

**Decree-Law no. 8/2010**

**of May 19**

**Legal Regime for Upper Education Establishments**

Whereas the goals of an upper education are to train highly qualified Timorese citizens and to produce and disseminate knowledge, as well as to educate Timorese students in culture, arts, technology and science within the scope of an international environment;

Whereas upper education establishments or institutions, whether public, private or cooperatives, are the dynamic foundation for these goals insofar as they assign value to the activities of its researchers, faculty and employees, stimulate the intellectual and professional education of its students and ensure the conditions for all duly qualified citizens to gain access to an university education and lifelong learning;

Taking into consideration that these establishments have the right and the duty to participate by themselves or through their organizational units in activities that connect them to society in general, namely the diffusion and transfer of knowledge, as well as the assignment of economic value to knowledge;

It is essential, therefore, to regulate these upper education establishments in their framework, authority, operations and the competency of their departments, as well as the exercise of State oversight over said establishments.

Therefore:

The Government orders, in conformity with the provisions of line d) of article 116 of the Constitution of the Republic and in compliance with the provisions of articles 17 and 26 of the *Lei de Bases da Educação* [Education Act] approved by Law no. 14/2008 of October 29, to be valid as law, the following:

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1  
Scope**

1. This statute establishes the legal regime for upper education establishments, also hereby designated as institutions, and regulate their organization, authority, operations and competency of its departments, as well as the exercise of State oversight.

2. The objectives of upper education are the ones established in the *Lei de Bases da Educação*, or LBE, in its abbreviated form hereby, which was approved by Law no. 14/2208 of October 29.

3. A separate statute pending approval within the context of the fundamental principles of this Decreto-Lei will govern artistic education, non-formal education and distance learning, which are in the context of tertiary education.

## **Article 2**

### **Institutional Mission of Upper Education Establishments**

1. The institutional mission of upper education establishments must conform to the agreed goals, corresponding program and academic supply.

2. Upper education establishments promote the transfer of knowledge and cultural, artistic, technological and scientific learning to its students in an international context, assigning value to, and encouraging, the activities of their respective faculty, researchers, students and non-faculty staff.

3. Upper education establishments have a duty to participate in activities that empower civil society and lend economic value to applied scientific knowledge within the context and quality assurance system governing university education.

## **Article 3**

### **Public and Private Sector Establishments and Respective Degrees**

1. The upper education system includes the following: public education, composed of State owned institutions and foundations created by the latter under the terms of the law; private education, composed of institutions owned by private entities; and duly accredited upper education cooperatives.

2. Upper education establishments include:

a) University institutions, composed of Universities integrating at least four *Faculdades* [Schools], two of which must be in the area of Sciences, and the Institutes, integrating at least one *Faculdade* and the *Escolas Universitárias*. They may also include organic units of technical upper education, under the terms of number 3 of article 26 of LBE, granting bachalaureate, licenciature, master and doctor degrees, under the terms of article 20 of the same Law;

b) Technical institutions include the *Institutos Politécnicos* which are composed of departments or other units, under the terms of numbers 2 and 4 of article 26 of the LBE, granting the diplomas referred to in number 1 of article 20 of LBE;

c) *Academias* are establishments directed to specific and unique areas of upper knowledge, duly accredited and licensed casuistically, according to the public

interest principle and granting the diplomas referred to in number 1 of article 20 of LBE.

#### **Article 4**

#### **Tertiary Nature of the Upper Education System**

1. Upper education is organized in a system in which university education is oriented toward the supply of scientific training and benefits from the joint efforts and competencies of teaching and research units, while politechnical education is oriented toward advanced technical training for trades and professions.

2. For the purposes of the provisions of the previous number, politechnical institutes and other institutions with politechnical teaching are institutions oriented towards the creation, transmission and diffusion of culture and knowledge of a professional nature using an articulation of studies, teaching, supervised research and experimental development.

3. The organization of the tertiary system must correspond to the requirements of an increasingly diversified demand for upper education oriented towards meeting the needs of those who complete secondary school and those searching for vocational and professional courses.

