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DECREE LAW NO. 11/2009, of February 18, 2009
Salary Scheme for the F-FDTL

Decree-Law 18/2006, of November 8, 2006, which created the System of Military Promotions, did not define a Salary Scheme for the F-FDTL and is not adjusted to reality. A clear and fair scheme, in line with the military service law set up in Law no. 3/2007, of February 28, 2007, must therefore be established that fits the working conditions of service members, marked by special danger and permanent availability requirements, which are merely offset by the extraordinary allowance paid to civil servants, as laid down in Government Decree no. 3/2006, of October 11, 2006.

The structural definition of the Salary Scheme of the F-FDTL service members, who belong to a special body of the State, should be addressed together with that of other special bodies, by way of own salary schemes, based on the reform of the general principles governing public employment and civil service careers which has been the object of Decree-Law no. 19/2006. This decree law seeks to take a first step towards such general principles, by introducing indices adopted herein. It triggers an internal structural change that impacts on careers, allowing for a future evolution more consistent with the public employment and civil service career principles defined in the said Decree-Law.

The wish to correct distortions, vis-à-vis the general salary framework, is materialised by updating, though not retroactively, the base index of the monthly salary, as well as the levels. Level progression, though identical to the general salary framework, has been mitigated by way of a military condition allowance.

Bearing in mind the fact that the F-FDTL should be modernised in the context of increasingly improved professional standards, a scheme open to future changes is established herein which makes it possible to maintain well prepared and technically qualified service members, apt to perform the missions assigned to them in a disciplined manner.

Thus,

The Government, pursuant to Article 115, number 3, of the Constitution of the Republic, establishes the following to be enforced as law.

CHAPTER ONE General Provisions

SECTION ONE COMMON PRINCIPLES

Article 1

Object and scope

1. This decree law establishes the salary scheme applicable to the Falintil-FDTL service members on active duty, as laid down both in the Military Service law approved by Law no.3/2007, of the 28 February 2007, and in the System of Military Promotions defined in Decree Law no. 18/2006, of the 8 November 2006.

2. Provisions in this decree law shall also apply to trainee officers and cadets from higher education military schools and pupils from training courses for sergeants and corporals/privates who join the military permanent staff (PS), in the terms to be defined by joint order of the government members responsible for defence and finance.

Article 2

Entitlement to compensation

1. Base compensation shall consist of a dividable monthly payment, owed to service members on active duty.
2. The payment defined in the previous number shall not be owed in cases of illegitimate absence, desertion, registered leave and unlimited leave, or other cases prescribed by Law.
3. Entitlement to compensation shall exist as from
 - a) the date of entry into the first grade of the respective rank, for the service members of the permanent staff (PS);
 - b) the date in which the service member begins to provide service on contract basis (CB), pursuant to the specifically applicable statutory rules;
 - c) the date of incorporation, in those cases laid down in Article 1, number 2;
 - d) the date of incorporation for fulfilling military obligations or performing military service on voluntary basis;
 - e) the date of summoning, when Article 26, number 3, of Law no. 3/2007, of the 28 February 2007 (i.e. the Military Service Law) is not applicable, or at the date of drafting, when citizens do not have any income.
4. Compensation shall be paid in twelve monthly instalments, even when the service member is on vacation.
5. Should the general scheme governing the Civil Service establish any further compensation period in addition to the said twelve months, the same scheme shall apply to the scope of this compensation system.

6. Entitlement to compensation shall be extinguished when any of the causes for terminating the legal bond to the Armed Forces is observed.

Article 3

Indexing structure

1. For the purpose of the provisions of this decree law, steps shall be the compensation positions created within each grade.
2. The monthly base salary corresponding to each grade and step shall be determined by way of a compensation schedule, with a reference index equal to 100.
3. The amount of the salary in each grade and step shall be established by multiplying the 100 reference index by the value of the variable corresponding to such grade, in the respective step, as laid down in the formula $S = In \times Va$ – in which S = Salary, In = Index and Va = variable.
4. The annual update for establishing the monthly base compensation corresponding to Index 100 shall be made according to the general scheme for updating the civil service salaries.

Article 4

Compensation option

Those PS service members who, within the applicable statutory terms, take jobs or perform functions on special commission, or hold military jobs outside the scope of the F-FDTL, may, at all times, choose to maintain the compensation to which they would be entitled if such change had not taken place.

SECTION TWO

FAMILY CONSIDERATIONS, FOOD AND UNIFORM

Article 5

Family considerations and other social considerations

When family considerations and other social considerations are awarded, in the framework of complementary social measures and of death allowance, the respective schemes shall be those prescribed by general law.

