

DECREE-LAW No. 19/2012

of 25th April

Status of Court Officials

The present diploma is part of the current government's effort to reorganise courts of justice in order to render them and their services more convenient and efficient. In order to bring this into effect there shall be a separation between the applicable regime governing the structure and functioning of the courts' support services under the Public Prosecutor's Office and the Public Defender's Office and the actual status governing the employees themselves, the court officials.

Up to now, the statutory rules regarding court officials have been included in a diploma of a comprehensive nature, and mostly shared their legal regime with the regime applicable to the Secretariat's Services of the Courts, the Public Prosecutor's Office and the Public Defender's Office, set out in Decree-Law no. 27/2009, of 9th September.

Within the scope of the reorganisation of the administrative support services provided to the Courts, the Public Prosecutor's Office and the Public Defender's Office, full advantage is being taken of the opportunity to render the status of court officials autonomous, by recognising the specificity of the duties they perform and by ensuring it is more in line with the growing demands of the public service they provide.

The duties that court officials perform are essential to guarantee the correct administration of justice and the smooth running of the courts. The court officials who provide a service in the Courts, the Public Prosecutor's Office and the Public Defender's Office are a direct and indispensable support for the Judges, Public Prosecutors and Public Defenders in the performance of their

duties. In addition to the execution of acts pertaining to magistrates and to a wide number of procedural acts which are within the scope of their duties, court officials are those who, in first place, convey the image of the services, as the initial contact of participants in the administration of justice and of the public in general with the judiciary.

The specific nature of the duties performed requires that court officials have specialised knowledge and training which shall determine how they are placed into the special career regime, based on a recruitment and training regime able to guarantee that they shall be prepared to carry out their duties properly and in a career advancement regime based on merit, which shall take into account levels of performance and duty rankings. Even though it is guided by simplicity, the court officials special career should be appealing in order to attract good professionals with a good technical and ethical background, therefore opting for a salary regime that is suitable and compatible with the demands of the career.

Thus, the Government hereby decrees that the following shall be considered law under the terms of sub-paragraph p) of article 115 of the Constitution:

Article 1

Object

The statute of court officials shall be approved and shall be published annexed to the present decree-law, of which it is an integral part.

Article 3

Repeal

The statutory rules concerning court officials set out in Decree-Law no. 27/2009 of 9th September shall be repealed.

Article 3

Entry into force

The present diploma shall enter into force on the date immediately following its publication.

Approved in Council of Ministers on 15th February 2012

The Prime Minister

Kay-Rala Xanana Gusmão

The Minister of Justice

Lúcia Maria Brandão Freitas Lobato

Promulgated on 10/4/2012

To be published

The President of the Republic

José Ramos-Horta

ANNEX

STATUTE OF COURT OFFICIALS

CHAPTER I

General Provisions

Article 1

Object

1. The present diploma shall define the statute of court officials.
2. A court official is an employee, under a special regime, belonging to the staff of the Courts, the Public Prosecutor's Office or the Public Defender's Office.

Article 2

Scope

The present diploma shall apply to any court official on duty at the Courts, the Public Prosecutor's Office and the Public Defender's Office.

Article 3

Career of Court Officials

1. The following category of employees shall be included in the career of court officials:

- a) Secretary;
- b) Registrars;
- c) Deputy registrars;
- d) Court bailiff.

2. The posts of Chief Secretary, secretary and registrars correspond to executive posts.

Article 4

Functional Content

1. The description of the functional content regarding the career of court officials shall be included in annex 1 to the present diploma, of which it is an integral part.

2. The provisions set out in paragraph 1 above shall not affect the management, coordination and monitoring of the services undertaken by the President of the Court of Appeals and Administrative Judges, the Public Prosecutor, Assistant to the Public Prosecutor and District Prosecutors and by the General Public Defender and the District Public Defenders.

CHAPTER II

Filling the positions in the career of court officials

Section I

Structure and regime

Article 5

Structure and Development of the Career

1. The career of the court staff shall be structured and developed vertically in the following categories:

- a) Court bailiff;
- b) Deputy registrar;
- c) Registrar;
- d) Secretary.

2. Development in the career of court official shall be undertaken under the terms set out in this diploma and other applicable legislation.

Article 6

Regime

1. A public recruitment competition is the recruiting system used to enter the career of court officials.

2. Access is accomplished by way of an internal competition.

3. The competitions shall comply with the following principles and guarantees:

- a) Equal conditions;
- b) Freedom to oppose provided that the legal requirements have been fulfilled;
- c) Timely disclosure of the selection methods and tests, programmes and classification systems;
- d) Application of legally established objective selection methods and criteria;
- e) Right of appeal.

Section II

Recruitment and filling vacancies

Sub-section I

Entry

Article 7

Requirements to participate in the competition to enter the career

The following individuals may enter the court staff provided that:

- a) They have met the admission requirements for public servants;
- b) They have taken the court official course set out in this diploma or duly recognised equivalent course abroad.

Article 8

Entry

Entry in the career of court official shall start at scale "A" in the category of court bailiff.

Sub-section II

Recruitment of Chief Secretary

Article 9

Area of Recruitment

1. The post of Chief Secretary shall be filled from among secretaries with the classification of "Very Good".

2. The position of Chief Secretary may also be carried out by registrars, whenever a vacancy becomes available there are no individuals who meet the requirement set out in paragraph 1 above and there is an immediate need to fill such vacancy.

Article 10

Appointment

The position of Chief Secretary may also be appointed by way of secondment.

Sub-section III

Access

Article 11

Means of access

Progress and professional development in the career of court officials shall be achieved by way of advancement and promotion under the terms of the law.