#### **Article 5**

#### **Authority of Upper Education Establishments**

1. The following are duties of upper education establishments:

- a) Conducting study programs with the purpose of granting academic degrees, as well as other post-secondary courses, graduate courses and others, under the terms of the law;
- b) Creating an educational environment conducive to its purposes;
- c) Conducting research and providing support and participation in scientific institutions;
- d) Promoting transfers of scientific and technological knowledge and their economic value;
- e) Conducting activities geared toward professional training and continuing education;
- f) Provision of services to the community and support to development;
- g) Cultural, scientific and technical cooperation and exchanges with similar institutions, both in country and abroad;

- h) Production and diffusion of knowledge and culture.
2. The organizations representing upper education establishments are consulted on the following subjects:
- a) Legislative initiatives related to upper education and scientific investigation;
  - b) Territorial ordainment of upper education;
  - c) Upper education establishments also have the right to be heard during discussions for establishing criteria for definition of financial appropriations to be granted by the State, as well as about the criteria for establishing tuition for study programs granting academic degrees.

### **Article 6**

#### **Legal Nature and Legal Regime**

1. Public institutions of upper education are legal entities governed by public law but they can only exist in the form of public foundations governed by private law, under the terms foreseen in the law.
2. Public institutions of upper education may also be governed by the same regime applicable to other legal entities of an administrative nature and governed by public law, namely public institutes, provided that the regime does not go against or restrict any of the autonomies granted by this statute and any other specific legislation.
3. Entities that create private establishments of upper education are governed by private law in all matters not contrary to the provisions of this statute or any other applicable legislation, without detriment to its subordination to the principles of impartiality and justice in the relationship between the institutions, faculty and students, specially in regards to procedures involving faculty career track and student access, admission and evaluation.
4. The following are object of separate statutes, provided that all applicable legislation, including this statute, is observed:
  - a) Access to upper education;
  - b) The academic grading system;
  - c) The regime for equivalency and recognition of academic degrees and other qualifications;
  - d) Accreditation and evaluation of establishments and study programs;
  - e) Creation, modification, suspension and extinction of study programs;

- f) Financing for public upper education establishments in the State Budget, as well as the manner by which tuition is established at the institutions;
  - g) Regime and career tracks for faculty and research professionals of upper education establishments;
  - h) *Acção social* [social activism] at schools.
5. Upper education institutions may establish their own good practice codes for issues involving pedagogy, good governance and management.

### **Article 7** **Identification and Denomination of Establishments**

1. Upper education institutions must have their own names and characteristics drafted in the Portuguese or Tétum language to identify them unequivocally, although different versions of the denomination in foreign languages may be used jointly.
2. The name of one educational institution, either public or private, cannot be confused with the name of another or originate errors about the nature of the education provided or the institution itself.
3. The name of each educational institution may only be used after registration of the name with the Ministry in charge of upper education.
4. The use of the following words is reserved for upper education establishment names: "universidade" [university], "faculdade" [school], "instituto superior" [upper institute] or "instituto" [institute], "instituto universitário" [university institute], "instituto politécnico" [polytechnical institute], "escola superior" [upper school] and other expressions that convey the idea that they offer upper education.

### **Article 8** **Autonomy**

1. Public upper education institutions have policymaking, pedagogical, scientific, cultural, administrative, proprietary and disciplinary autonomy before the State, with the appropriate differentiation according to their nature and under the terms of this statute and the general legislation.
2. Financial autonomy follows the system of the specific statute about public upper education establishments being financed by the State Budget, as well as the manner in which to establish the tuitions referred to in article 6, number 4, item f).

3. Each upper education institution has its own statutes to articulate its specific mission and pedagogical and scientific objectives, justify its autonomy and establish its own organizational chart, all under the terms of the law.

4. In the context of their autonomy and in conformity with the law, upper education institutions can organize freely and in the manner they deem most appropriate to the fulfillment of their mission, as well as to the specificity of the context in which they operate.

5. The autonomy of upper education establishments does not exclude governmental oversight or inspection, in the case of public or private institutions, or external accreditation and evaluation procedures under the provisions of this statute and specific laws.

### **Article 9 Organic Units**

1. Organic units dedicated to research are designated as *faculdades, centros, laboratórios* and *institutos* and they may adopt other appropriate names, under the provisions of the statutes of the respective upper education establishment.

2. Research units may be created with or without the organizational unit statute as units associated to universities, units of universities, university institutes and other university level institutions, polytechnical institutes, units of polytechnical institutes and other establishments offering polytechnical education.

3. The law also provides for the creation of research institutions that are common to various upper, university or polytechnical education establishments or their organic units.

### **Article 10 Cooperation Between Institutions**

1. Upper education institutions are free to establish association or cooperation agreements among themselves or with other institutions for the promotion of student mobility and faculty mobility and the establishment of partnerships and joint projects including joint degree programs, under the provisions of the law, or resource sharing or equipment sharing programs without detriment to oversight prerogatives, namely the ones foreseen in the following article.