Article 6

Food and uniform

F-FDTL service members on active duty shall be entitled to luncheon allowance, usually in kind, and uniform allowance. The respective governing schemes shall be regulated by the entity responsible for Defence, by proposal of the Chief of Joint Military Staff.

SECTION THREE BONUSES

Article 7 Bonuses

1. Bonuses are salary supplements resulting from particular specificities of military functions and the form of service provision into which such functions are materialized. In particular, notwithstanding the general regulations governing civil service, when duty is performed in situations of risk, hardship, insalubrities, outside the usual place of work, in peripheral areas or in extremely inland areas, for example, in boarding operations, or individually or collectively participating in international peace-keeping or military technical co-operation missions and exercises, namely in the framework of the UN or the CPLP (Community of Portuguese-Speaking Nations). Also while providing military instruction and in situations of tiredness due to involvement in the operational component of the force system, or due to physical or psychic disability arising of such involvement. Supplements for compensating expenses incurred on duty, such as travel expenses, or expenses related to representation and participation in sundry working meetings, shall also be considered bonuses.
2. Notwithstanding the provisions of the general scheme governing civil service, a military status bonus shall be awarded in consideration of the special work provision by service members, namely the burdens and specific restrictions inherent to the military function.
3. The military status bonus shall be paid in full and in a single instalment to all service members. It shall consist of a fixed part worth USD 35, to be updated in the same percentage as the F-FDTL salaries.
4. The supplement referred to in the previous number shall be paid to
 - a) F-FDTL service members of the PS on active duty;
 - b) service members hired on contract basis and, temporarily, to military grades in the process of extinction, as laid down in the regulations;
 - c) standard and voluntary service members, and service members serving as a result of summoning or drafting.
5. For the purpose of retirement pensions, the military status bonus shall have the quality of base salary.
6. Notwithstanding any other supplements that may be established under a specific legal bill, this decree law awards an operations bonus worth USD 10, to be updated in the same percentage as the F-FDTL salaries.
7. Service members holding the positions or grades listed below shall be paid representation expenses, as follows:
 - a) The Chief of Joint Military Staff, the Deputy Chief of Joint Military Staff, the Chief of the F-FDTL General Staff and the Chiefs of the Military Branches, to the amount equivalent to 20 percent of their base salary.
 - b) The top service members of the Military Branches performing functions to represent such branches, even if they are not the respective Chiefs, to the amount equivalent to 20 percent of their base salary, proportional to such representation.

- c) The Heads of Division of the General Military Staff, to the amount equivalent to 15 percent of the respective compensation.

SECTION FOUR DEDUCTIONS

Article 8 Deductions

1. Compensation paid to service members shall be subject to
 - a) Mandatory deductions;
 - b) Optional deductions.
2. Mandatory deductions shall be those imposed by law.
3. Optional deductions shall be those allowed by law, but requiring the express authorization of the person entitled to compensation.
4. As a rule, deductions are withheld at source.

Article 9 Mandatory Deductions

1. Mandatory deductions are the following:
 - a) Individual income tax (IRS);
 - b) Contributions to retirement pension and survivors' pension, when established;
 - c) Deduction for the F-FDTL Social Work Institute and the Provident Fund of the Armed Forces, when established, or to other similar institutions that may be established;
 - d) Seizures and pensions arising of a sentence issued by a court of law.
2. The scheme governing mandatory deductions is set forth in special legislation.

Article 10 Optional Deductions

Optional deductions are the following, namely:

- a) Contributions to provident funds and other similar institutions;
- b) Premiums of life, health or bodily injury insurance, retirement complements or savings-retirement plans;
- c) Deduction for the Pension Fund of the Armed Forces Service Members, when established.

CHAPTER TWO

Compensation to Service Members on Active Duty

Article 11

Compensation Framework

1. The framework of compensation paid to PS, CB, voluntary- or compulsory-status service members is specified in Annex One to this decree law.
2. The base monthly salary shall be determined according to the index corresponding to the grade and step in which the service member is positioned.
3. Compensation to trainee officers, cadets from higher education military establishments and pupils from training establishments for sergeants and corporals/ privates destined for the PS, shall be determined by Government order.
4. The index corresponding to the base monthly salary of the Chief of Joint Military Staff and of the Deputy Chief of Joint Military Staff shall be equivalent respectively to that of a Minister and of a Secretary of State.
5. The index corresponding to the base monthly salary of the Chiefs of Military Branches and of the Chief of the F-FDTL General Staff shall be 700.
6. Officers having performed the functions referred to in the two previous numbers, when dismissed from their respective office, shall keep the base monthly salary of the office in which they served until, according to the military law, they are retired or appointed to an office which by law requires the same rank, or a position consistent with such rank.
7. Compensation for the grades currently being extinguished in the three branches of F-FDTL shall be made according to the index of each service member, until the grade is extinguished or the said service member is assigned to a different grade.