Article 12

Advancement requirements

1. In order to advance in the career of court officials one is required to be in the scale immediately below:

a) Three years of effective and uninterrupted duty in the scale, or 2 years for those who have a duty-related classification of "Very Good".

b) Duty-related classification of no less than "Good" or, in the absence of a duty-related classification, performance assessment of "Good".

2. Advancement goes from Scale A and to Scale D for court bailiffs and assistant registrars and to C for registrars and secretaries.

Article 13

Requirements to access the category of assistant registrar

For promotion to the category of assistant registrar the cumulative requirements shall be:

a) The existence of a vacancy;

b) 4 years full service in the category of court bailiff and minimum duty-related classification of "Good" or, in the absence of a duty-related classification, performance assessment of no less than "Good".

c) Approval by way of the admission test to the corresponding category.

Article 14

Requirements to access the category of assistant registrar

For promotion to the category of registrar the cumulative requirements shall be:

a) The existence of a vacancy;

b) 4 years full service in the category of assistant registrar and minimum classification of "Good" or, in the absence of a duty-related classification, performance assessment of no less than "Good".

c) Approval by way of the admission test to the corresponding category.

Article 15

Requirements to access the category of Secretary

1. For promotion to the category of secretary the cumulative requirements shall be:

a) The existence of a vacancy;

b) 4 years full service in the category of registrar;

c) Duty-related classification of "Very Good" or, in the absence of a duty-related classification, performance assessment of no less than "Very Good".

d) Approval by way of the admission test to the corresponding category.

2. Court officials having graduated in Law, regardless of their category provided that they have 6 years of full and uninterrupted service and a duty-related classification or in the absence of such classification a performance assessment of "Very Good" and approval by way of the admission test to the corresponding category.

Article 16

Access courses

1. The respective institution shall periodically open access courses to the higher categories.
2. All court officials of a category immediately below the one they are aspiring to may apply to attend access courses. Those with the best duty-related classification and, in the event of equal classifications, those who have been in the career longest shall be preferred.
3. Courses shall be valid for promotion over a maximum period of three years.

Article 17

Temporary court official

1. When duty so requires, by decision of the head of the judiciary, the following individuals may be hired as temporary court bailiffs:
 - a) The trainee who is undergoing the practical part of his or her training, or
 - b) By way of competition, those who have attended 12th grade of secondary school, and who have shown in the selection examination that they master at least one of the official languages and have the ability to perform the duties of a court official.
2. The hiring referred to in paragraph 1 above shall be for a maximum period of one year renewable for a time to allow the person hired to access a training course.
3. The temporary court bailiff with at least one year of duty and a performance assessment of "Good"
4. Temporary bailiffs shall not be considered part of a court official's career and shall remain attached to their duties for the time of the contract and possible renewal.

CHAPTER III

Mobility

Section I

General principles

Article 18

Movement

1. A court official cannot, in any way, be moved to another secretariat of the Courts, of the Public Prosecutor's Office or the Public Defender's Office before one year of duty in his or her position has elapsed, except in the event of serious duty-related reasons.
2. A court official may only be suspended, transferred, removed or dismissed from his or her post under the terms of the law.

Section II

Secondment

Article 19

General principles

1. Staff secondments shall last for three years and shall be renewable for equal periods of time.
2. Staff secondments may terminate at any time.
3. The termination of the secondments shall not entitle the interested party to any indemnification, subsidy or financial compensation, unless this is expressly set out in the law.
4. The time taken up with the secondment shall be counted as if it were carried out in the original category.
5. In the case the post of court official was filled by way of secondment, the original post may be declared vacant, upon weighing up the convenience of the services.

Article 20

Secondments outside the scope of original employment

1. When exceptional reasons so justify, the court official may be seconded to a service outside the scope of his or her original employment, notably to services which are accountable to Public Administration, albeit exceptionally, upon the decision of the individual responsible for such services.
2. The court official appointed under the terms of paragraph 1 above may choose to receive the salary from his or her original employment or to receive that of the seconded post, which shall be borne by the entity where they performs their duties.
3. Secondments outside the scope of original employment may be renewed once.

Article 21

Secondments within the scope of original employment

Secondments within the scope of original employment shall be considered those provided within the court official's institution, notably the Court of Appeal, the Superior Council of the Judiciary, the Public Prosecutor's Office, Superior Council of the Public Prosecutor's Office, the Public Defender's Office and the Superior Council of the Public Defender's Office.

Section III

Other mobility instruments

Article 22

Transfer

1. A court official may only be transferred, at his or her own request or in the interests of the service.
2. A court official may only request a transfer once he or she has served in such a post or office for two years.

3. Factors to be taken into account for the transfer shall be duty-related classification and, in the case of an identical classification, seniority in the category.

4. A transfer shall depend on the existence of a vacancy in the position the court official wishes to be transferred to.

Article 23

Exchange

1. Notwithstanding the requirements of the preceding paragraph, an exchange between court officials of the same category who have been in the judiciary institution where they work for at least one year shall be admitted.

2. Should there be more than one party interested in the exchange, preference shall be given to whoever has a higher duty-related classification and in the case of identical classifications to seniority in the category.

Article 24

Transition

1. A court official may move from one judiciary institution to another, provided that there is a prior agreement between those responsible for the entities involved, within the scope of the following categories:

- a) Secretary;
- b) Registrar;
- c) Deputy registrar.

2. Transition shall be applicable pursuant to article 23 above.

Article 25

Request or Posting

1. When special duty-related reasons so justify, court officials may be requested or posted.

2. The request shall be made under the general terms of the law.

3. The posting shall take place for a period of up to one year, renewable only once.

Article 26

Movements

The competent services of the Court of Appeal, the Public Prosecutor's Office and the Public Defender's Office shall move court officials in order to fill vacant posts or posts that shall be made vacant.