2. Under the terms foreseen in the statutes of each respective upper education institution, organic units of one upper education institution may associate with organic units of other upper education institutions for the purposes of joint coordination to accomplish their activities.

3. Upper education institutions located in the country can easily integrate within networks and establish partnership and cooperation relationships with upper education

establishments in foreign countries, scientific organizations abroad and other institutions, namely within the scope of bilateral or multilateral agreements signed by East Timor as a State and within the context of Portuguese speaking countries, for the purposes foreseen in the previous number.

4. All international cooperation actions and programs must be compatible with the nature and goals of each establishment and take into account national policy guidelines, namely the ones related to education, science, culture and foreign relations.

## **Article 11**

### **Government Competencies**

1. In order to promote compliance with the authority granted in this statute and without detriment to other legally foreseen competencies, the following will be duties of the Government:

- a) Create, modify, merge, split, and extinguish public upper education institutions;
- b) Grant and revoke the official recognition of private upper education establishments as establishments operating in the public interest;

2. The following are special competencies of the member of Government with the highest oversight authority over upper education:

- a) To ensure that all requirements for the creation and operation of upper education establishments are met, namely by way of the respective licensing procedure;
- b) To register the names of upper education establishments;
- c) To register the statutes related to upper education establishments and its alterations, when applicable;
- d) To approve the election of the president or dean of each public upper education establishment;
- e) To intervene in the process of establishing the maximum number of new admissions and registrations;
- f) To promote the propagation of information regarding education establishments and their study programs;
- g) To track compliance with the law and to apply the sanctions foreseen in the law in the case of violations;

h) To authorize the mandatory requests for courses and graduation lists by way of ministerial orders published in *Jornal da República*;

i) To authorize the facilitation of undergraduate or graduate courses taught by foreign upper education establishments in Timor-Leste by way of a documented request.

## **CHAPTER II CREATION OF UPPER EDUCATION ESTABLISHMENTS**

### **Article 12 Public Upper Education Institutions**

1. All public upper education institutions are created by *decreto-lei* [decree].
2. The creation of public upper education institutions must comply with the national ordainment of the public upper education network and take into consideration the need and sustainability of said network.

### **Article 13 Private Upper Education Establishments**

1. Private upper education establishments may be created by entities with legal status of foundations, associations or cooperatives specifically organized for that purpose, as well as by nonprofit cultural and social entities that include the provision of upper education among their purposes.
2. Private upper education establishments may also be created by entities with the legal status of limited companies or business corporations specifically organized for that purpose.
3. The entities that create private upper education establishments must fulfill the appropriate requirements of institutional competency and financial sustainability and mandatorily offer proprietary guarantees or insurance in amounts deemed sufficient.

### **Article 14 Obligations of Private Upper Education Establishments**

1. Entities that create private upper education establishments have the following obligations:
  - a) To create and ensure the conditions for optimum operations of the establishments, namely good administrative, economic and financial management;



- b) To submit the bylaws of the establishment and its amendments to the appreciation and registration by the top member of Government with the highest oversight authority over upper education;
- c) To allocate the appropriate facilities and equipment to the establishment, as well as all the necessary human and financial resources;
- d) To keep a valid insurance contract or allocate enough assets for appropriate coverage for the upkeep of all material and financial resources indispensable to the operations of the upper education establishments;
- e) To appoint and remove officers in the executive board of the establishments;
- f) To approve activity plans and budgets drafted by the departments of the establishments;
- g) To certify their accounts using a certified accountant;
- h) To establish the amount of tuitions and other charges due by students for attending the study programs taught at the establishments, upon consultation with the executive board of the latter;
- i) To hire faculty and researchers following proposals by the president, dean or director of the establishments, upon consultation with the respective scientific or technical-scientific boards;
- j) To hire non-faculty staff;
- l) To request accreditation and registration of study programs, following opinions issued by the scientific or technical-scientific board of the establishment and by the president, dean or director thereof;
- m) To maintain in good conditions of authenticity and security all the academic records of the students who are candidates for registration in the establishments, as well as students already admitted, registrations made, final results obtained in each curriculum unit, equivalencies and recognition of degrees obtained and degrees and diplomas granted with their respective ranking or final qualification.

2. All competencies unique of each instituting entities must be exercised without detriment of the pedagogical, scientific and cultural autonomy of the education establishments, in accordance with the provisions of the articles of organization of the instituting entities and the bylaws of each establishment.