Article 12

On promotion and graduation

1. The promotion of a service member, regulated according to the applicable legal provisions, shall be made, in the compensation framework, to step 1 of the grade to which the said service member has been promoted.
2. If the promoted service member already receives compensation equal to, or higher than, that of the grade and step referred to in the previous number, he shall be entitled to a differential.
3. The differential referred to in the previous number shall be equal to the difference between the base compensation plus possible differentials actually received and the base compensation that is owed, according to the general rules of the compensation system.
4. The differential shall evolve in subsequent promotions or progressions and for each of them a 5 point upgrade shall be owed, as a function of the reference index, until it is completely absorbed.

5. The differential referred to in the previous numbers shall be considered for determining the base monthly salary mentioned in Article 15 of this decree law and taken into account for the purpose of the Retirement Statute.
6. Service members graded to an upper grade, pursuant to the System of Military Promotions, shall be entitled to the compensation of the grade to which they have been upgraded, the step in the grade to which they have been upgraded being determined according to the criterion established in number 1, above.
7. Upgraded service members shall resume the compensation of the grade from which they have been upgraded when the graduation expires, the time served in the grade to which they have been upgraded being counted for the purpose of integration into the steps of the resumed grade.

Article 13 **Progression**

1. Service members on active duty shall be entitled to progression in their grade, which takes place by moving to an upper step.
2. In order to move to an upper step, once the statutory and regulatory provisions in force have been complied with, the service member must have remained in the next lower step for
 - a) Two years, in step one;
 - b) Three years, in steps two and three;
 - c) Four years, in steps four and five;
 - d) Five years, in step six.
3. Counting of service time shall be suspended, for the purpose of progression, when there are grounded reasons in the statutory framework in force to do so.
4. Graduation time referred to in Article 12, number 6, shall not be taken into account for the purpose of progression in the upgrading grade.
5. Service members graded to a grade which they had once held on contract base, in case they join the PS shall be governed by the scheme established in numbers 1, 2 and 3 above, except while attending the courses required to access the PS, since this time shall not count for the purpose of progression.

Article 14 **Progression formalities**

1. Progression shall be automatic and unofficial.
2. Service members shall be entitled to receive compensation according to the upper step on day 1 of the month immediately following compliance with the requirements established in the previous article. Payment shall depend exclusively on the fulfilment of such requirements.
3. Competent departments in each branch shall publish, on monthly basis, a list of officers, sergeants and corporals/privates who made progress to the upper step, in order for payment to be made.

Article 15

Upper grade position

1. Service members appointed, in the terms of EMFAR, to take a position requiring a grade higher than theirs, shall be entitled to:
 - a) Receive the compensation of step one in such grade;
 - b) Receive the compensation corresponding to the next upper index, if they already receive a base salary equal to, or higher than, that of step one.
2. The order required for appointing a service member in the circumstances referred to in the previous number shall be published on Jornal da República, as well as in a Branch or Unit Order or in a Service Order.
3. Entitlement to compensation determined in paragraphs a) and b) of the penultimate number is counted as from the date in which the service member begins to actually perform functions. Such date, as well as the date in which the said service member ceases to perform such functions, shall be published in the Service Order.
4. Entitlement to compensation referred to in number 1, paragraphs a) and b), of this Article, only exists when there is no office holder appointed for the military position, and such entitlement has been established by the duly approved organic framework of the F-FDTL command, unit, establishment or body, and in any government department or in any international organization performing military functions.
5. For the purpose of step progression, the time served by the service member in the upper grade position shall be considered only in his own grade.
6. The scheme established in this article shall not apply when an allowance is awarded for performing functions in an upper grade position, as laid down, for example, in Article 7, paragraph c), number 6.