Article 27

Requirements

1. The application to fill the posts referred to in the preceding article shall follow the requirements and formalities set out in the notice.
2. Applicants shall meet admission requirements for the posts by the end of the deadlines set out in the notice.
3. Requirements shall only be valid for one movement.

CHAPTER IV

Recruitment and training

Article 28

General provision

1. The admission process to the career of court official shall include:
 - a) Aptitude test;
 - b) General training course;
 - c) Final test.
2. The general training course shall have a minimum duration of 18 months.
3. The trainee whose absences, justified or not, have exceeded 10% of the time of the duration established for the general training shall be automatically excluded.

Article 29

Opening

1. The opening of the general training course for court officials shall be effected by order of the entity responsible for the Courts, Public Prosecutor's Office and the Public Defender's Office, depending on the cases, and may also be effected by way of joint order.

2. The order referred to in paragraph 1 above shall indicate the maximum number of candidates to be admitted to the training course and the expected number of vacancies there shall be for each one of the aforementioned institutions to be published in the Official Journal.

Article 30

Aptitude Tests

1. The selection for the general training course shall be undertaken by way of a written test and interview aimed at assessing the general knowledge of the candidates and their ability to attend such course.

2. The written test and the interview shall be classified from 0 to 20, and the classification of the aptitude test shall consist of the arithmetical average of both classifications.

3. Those candidates who have obtained a final classification of below 10 shall be excluded.

4. Approved candidates shall be admitted to attend the general training course, being classified according to the final classification, preference, in the case of identical classifications, going to the older candidate.

Article 31

Objective, content and location of the training course

1. The purpose of the training course shall be to promote the development of the candidate's skills through learning the contents and topics intended for the performance of the duties of a court official.
2. The course curriculum shall include general notions on professional ethics, the judiciary, statutory rules of court officials, the legal regime governing public service, civil procedures and criminal procedures, and learning the official languages.
3. The course shall be divided into a theoretical phase, of 6 months, to take place in the Legal Training Centre, and a practical phase, of 12 months, to take place in the secretariats of the Courts of First Instance, of the Public Prosecutor's Office and of the Public Defender's Office.
4. In the practical phase of the training course the candidates shall be placed in the secretariats where such training takes place by order of their preference, to be taken into account according to the marks obtained in the theoretical phase.

Article 32

Progress report

1. Once the theoretical phase of the course is over, the training trainer shall draw up a report based on the individual progress of the trainee, and shall give a numerical classification from 0 to 20.
2. Those candidates who have passed shall be admitted to the practical phase, being placed in one of the judiciary institutions, in accordance with their preference and the number of vacancies expected, their classification being taken into account, giving preference, in

case of identical classifications, to the older candidate.

3. Once the practical phase of the course is over, the tutor shall draw up a report based on the individual progress and engagement of the trainee and shall classify such trainee as apt or not apt.

4. The trainee who obtains a classification of lower than 10 in the theoretical phase or a classification of not apt in the practical phase shall be excluded.

Article 33

Final test

1. Those trainees considered apt in the practical phase shall be submitted to a final test on topics which are part of the curriculum of the theoretical phase and other matters related to the duties of a court official, as well as on their level of knowledge of Tetum and Portuguese, to take place within a maximum time limit of 30 days upon the submission of the progress report.

2. The final test shall be classified from 0 to 20.

3. Those trainees who have obtained a classification of lower than 10 shall be excluded.

4. The trainees who have passed shall be considered apt and be graded in accordance with their corresponding classifications.

5. The trainees who have passed shall fill the existing vacancies of court bailiffs in the institution or institutions which provided the training, in the order of their preference, their classification being taken into consideration, giving preference, in the case of identical classifications, to the older trainee, taking into account the vacancies initially indicated.

Article 34

Scholarships

1. A trainee who has been admitted into the general training course for court officials shall be entitled to a scholarship, the value of which, should there be no decision otherwise in the order to commence with the training action or in any subsequent order issued by the same entity, shall be equal to two thirds of the basic salary of the category of a court bailiff.
2. A candidate who is an employee of the Public Administration shall be entitled to attend the training course on request and to opt for the basic salary of his or her original employment.

CHAPTER V

Promotion in the career

Article 35

Opening of the competition to sit the admission exams

1. The competition for promotion in the careers of court officials shall be open by order of the entity responsible for the Courts, the Public Prosecutor's Office and the Public Defender's Office, depending on the case, the existing vacancies and the needs of the service.
2. The order for the opening of the competition shall indicate the number of vacancies to be filled, as well as their categories.

Article 36

Candidates to the specific exam

Court officials who are in the category, having the time of service and duty-related classification required to access the category to which the competition refers, shall be admitted to sit a specific exam.

Article 37

Specific exam

1. The specific exam shall have a written part and an oral part and shall be aimed at assessing the candidates' knowledge of matters related to the functional contents of the category for which they are competing, their level of knowledge of Tetum and Portuguese and professional ethics and their ability to fill the post.
2. The specific test shall be classified from 0 to 20.
3. A classification of under 10 shall mean that the candidate has not passed.

Article 38

Grading for access

1. The promotion of candidates having passed the specific exam shall take place according to the mark resulting from the application of the following formula.

$$N = (2 \times PE + CS + A)$$

4

Where

N = Mark;

PE = classification obtained in the admission exam;

CS = Duty-related classification;

A = Seniority in the category in complete years

2. In the event of identical marks, preference shall be given to the person who has served in the category for the longest amount of time.
3. The existing vacancies shall be filled by the candidates in the order of their preference, the mark to which paragraph no. 1 above shall be considered.

Article 39

Acceptance and taking office

1. Appointed employees shall sign the instrument of investiture, in which they shall accept the post and shall undertake to loyally perform the duties assigned to them, within a time limit of 30 days, from the date of publication of the

appointment order, unless such order sets out a shorter deadline.