## **Article 15**

### **Implementation System for New Upper Education Establishments**

1. The implementation system has the duration of three school years and may be extended to two more years, counting from the starting of classes.

2. For public upper education institutions, the implementation period will observe the following system:

a) The institutions are governed by provisory statutes approved by the member of Government with the highest oversight authority over upper education;

b) The governance and management departments of the institutions are freely appointed and exonerated by the member of Government with the highest oversight authority over upper education.

3. For the organic units of private upper education institutions, the implementation period will observe the following system:

a) The institutions are governed by provisory statutes approved by the general board of each institution;

b) The governance and management bodies of the institutions are freely appointed and exonerated by the president or dean of each institution.

4. The services of the Ministry in charge of upper education ensure special tracking of the institutions under implementation by drafting and submitting annual reports to the member of Government with the highest oversight authority over upper education.

5. During the implementation period, all upper education institutions benefit from the provisions of article 21.

6. The implementation regime may cease at any time:

a) In public upper education institutions, following the approval of the respective statutes drafted according to the provisions of this law, and when the departments of the institutions start operations under their provisions;

b) In private upper education institutions, by order of the member of Government with the highest oversight authority over upper education, given as a response to a documented request submitted by the respective instituting entity.

## **Article 16**

### **Requirements of Upper Education Establishments**

1. The creation and operation of upper education establishments are subject to the same set of core requirements, both general and specific, due to the university or polytechnical nature of the institutions, regardless of their public or private status.

2. The following are general requirements for the creation and operation of an upper education establishment:

- a) Offer educational, scientific and cultural programs;
- b) Have the appropriate facilities and material resources, namely the classroom space, equipment, libraries and laboratories necessary for the study programs it intends to provide;
- c) Have a supply of courses that is compatible with its university or polytechnical nature, depending on each case;
- d) Have its own faculty in numbers and with qualification appropriate to the nature of the establishment and the degrees it is entitled to offer;
- e) Ensure the scientific and pedagogical autonomy of the establishment, including scientific and pedagogical direction for the establishment, its organic units, if any, and its study programs;
- f) Ensure the participation of faculty, researchers and students in the governance of the establishment;
- g) Ensure high pedagogical, scientific and cultural levels for the establishment;
- h) Have its own facilities or facilities on long-term leases, as authorized by the ministry in charge of study programs conducive to the granting of academic degrees.
- i) The institution must have and submit a five year financial plan establishing the way in which it intends to accomplish its administrative and academic responsibilities, allocating the costs inherent to referral of students to alternative institutions in the event of closing.

2. All requirements for facilities must be submitted for approval of the member of Government with the highest oversight authority over upper education.

### **Article 17** **Requirements of Universities**

Besides the goals, nature and conditions stated in the law, the following are basic requirements for the creation and operation of universities:

- a) Have at least four *Faculdades* or Departments, two of which must be in the area of sciences;

- b) Be authorized to teach at least six study programs granting Licenciature and, following consolidation and due authorization of the latter, two Masters degree programs and one Doctorate degree program;
- c) Have faculty that satisfies the provisions of this statute;
- d) Have facilities with the features necessary for teaching university courses, as well as libraries and laboratories appropriate to the nature of the study programs;
- e) Develop activities involving teaching and research, as well as creation, diffusion and transmission of culture;
- f) Have, or participate in, research and development centers which are evaluated and recognized, for the areas referred to in line a).

### **Article 18** **Requirements for University Institutes**

Besides the other conditions stated in the law, the following are basic requirements for the creation and operation of university institutes:

- a) Have at least one *Faculdade*;
- b) Be authorized to teach at least three Licenciature programs and following consolidation and due authorization of the latter, one Masters degree program and one Doctoral degree program;
- c) Fulfill the requirements stated in lines (b) and (e) of the previous article.

### **Article 19** **Requirements for Polytechnical Institutes**

The following are basic requirements for the creation and operation of polytechnical institutes, in addition to the other conditions stated in the law including purpose and nature:

- a) Have at least two *escolas* [schools] in different fields;
- b) Fulfill the requirements referred to in lines c) and d) of article 17;
- c) Offer academic programs that grant the diplomas referred to in number 1 of article 20 of the LBE.

### **Article 20** **Requirements for Other Upper Education Establishments**

1. Educational establishments authorized to offer at least one Licenciature program and one Masters program can be created as other upper education establishments.
2. Educational establishments authorized to offer at least one program that grants the diplomas referred to in number 1 of article 20 of the LBE can be created as other upper education establishments.
3. All upper education establishments referred to in the previous numbers must comply with the other requirements applicable to universities or polytechnical institutes, depending on their nature.

