National State Security Officer;

(g) two citizens appointed by the President of the Republic.

## **CHAPTER II Competencies**

### **Article 3 (Competencies)**

1. It is incumbent upon the Superior Council for Defence and Security to advise the President of the Republic on:

- (a) matters relating to the defence and security policy;
- (b) the review of legislation and the implementation of laws concerning the organisation, functioning and discipline of the defence force, the police, and all other security forces;
- (c) the process of entering into international agreements in the area of defence and security;
- (d) the decision to declare war or to make peace;
- (e) the decision to declare the state of siege or the state of emergency;
- (f) the decision to propose the appointment or dismissal of the Joint Chief of Staff of the Defence Force and the Deputy Joint Chief of Staff of the Defence Force;
- (g) the decision to appoint or dismiss the Chiefs of Staff of the different branches of the Defence Force;
- (h) the decision on other matters relating to defence and security as may be raised by the President of the Republic or by any of the Council members.

2. It is also incumbent upon the Superior Council for Defence and Security to approve and amend its rules of procedure.

## **CHAPTER III Organisation and Functioning**

### **Article 4 (Organisation)**

1. The Superior Council for Defence and Security is presided over by the President of the Republic, who convenes meetings and sets their respective agenda.

2. The Superior Council for Defence and Security may not meet without the attendance of the President of the Republic.

3. The Superior Council for Defence and Security is assisted by a secretary, appointed and dismissed by the President of the Republic.

#### **Article 5 (Functioning)**

1. The Superior Council for Defence and Security meets ordinarily once every quarter and extraordinarily whenever convened by the President of the Republic.

2. The President of the Republic may, on his or her own initiative or at the request of the Prime Minister, invite any entities or persons to attend certain Council meetings as observers.

#### **Article 6 (Publicity)**

1. Meetings of the Superior Council for Defence and Security are not open to the public.

2. Members of the Superior Council for Defence and Security and its Secretary have the duty of secrecy in respect of the object and content of the meetings and in respect of the decisions taken.

3. Opinions issued by the Superior Council for Defence and Security must be published in the Official Gazette concurrently with the corresponding acts, under the terms provided for under paragraphs (d) and (e) of article 3.

4. As for all other cases, opinions shall only be published where the Council so decides.

### **CHAPTER IV Status**

#### **Article 7 (Immunities)**

1. Members of the Superior Council for Defence and Security are not civilly, criminally or disciplinarily liable for any votes or opinions expressed while performing their functions.

2. Members of the Superior Council for Defence and Security may not be arrested or detained without authorization from the Council, except in the case of *flagrante delicto* in connection with the commission of an offence punishable by a term of imprisonment exceeding two years.

3. In the case of a definitive indictment of a member of the Superior Council for Defence and Security for an offence punishable by a term of imprisonment exceeding two years, such Council member may be suspended from his or her functions, by decision of the Council, in order that prosecution may proceed.

4. The decision provided under the previous subarticle is taken by secret ballot, without the participation of the member concerned.

5. Members of the Superior Council for Defence and Security may not act as experts, witnesses or declarants in legal proceedings without authorisation.

### **Article 8 Rights and Benefits**

The rights and benefits of members of the Superior Council for Defence and Security include:

- (a) free access to public places with restricted access, while performing their functions or in connection with such functions;
- (b) obtention, from any public entity, of the official publications deemed useful for the exercise of their functions;
- (c) special ID, in a format to be determined in the rules of procedure, for the duration of their respective term of office;
- (d) subsistence allowance in such amount as determined for Cabinet members in specific legislation, granted in connection with one or more consecutive days of attendance at a Council meeting.

### **Article 9 Expenses**

Expenses arising from the application of this law shall be paid from state budget appropriations to the Office of the President of the Republic.

### **Article 10 Entry into Force**

This law shall come into force on the day subsequent to the date of its publication in the Official Gazette.

Approved on 15 February 2005.

The Speaker of the National Parliament

[Signed]  
(Francisco Guterres “Lu-Olo”)

Promulgated on 17 February 2005

To be published.

The President of the Republic

[Signed]  
(Kay Rala Xanana Gusmão)