2. The chief secretary shall sign the instrument of investiture before the President of the Court of Appeal, the Public Prosecutor's Office or the Public Defender's Office, respectively.

3. The other court officials shall sign the instrument of investiture before the Judge Administrator, the District Public Prosecutor and the District Public Defender, depending on whether the placement is in the Courts, Public Prosecutor's Office or the Public Defender's Office.

4. The unjustified absence of a signature in the instrument of investiture within the established deadline shall lead, when it is a first appointment, to the cancellation of such appointment without formality, and shall disable the faulty party to be appointed to the same position within the following two years.

5. In other cases, the unjustified absence of a signature in the instrument of investiture shall be the equivalent to having abandoned the post.

6. The justification of the absence shall take place within a time limit of five days as of the removal of the obstacle, together with the submission of the corresponding proof.

Article 40

Replacement

Without prejudice to the duty to collaborate towards the smooth running of the service regardless of the post they hold, court officials of a higher category shall be replaced, in the event of any absence or impediment, by the court official of the category immediately below theirs, under the terms indicated by the individual responsible for the service.

2. The time of service spent as a replacement shall be included when

counting seniority in the original category.

Article 41

Termination of duties

Courts officials shall terminate their duties in cases of:

- a) Death;
- b) Removal;
- c) Dismissal;
- d) Age limit for retirement purposes;
- e) Detachment from the service or from the new situation.

CHAPTER VI

Availability, surplus staff and leave

Article 42

Availability

1. Any court official awaiting placement in a vacancy in his or her category shall be considered as being available:

- a) if they have finished their temporary posting, secondment or request;
- b) under any other cases set out in the law.

2. Availability shall not imply any loss of seniority or salary corresponding to their category.

3. The court official who is available shall be appointed as soon as there is a vacancy in his or her category.

4. The court official who is available shall enjoy absolute preference in the appointment of any vacancy in his or her category or, if he or she requests, in the category to which they may move on to.

5. As long as court officials are available, they may be allocated to services compatible with their category, regardless of the career they belong to.

Article 43

Surplus staff

1. Court officials whose position has become extinct shall become a surplus member of the secretariat staff where they were placed.
2. Surplus court officials shall be appointed as soon as there is a vacancy in their category.
3. The surplus court official shall enjoy absolute preference in the appointment of any vacancy in his or her category or, if he or she requests, in the category to which they may move on to.
4. As long as court officials are available, they may be allocated to services compatible with their category, regardless of the career they belong to.

Article 44

Leave

Court officials who are on unpaid leave or on special unpaid leave may request to return to their service, being provided with one of the existing vacancies or the first in their category that may appear in their original employment. However they may apply to an internal competition for the category they hold, or a higher category, if they fulfil the legal requirements, provided they do so after having shown a will to return to their original service.

CHAPTER VII

Rights, duties and incompatibilities

Article 45

Holidays and days of rest

1. Court officials shall in every civil year be entitled to a holiday period equal to that set out in the general law governing public servants, plus as many days of rest as those worked in shifts on public holidays or equivalent and weekly rest days, in relation to the previous year.

2. The holiday period shall be taken during that period when the Courts are closed to the public, except when authorised for justified reasons.

3. Until the end of the month of February of each year, secretaries, after having previously heard other court officials shall organise charts for staff holidays and shall include in them those days of rest not yet taken. It shall be previously authorised and approved by their respective Judge Administrators, District Public Prosecutors and District Public Defenders.

4. By imposition of the service, the Judge Administrators, District Public Prosecutors or District Public Defenders to whom court officials are accountable, may determine that they return to their duties, notwithstanding the right to enjoy all their annual holidays and days of rest.

5. Court officials shall inform their hierarchical superior of their absence to take their holidays and days of rest and shall indicate the location where they may be found.

Article 46

Travelling expenses

1. Court officials shall be entitled to the reimbursement of their own and their family's travelling expenses, and expenses related to the transport of their belongings, when promoted, transferred or placed in the interest of the service, provided that it is not due to reasons of a disciplinary nature.

2. The amount of the reimbursement referred to in the preceding paragraph may not be higher than the employee's basic salary.

3. The provisions set out in paragraph 1 above shall not apply to cases where the displacement is the result of an exchange.

4. The reimbursement of the expenses shall be requested within a maximum time limit of three months from the date they occur.

Article 47

Special Rights

Active court officials shall be entitled to:

- a) A special identification card of the model to be approved by the respective Superior Council;
- b) Free access to public places subject to conditional access by displaying their identification card, when on duty;
- c) Serve a sentence or detention separately from the other prisoners or those detained;
- d) Be exempt from costs in any legal action they are part of, either principal or secondary part, due to their performing their duty;
- e) Periodic duty-related classifications and professional performance assessments.

Article 48

Residence

1. Court officials shall reside in the location where they perform their duties.
2. They may however reside in a different place from the location where they perform their duties, provided they have received prior authorisation from the individual responsible for their judiciary institution, and that attendance and punctuality are guaranteed.

Article 49

Absence

1. Court officials may not be absent from their respective department during normal working hours except when such absence is work-related.
2. Court officials who participate in a case in court or out of court may not be absent before the case is settled, except in the event they are replaced or authorised to do so by the magistrate or public defender who presides over the case.
3. In the event of duly authorised absences, court officials shall previously inform their respective hierarchical superior and indicate the location where they can be found.
4. When court officials cannot inform their hierarchical superiors due to the urgency with which they had to leave, they shall do so as soon as possible and submit the respective justification.
5. The chief secretary shall inform the competent services, namely the bodies who exercise the disciplinary powers and the salary processing services, of the absences the court officials under their responsibility have taken in the previous month, by the 5th of each month.