**Article 21**  
**Institutions Under Implementation Regime**

1. During their implementation periods, the universities, university institutes and polytechnical institutes:
  - a) Must offer at least half of the set of programs referred to in the previous numbers;
  - b) In regards to the provisions in line f) of article 17, their only restriction will be the participation in duly ranked and recognized research and development centers.

**CHAPTER III**  
**FACULTY**

**Article 22**  
**Faculty at University Education Establishments**

The faculty of university education establishments must satisfy the following requirements:

- a) For each study program, fulfill the requirements established in a special law for purposes of accreditation;
- b) Have an appropriate number of career professors with Ph.D. titles in its teaching and research staff to teach and conduct research, under any title, at the institution;
- c) For the purposes of the previous item, the establishment may resort to professors and researchers with at least a Masters academic degree until there are Ph.D. professors or researchers available;
- d) At least half of the graduate level faculty staff must work on a full time basis.

**Article 23**  
**Faculty at Polytechnical Establishments**

1. The faculty of polytechnical education establishments must satisfy the following requirements:

- a) For each study program, fulfill the requirements established in a special law for the purposes of accreditation;
- b) Have at least one faculty staff with a specialist title performing any teaching activity, under any title, at the institution;
- c) At least 10% of the faculty performing any teaching activity under any title at the institution must have a Masters degree or equivalent on a full time basis; additionally, at least 35% must have specialist titles.

2. The majority of faculty staff who have specialist titles must develop a professional activity in the field in which their titles were granted.

**Article 24**  
**Title of Specialist**

1. The title of specialist is granted within the scope of polytechnical education in conformity with terms to be established in a special statute.

2. The title of specialist ensures the quality and special relevance of professional curricula in specific fields.

**Article 25**  
**Tenure of Faculty and Research Staff**

In order to ensure their scientific and pedagogical autonomy, upper education institutions must have a permanent staff of professors and researchers who benefit from a reinforced statute of employment stability with scope and terms established in the statutes of teaching and scientific research careers.

**Article 26**  
**Accumulation and Incompatibility of Faculty Staff**

1. Faculty working full time at public upper education establishments may, when authorized by their respective institutions, accumulate teaching activities at another upper education establishment, up to a limit established in this statute and their respective career statutes.

2. Faculty working at private upper education establishments may, under the terms provided in their respective career statutes, accumulate teaching activities at another upper education establishment, up to a limit established in this statute and their respective career statutes.

3. The accumulation of teaching activities in private upper education institutions by faculty of another upper education institutions, either public or private, is not conditioned to notice to the following entities, besides the other conditions provided in the law:

a) Notice from the faculty member to the competent departments of the upper education establishments;

b) Notice from the upper education institutions to the Service of the Ministry in charge of upper education.

4. Public and private upper education institutions may enter protocols of cooperation to allow accumulation of faculty activities under the terms and within the limits of the previous numbers.

5. The full time faculty staff of one public upper education institution cannot serve on any boards of another upper education institution, but can serve as directors on scientific, technical-scientific or pedagogical boards of another upper education institution.

#### **Article 27**

#### **Faculty Staff at Private Upper Education Establishments. Equalization.**

1. Within the scope of the educational establishments for which they work, the faculty of private upper education must be ensured careers that are equalized to the careers of the faculty of public upper education.

2. The faculty staff of private upper education establishments must hold the same qualifications and degrees legally required for the exercise of activities within the respective category in public upper education.

### **CHAPTER IV**

#### **MERGER, SPIN-OFF OR DISSOLUTION AND TRANSFER OF UPPER EDUCATION INSTITUTIONS**

#### **Article 28**

#### **Streamlining of Public Upper Education**

1. The State must promote the streamlining of the public upper education institution network and the programs offered by said network.

2. Network streamlining measures may include, namely, the creation, consolidation, integration, spin-off or dissolution of upper education establishments, as well as

alterations in the number of new admissions or maximum number of students and the creation, suspension or termination of study programs.

3. Public upper education institutions are dissolved by *decreto-lei*, following a review of the evaluation results and upon consultation with the departments of the institution in question, as well as the entities representing the public upper education establishments and other legally competent entities.