CHAPTER THREE

Final and Transitional Provisions

Article 16

Transitional scheme

1. Service members covered by this decree law should be placed in their proper step, as a function of the number of years served in the grade, according to the general rules of the compensation system, notwithstanding the payment of possible differentials.
2. Transition to the new index framework shall be made, at all times, to the same grade and step, according to the following rules:
 - a) to the step of the new framework corresponding to the equivalent step of the former framework;
 - b) to the new step of the new framework, of the next upper index, if the step in which the service member is currently placed does not have a direct match in the former framework.
3. Transition referred to in the previous number shall produce the following effects:

- a) Service members covered by number 2, paragraph a), above, shall have all the time served in the step held in the former index framework counted for the purpose of progression;
 - b) For all other service members, time served in the step of the former index framework shall be counted;
 - c) The next upper step shall be granted to the 2001 service members, versus that which should be otherwise assigned to them in the standard scheme.
4. All service members who have meanwhile progressed to steps removed from the new index framework shall be placed in the next closest step of the same grade, preserving the right to be paid a differential corresponding to the surplus among them, which shall be taken up and considered in the light of Article 12, numbers 4 and 5.
 5. The transition scheme established in the previous numbers shall also apply to the disabled of the Armed Forces.

Article 17

Formalities of transition

1. Integration of officers, sergeants and corporals/privates into the steps of the respective grades shall not depend upon any formalities.
2. The competent departments of the F-FDTL shall publish lists of transition to the new compensation framework, for the information of all stakeholders.
3. Claims and hierarchical appeal may be filed against integration, in the statutory terms currently in force, not precluding the possibility of court appeal in general terms.

Article 18

Transition scheme for bonuses

1. Grants, bonuses, allocations or allowances formerly awarded, identified in special legislation as grants, bonuses, allocations or allowances for risk, hardship, insalubrities, travel on duty, representation expenses and travel & lodging expenses, shall remain in force in their current arrangements and amounts subject to updating, as currently practised, though in compliance with this scheme.
2. The member of government in charge of the Defence portfolio shall verify compliance referred to in the previous number.

Article 19

Protection of rights

Enforcement of this decree law may not result in any reduction of the compensation currently paid.

Article 20

Prevalence

The provisions of this decree law shall prevail over any other general or special rules that contradict it.

Article 21
Effectiveness of rights

1. The military status bonus established in Article 7, above, shall be enforced as from the date of entry into force of this decree law. The special grant to service members established under Article 3 of government decree no. 1/2008, of the 15 February 2008, shall cease to be awarded on that same date.
2. The provisions of Article 7, number 3, shall apply to all service members currently benefiting from the special grant established under Article 3 of government decree no. 1/2008, of the 15 February 2008, in the respective amounts, irrespective of their current service status.
3. The calculation of the base monthly salary, as a function of the respective index schedules, shall be immediately applicable.

Article 22
Rule consistency

1. Any doubt emerging from the enforcement of this decree law shall be ruled out by order of the government member in charge of the Defence portfolio.
2. Whenever there is a possible increase of expenses, any doubt emerging from the enforcement of this decree law shall be jointly ruled out by the government members in charge of Finance and Defence.

Article 23
Revocation rule

1. Article 2 and Article 3 of government decree no. 1/2008, of the 15 February 2008, are hereby revoked.
2. Provisions of government decree no. 5/2007, of the 31 December 2007, shall no longer apply to F-FDTL.
3. Government decree no. 3/2006, of the 11 October 2006, shall no longer apply to any matters pertaining to F-FDTL.
4. All other provisions in any legislation that contradict this decree law are hereby revoked.

Approved by the Council of Ministers, on December 13, 2008

The Prime-Minister

(Kay Rala Xanana Gusmão)

The Minister for Defence and Security

(Kay Rala Xanana Gusmão)

The Finance Minister

(Emília Pires)

Enacted on February 10, 2009

To be published.

The President of the Republic

(José Ramos-Horta)

ANNEX 1
Compensation schedule referred to in Article 11

GRADES		STEPS						
		1	2	3	4	5	6	7
Chief of Joint Military Staff		Equivalent to the minister index – Article 11, number 4						
Deputy Chief of Joint Military Staff		Equivalent to the secretary of state index – Article 11, number 4						
Officer Generals	Major General	850						
	Brigadier General	725						
Superior Officers	Colonel	572	592	613	634			
	Lieutenant-Colonel	516	534	553	572	592		
	Major	465	481	498	516	534		
Captains	Captain	413	430	447	465	483	502	523
Petty officers	First Lieutenant	367	382	397	413	429	447	464
	Second Lieutenant	339	353	367				
Sergeants	Sergeant Major	315	330	345	361	377		
	Master Sergeant	297	310	324	339	354	370	
	Sergeant First Class	273	286	301	316	332		
	Staff Sergeant	260	272	284	297	310	324	339
	Sergeant	238	249	260				
	Corporal Specialist	210	220	231	242	254	267	
Corporals/Private	Corporal	187	196	206	216			
	Private	170	179	187	196			
	Recruit	0.85						
	Index 100 - USD							