Article 50

Duties

1. Court officials shall be subject to the general duties of Public Administration employees.
2. Court officials shall specifically perform their duties with honesty and impartiality, and shall conduct themselves in public and private with the dignity and prestige their duties merit.
3. Court officials' duties shall be, especially:

a) to ensure that cases and services in general are processed as quickly as possible;

b) to wear professional attire in the sessions or services when it is obligatory by law or by the decision of a superior;

c) to treat with courtesy the magistrates, public defenders, court professionals and other parties involved in proceedings, as well as all those people who use the services;

d) to keep professional secrecy and confidentiality under the terms of the law, and shall not make statements or comments on the proceedings, without prejudice to the information which is in the proceedings documents;

e) Not to advise or instruct the parties in any dispute, with the exception of those cases permitted by procedural law.

f) Not to make applications or interfere in any way in legal proceedings, except those that are within the scope of their attributes;

g) To collaborate in the training of court officials;

h) to attend those training actions they are summoned to;

i) to clearly display the identification card within the installations of the services and, when on duty, outside such installations;

j) To collaborate in the good functioning of the services, regardless of the position they hold and the service they are assigned to.

4. The non-fulfilment of the duties listed in the preceding paragraphs shall result in disciplinary action, notwithstanding other sanction set out in the law.

5. The professional attire model of the court officials shall be approved by the

individual responsible for the institution when they perform their duties.

6. Court officials who head the departments and registry offices shall be the trustees of the archive, values, proceedings, movable property and objects that concern them and all the equipment and furniture placed by the State at the disposal of the service, notwithstanding the responsibilities of the management services of the institution.

7. The court officials referred to in the preceding paragraph shall confer the inventory immediately after they take office.

Article 51

Incompatibilities

The public service regime of incompatibilities shall apply to court officials, and neither will they be allowed to:

a) Perform duties in the judiciary institution where magistrates or public defenders serve to whom they are attached by married or civil union, by kinship or affinity in any degree in the direct line or up to the 2nd degree of the collateral line;

b) Perform the duties of a lawyer, solicitor, mediator, arbitrator or equivalent;

c) Perform the duties of expert or ad-hoc expert appointed by the parties in proceedings pending in courts or services of the Public Prosecutor's Office.

d) Undertake any other paid, public or private function, except that of teaching in the Legal Training Centre, provided it has been duly authorised.

CHAPTER VIII

Service classification and information

Article 52

Service classification

1. Court officials shall be classified according to their merit by “Very Good”, “Good with Distinction”, “Good”, “Sufficient” and “Mediocre”:

a) “Very Good” shall correspond to the numerical classification of 19 and 20.

b) “Good with Distinction” shall correspond to the numerical classification of 17 and 18;

c) “Good” shall correspond to the numerical classification of 14 to 16;

d) “Sufficient” shall correspond to the numerical classification of 10 to 13;

e) “Mediocre” shall correspond to the numerical classification of below 10;

2. The entity responsible for classifying court officials shall be the Superior Council of the Judiciary, the Superior Council of the Public Prosecutor’s Office and the Superior Council of the Public Defender’s Office, depending on the institution where the court official serves.

3. The service shall be classified by way of inspections.

Article 53

Effects

1. The classification of “Mediocre” shall imply that court official be suspended and an enquiry be commenced concerning his or her inaptitude to hold such a position.

2. The suspension shall last until the final decision of the enquiry or disciplinary proceedings resulting therefrom and does not imply loss of salary or time of service.

Article 54

Elements to be considered

1. The following shall be taken into account in the inspection for the purposes of classification of court officials:

a) Their preparation and ability to perform their duties;

b) The quantity and quality of work undertaken;

c) The technical and intellectual preparation;

d) Spirit of initiative and collaboration;

e) The ability to carry out procedural actions;

f) Pride in their work;

g) Their professional relationships with their hierarchical superiors, colleagues and the public;

h) Punctuality and attendance;

i) Improvement of their Tetum and Portuguese and in the acquisition of knowledge and experiences regarding the good performance of their duties;

j) Participation in training actions relevant for the performance of their duties and the level of progress obtained in such actions;

2. Leadership, ability to orient and organise the service shall be a relevant element in the classification of employees who hold executive positions.

3. The circumstances under which the performance of duties took place shall always be taken into consideration in the classifications, namely the working conditions and the volume of service, information, results of inspections or disciplinary proceedings, as well as any complementary elements which are in the possession of the institution where the employee performs his duties.

Article 55

Regularity

1. Court officials shall normally be classified every three years.
2. The classification attributed over three years before shall remain valid unless the absence of classification is immutable to the court official.

Article 56

Inspections

1. Court officials shall be inspected by the corresponding Superior Council by way of decision taken by the President of the Court of Appeal, Public Prosecutor and the Public Defender, depending on the case.
2. The decision made by the Superior Council that approves the classification can be appealed against under the general terms.
3. The regulation governing inspections shall be approved by the respective Superior Council.

Article 57

Secondment

Court officials in secondment shall be classified if the competent inspection body has sufficient information or can obtain and organise such information.

Article 58

Right of reply

Before they receive the classification, court officials shall be notified to, within a time limit of 10 days, pronounce of the contents of their inspection reports.

Article 59

Performance assessment

Notwithstanding the provisions set out in the preceding article a yearly assessment of the performance of court officials shall be conducted, aimed at assessing productivity, commitment,

attendance and punctuality under the terms set out for Public Administration employees subject to the general regime.

Article 60

Competence

1. The performance assessment of bailiffs and assistant registrars shall be of the competence of the secretary or the registrar who heads the corresponding service.
2. Judicial secretaries and registrars shall be assessed by the magistrates and public defenders they are functionally accountable to.

CHAPTER IX

Seniority

Article 61

Seniority in the category

1. Seniority of court officials in the category shall count from the date of publication of the appointment order in the Official Journal, provided that the corresponding instrument of investiture has been signed.
2. In cases of transition, seniority shall correspond to the time of service spent in both categories.
3. The time of service spent as chief secretary shall be taken into consideration when counting seniority in the original category.

Article 62

Temporary posting

For the purposes of seniority, the time of service spent in a temporary posting, when there has been no interruption between the temporary posting and the definitive appointment or when the definitive appointment is the first movement after the termination of the temporary posting.

CHAPTER X

Salary level

Article 63

Salary

1. Court officials' salaries shall be composed of the basic salary and any supplementary remuneration set out in the law.
2. The salary table and the value of index 100 shall be included in Annex II to the present diploma, of which it is an integral part.
3. The value of index 100 of the salary table shall be altered by joint ministerial diploma of the Minister of Finance and the Minister of Justice, once those responsible for the Courts, Public Prosecutor's Office and the Public Defender's Office have been heard.
4. The basic salary shall be reviewed by way of updating the value corresponding to index 100 in the proportion of the salary increase of public servants subject to the general regime and whenever this occurs.
5. Court officials appointed in replacement or as temporaries to duties of a higher category to theirs shall receive the salary and other benefits corresponding to such post when the substitution or temporary posting is longer than 30 days.

Article 64

Supplements

1. Court officials who according to their work schedule chart provide urgent services on Saturdays, Sundays or equivalent. Shall be due a remuneration of one day's salary for each shift day of work actually provided.
2. Court officials who do not have a residence provided by the judiciary institution shall be entitled to a monthly residence allowance to the amount of 100 US dollars.

Article 65

Allowances

Court officials shall be entitled to the allowances set out in the public servant's general regime.

Article 66

Change of situation

Court officials appointed promoted into a new category or post shall be entitled to receive the salary corresponding to the previous situation until they have accepted the appointment.

CHAPTER IX

Disciplinary status

Article 67

Disciplinary Action

Court officials shall be responsible under the terms of the general regime of employees and agents of Public Administration and of the following articles.

Article 68

Disciplinary infringement

Facts, albeit merely wrongful, practised by the court official in violation of his or her professional duties, i.e. general or special, as well as those in his or her public life or that have repercussions on it and are incompatible with the dignity indispensable for the performance of his or her duties shall constitute a disciplinary infringement.

Article 69

Suspension penalty

A suspension penalty shall imply, in addition to the effects set out in the general law:

- a) The termination of the temporary posting, when the facts have been practised in the aforementioned situation;

b) A transfer, when the court official can no longer remain in the environment in which he or she performed his or her duties on the date the infringement was practised without losing the prestige required from him or her.

c) The impossibility of promotion or admission to the admission exam for one year from the date the infringement occurred, when the suspension penalty is longer than 120 days.

Article 70

Inactivity

An inactivity penalty shall produce, in addition to the effects set out in the general law, the effects referred to in the preceding article, and shall result in the impossibility of promotion or admission to the admission exam for a period of two years.

Article 71

Promotion of court officials

1. When there are criminal or disciplinary proceedings pending, court officials shall be put forward for promotion and shall remain in the vacancy until a final decision is taken.

2. In the event the proceedings are shelved, judgement of an acquittal is given or a sentence is given which does not affect such promotion, the appointment shall become definitive, the time of service spent in the temporary post being counted in the current category.

3. In any other cases, the employee shall return to his or her original post.

Article 72

Disciplinary proceedings

1. Disciplinary proceedings against court officials and the application of a penalty shall be of the responsibility of the Superior council of the Judiciary, the Superior Council of the Public

Prosecutor's Office or the Superior Council of the Public Defender's Office, depending on the institution in which such court official serves.

2. The competent authority shall appoint the investigating judge of the disciplinary proceedings when it has no inspector or corresponding inspection services.

3. An appeal against the decisions taken in the disciplinary proceedings shall have a suspensive effect.

Article 73

Autonomy of the disciplinary proceedings

1. Disciplinary proceedings shall be independent of criminal proceedings.

2. The Public Prosecutor shall be immediately informed when, during the disciplinary proceedings, a criminal offence is found to exist.

Article 74

Preventive suspension

1. Court officials who are defendants in disciplinary proceedings may be preventively suspended from their duties provided there are strong signs that the offence shall result in at least a suspended sentence and their continuing to remain in service is prejudicial to the proceedings, the service or the prestige and dignity of their function.

2. Preventive suspension shall be executed in such a way as to guarantee the defence of the personal and professional dignity of the court official.

3. A preventive suspension may not last longer than 180 days, shall determine that the loss of salary shall correspond to a 1/6th of the salary, and shall not affect the counting of the time of service.

4. The loss of salary shall be remedied or taken into account by the competent

authorities depending on the final decision of the disciplinary proceedings.

Article 75

Appointment of the defending attorney

1. In the event the defendant is not in a position to defend him or herself, due to absence, disease, mental health reasons or physical inability, the competent authority in charge of the disciplinary proceedings shall request that the Public Defender's Office appoint a defending attorney for such defendant.
2. When the defending attorney is appointed on a date subsequent to the notification of the accusation, the deadline for the defence shall count from his or her notification.

CHAPTER XII

Final and transitional provisions

Article 76

Default regime

The legal regime of Public Administration employees shall apply to active or retired court officials in everything which has not been especially regulated in the present diploma.

Article 77

No decrease in salary

The enforcement of the present diploma may not result in a decrease in the court official's salary corresponding to the category such court official has on the date it comes into force.

Article 78

Supervisory power

The organisation established for staff duties shall not prevent the President of the Court of Appeal, the Public Prosecutor, the General Public Defender at the request of the Administrator Judge of the District Public Prosecutor's Office and of the District Public

Defender's Office to distribute staff and service in such a way as to take best advantage of the resources and render the service as efficient as possible.

Article 79

Staff

1. Court officials' staff in the Courts of the Public Prosecutor's Office and in the Public Defender's Office shall be those set out in Annex III to this diploma until a diploma governing such support services to the courts has been established.
2. Court officials' staff shall be altered by joint ministerial diploma of the Minister of Finance and the Minister of Justice, once those responsible for the Courts, Public Prosecutor's Office and the Public Defender's Office have been heard.

Article 80

Reclassification of the current court officials

1. The current assistant registrars shall be reclassified in the category of registrar within the limit of the existing vacancies, preference being given to the most senior employees in this category.
2. The current assistant registrars who, in relation to the application of paragraph 1 above, shall not be reclassified in the category of registrar, shall be reclassified in the category of deputy registrar.
3. The current 1st class court clerks shall be reclassified in the category of deputy registrar within the limit of the existing vacancies, preference being given to the most senior employees in this category.
4. The current 1st class court clerks who, in relation to the application of paragraph 3 above, shall not be reclassified in the category of deputy registrar, shall be reclassified in the category of bailiffs.

5. The current 2nd and 3rd class court clerks shall be reclassified in the category of bailiffs.

6. The current secretaries and technicians of the Public Prosecutor's Office shall be reclassified in the category of registrar within the limit of the existing vacancies, preference being given to the most senior employees in this category.

7. The current technicians of the auxiliary Public Prosecutor's Office shall be reclassified in the category of deputy registrar within the limit of the existing vacancies, preference being given to the most senior employees in this category.

8. The current 1st class court clerks of the Public Defender's Office shall be reclassified in the category of bailiffs, reference 1, scale B, within the limit of the existing vacancies, preference being given to the most senior employees.

9. The current 2nd class court clerks of the Public Defender's Office shall be reclassified in the category of bailiffs, reference 1, scale A, within the limit of the existing vacancies, preference being given to the most senior employees.

10. The current 3rd class court clerks of the Public Defender's Office shall be reclassified in the category of deputy registrars, reference 2, scale A, within the limit of the existing vacancies, preference being given to the most senior employees.

11. Within the time limit of six months tests shall be sat to access the categories of deputy registrar, registrar and secretary.

12. Court officials who are in the category immediately below may apply to sit the tests referred to in paragraph 11 above.

Article 81

Filling posts temporarily

1. If no one who meets the requirements to fill the category of court official is interested and there is an urgent need to fill such position, those who do not meet the requirements or part of them may be temporarily appointed for the position of court official, preference being given to the category immediately below and the duty-related classification being taken into consideration and, in the event of equal classifications, preference being given to seniority in the category.

2. The temporary posting shall last for 1 year and, while the position is not filled by a permanent member of staff, may be renewed for equal periods of time if the individual appointed shows an ability for the corresponding duties.

3. A competition for the position filled temporarily shall be launched every two years, in the movements of court officials, without prejudice to the temporary employee who meanwhile has met the corresponding requirements requesting a definitive appointment.

Article 82

Court officials who are not Timorese

1. Exceptionally and whenever the functioning of the services and the training of national court officials so requires, court officials who are not Timorese may be admitted by way of a curricular competition to perform such duties in the courts, in the Public Prosecutor's Office and in the Public Defender's Office upon the decision of the corresponding individuals responsible for such entities.

2. The provision set out in this statute shall, with the appropriate alterations, apply to the court officials admitted under the terms of paragraph 1 above.

Article 83

Disciplinary proceedings

The present diploma shall only apply to proceedings commenced from the date it comes into force, regardless of the time when the offence was committed.

ANNEX 1

FUNCTIONAL CONTENTS OF THE CATEGORIES OF COURT OFFICIALS

**(to which paragraph 1 of article 4
refers)**

The powers set out in the present diploma and its regulations and the performance of the specific duties of their post and other powers set out by law or decided upon by superiors shall be reserved to court officials, with the specificities of the judiciary institution where they perform their duties:

I - Chief Secretary

- To run the secretariat, by taking hold of the management and coordination of the staff under him or her and manage the sections of the Court of Appeal, of the Public Prosecutor's Office, the Public Defender's Office, of the Superior Councils and their respective Inspection Services;
- To proceed to the assessment of the performance and yearly classification of the staff under him or her;
- To set, within the scope of the legally established framework, the working hours and shifts of the court officials under him or her, take note of their absences and monitor the compliance with such hours;
- To draw up and manage the budget of the corresponding service;
- To distribute, coordinate and control the external service;
- To correspond with public and private entities on matters related to the functioning of the services, under

delegated authority by those responsible for the services;

- To establish the steps required for the smooth running of the proceedings and formally foster the proceedings in their different phases in compliance with procedural laws;
- To sign the tables of the cases with a day set for the trial;
- To run the library and guarantee that the archive is properly maintained;
- To submit to discussion matters of the competence of the head of the institution;
- to distribute cases and documents;
- To ensure the installations and equipment of the institution are kept in good running order;
- To organise the statistics of the services;
- To undersign the instruments of investiture or acceptance of staff placed in the service;
- To perform other duties assigned to him or her by law or by decision of a superior.

II – Secretary

- To head, run, vitalise, coordinate, monitor, inspect and assess the services of the department under his or her responsibility;
- To draw up draft budgets of the service and submit them to the appraisal of the competent body;
- To correspond with national or foreign, public and private entities on matters related to the functioning of the services or the state of the art of the proceedings, in the cases set out by law or delegated by the magistrate or respective defending attorney, without prejudice to the safeguard of professional secrecy and confidentiality of investigations;

- To distribute cases and documents;
- To ensure, either upon request or on an ad-hoc basis, that experts' exams are conducted;
- To provide forensic exams on instruments seized in criminal proceedings;
- To provide forensic exams on assets attached, listed or seized in civil proceedings;
- To submit to the decision of the magistrate or Defending Attorney the matters or proceedings requiring such decision;

To distribute work among the staff of the department directly accountable to him or her;

- To superintend the counting of proceedings, ensuring that such service is properly undertaken and personally taking on such a duty, whenever required;
- To ensure the fulfilment of the of legal deadlines or those set by the magistrate or defending attorney;
- To guarantee the speedy fulfilment of external measures;
- To keep the keys and manage the service vehicles, superintend their use to fulfil external service-related measures;
- To inform the competent body of the conduct of the staff under him or her likely to be subject to disciplinary proceedings, an enquiry or an inquest;
- To take note of the absences of the staff under him or her;
- To exercise disciplinary power vis-à-vis the deputy registrar and bailiff under him or her;
- To assess the performance of the deputy registrar and bailiff under him or her;

- To perform the duties assigned to the registrar, the deputy registrar and bailiff whenever this is necessary;
- To ensure the maintenance and conservation of the service installations and equipment;
- To perform all the administrative duties of the department or service he or she is responsible for;
- To perform any other duties assigned to him or her by law or by decision of a superior.

III – Registrar

- To assist the Secretary in the performance of his or her duties and replace him or her in the event of absence or impediment;
- To head, run, vitalise, coordinate, monitor and assess the section under him or her;
- To secure the counting of proceedings and loose documents;
- To guarantee the smooth running of the proceedings in the section under his or her responsibility, ensuring that deadlines are complied with;
- To keep updated records of the data regarding proceedings with pending costs to be paid;
- To duly support the enforcement of costs not yet paid by the parties, by supporting and providing the Public Prosecutor's Office with all the information and elements it requires;
- To monitor and supervise the external service;
- To perform the administrative duties and record the expenses of the services determined by the secretary;
- To perform the duties assigned to the deputy registrar and bailiff whenever necessary;

- To perform any other duties assigned to him or her by law or by decision of a superior.

IV – Deputy Registrar

- To assist Registrars in the performance of their duties;
- To submit to the decision of the magistrate or public defender to whom they are accountable the matters and proceedings distributed by their superiors to them and which need such decision;
- To prepare and send correspondence;
- To perform the duties of the bailiff whenever necessary;
- To record the orders and guarantee they are immediately distributed to be enforced;
- To personally guarantee that documents and procedural acts or any other document distributed to them are recorded;
- To provide the Magistrate or Defending Attorney with the necessary assistance, notably in the hearings and services;
- To carry out the work assigned to them, namely that of typing, recording documents, and procedural acts of the department;
- To draw up certificates and other documents requested of them, under the terms of the law;
- To register and move proceedings under the terms of the law;
- To control the fulfilment of the orders distributed to the bailiffs in relation to the proceedings distributed to them;
- To perform all the administrative duties of the department assigned to them by their superiors;
- To attend the public, providing all the information requested which they can provide by law;

- To perform any other duties assigned to them by law or by decision of a superior.

V – Bailiff

- To assist deputy registrars in the performance of their duties;
- To carry out external services, namely, summonses and notifications and fulfil other orders assigned by magistrates;
- To certify, in accordance with procedural law, that the orders assigned to them have been fulfilled;
- To provide the Magistrate or Defending Attorney with the necessary assistance, notably in the hearings and services assigned to them;
- To guarantee discipline and order are kept in proceedings and hearings;
- To ensure the archives of the proceedings and documents assigned to the respective services are maintained and conserved;
- To physically count and classify the proceedings;
- To perform any other duties assigned to them by law or by decision of a superior.

**ANNEX II
SALARY CHART**

(to which paragraph 2 of article 63 refers)

Categories	Reference	Scale	Scale	Scale	Scale
		A	B	C	D
Chief Secretary		500			
Secretary	4	430	440	460	
Registrar	3	350	360	370	
Deputy Registrar	2	300	310	320	330
Bailiff	1	200	210	220	230
Trainee		100			

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ANNEX III – STAFF CHART

(to which article 79 refers)

COURT OFFICIALS CHART

	Chief Secretary	Secretary	Registrar	Deputy Registrar	Bailiff	Total
Court of Appeal	1		3	5	5	14
Superior Council of the		1		1		2

Judiciary						
Dili District Court		1	5	9	19	34
Baucau District Court		1	3	3	8	15
Suai District Court		1	2	2	5	10
Oecussi District Court		1		2	2	5
Total	1	5	13	22	39	80

**CHART OF COURT OFFICIALS
OF THE PUBLIC PROSECUTOR'S
OFFICE**

	Chief Secretary	Secretary	Registrar	Deputy Registrar	Bailiff	Total
Public Prosecutor's Office	1	1	1			3
Superior	1	1		1		3

Council of the Public Prosecutor's Office						
Dili District Public Prosecutor's Office		1	6	14	23	44
Baucau District Public Prosecutor's Office		1	3	6	8	18
Suai District Public Prosecutor's Office		1	2	4	7	14
Oecussi District Public Prosecutor's Office			1	2	5	8

ecutor's Office						
Total	2	5	13	27	43	90

**CHART OF COURT OFFICIALS
OF THE PUBLIC DEFENDER'S
OFFICE**

	Chief Secretary	Secretary	Registrar	Deputy Registrar	Bailiff	Total
Public Defender's Office	1	1	1		1	4
Superior Council of the Public Defender's Office	1			1	1	3
Dili District Public Defender's Office		1	4	8	16	29

e						
Baucau District Public Defender's Office		1	3	6	7	17
Suai District Public Defender's Office		1	2	4	6	13
Oecussi District Public Prosecutor's Office		1	1	1	2	5
Total	2	5	11	20	33	71