4. Public upper education establishments may also be consolidated, integrated or separated, under the same terms.

5. The *decreto-leis* involving dissolution, consolidation, integration or spin-off will take into consideration, with the applicable adaptations, the principles established by the general rules applicable to this matter, and establish the measures to safeguard the following:

- a) The rights of the students;
- b) The rights of the staff, under the terms of the law;
- c) The document files of the institution.

#### **Article 29**

#### **Voluntary Closing of Private Upper Education Establishments**

1. The instituting entities of private upper education establishments may effect the closing of the educational establishments or cessation of the teaching of study programs under the terms of this statute.

2. All decisions referred to in the previous number must include appropriate measures to protect the interests of the students, which are the entire responsibility of the instituting entities and are subject to approval by the member of Government with highest oversight authority over upper education.

#### **Article 30**

#### **Consolidation, Integration or Transfer**

1. Private upper education establishments may be consolidated, integrated or transferred by decision of the respective instituting entities.

2. The dissolution of the instituting entity implies in the closing of the respective educational establishments and the study programs, except in the cases when the establishments are transferred to another instituting entity.

3. The closing of an educational establishment in the scope of the situation referred to in the previous number is ordered by an official letter by the member of Government with



the highest oversight authority over upper education and published in *Jornal da República*.

4. The transfer implies verification of fulfillment of the necessary requirements by the new instituting entity.

### **Article 31 Documentation**

1. The fundamental documentation of a private upper education establishment that has been closed is to be kept at the respective instituting entity, except in the following cases:

- a) If the closing results from the dissolution of the instituting entity for a period of five years;
- b) If circumstances related to the operations of the instituting entity recommend it.

2. In the cases foreseen in lines a) and b) of the prior number, the member of Government with the highest oversight authority over upper education determines which entity will be responsible for the respective fundamental documentation.

3. For the purposes of this article, fundamental documentation is understood as the documents corresponding to the certification of all teaching and administrative activities developed, namely books containing minutes of executive boards, accounting records, faculty employment contracts, faculty service records, transcript books and proceedings involving students.

### **Article 32 Creation, Transformation, Spin-Off, Consolidation and Dissolution of Organic Units**

1. The creation, transformation, spin-off, consolidation and dissolution of any organic units of an upper education institution are the responsibility of the following:

- a) The general board or equivalent designation of an entity that translates the decision power, in the case of public educational establishments;
- b) The instituting entity, in the case of private educational establishments, upon consultation with the divisions of the establishment.

2. The creation, transformation, spin-off, consolidation and dissolution of any units of public upper education establishments are subject to prior authorization by the member of Government with the highest oversight authority over upper education.

3. The creation, transformation, spin-off, consolidation and dissolution of any organic sub-units of an upper education institution have to follow the terms established by the statutes.

## **CHAPTER V STUDY PROGRAMS**

### **Article 33**

#### **Creation, Accreditation, Registration of Study Programs and Degrees**

1. Upper education institutions have the right to create study programs intended to grant academic degrees.
2. The competency to create study programs intended to grant academic degrees belongs with:
  - a) In public upper education institutions, the president, upon consultation with the scientific or technical-scientific board and the pedagogical council;
  - b) In private upper education institutions, the instituting entity, upon consultation with the president, dean or director, scientific or technical-scientific board and pedagogical council.
3. All study programs intended to grant academic degrees will first have to be accredited by an entity in charge of Evaluation and Accreditation for Upper Education Quality Assurance, to be created by a specific statute, and registration.
4. The method for accreditation and registration of study programs must be applied to all upper education institutions as a whole, with distinctions made for Licenciature, Masters and Ph.D. programs and the nature of each program, namely university or polytechnical.
5. The request for registration of study programs will follow the submittal of a petition duly documented with the terms established by the Service of the Ministry in charge of upper education.
6. The registration of a study program implies in recognizing with general validity the degree or degrees granted.
7. Without detriment to the provisions of the previous number, the upper education institutions must submit the degree lists before the Ministry Service in charge of upper education and the latter will be valid from the date of their publication in *Jornal da República*.

### **Article 34**

#### **Quantitative Limitations**

1. The maximum annual number of new admissions, as well as the maximum number of students that can be registered for each study program in each school, are established by the upper education institutions annually and in advance, taking into consideration the resources of each, namely the ones related to faculty staff, facilities, equipment and financial means.
2. The figures referred to in the previous number are subject to the limits resulting from the legal criteria established for operations of educational establishments and for accreditation of study programs, including limits that may be established at the act of accreditation.
3. In the case of public upper education institutions, the figures referred to in number 1 are also subject to the general guidelines established by the member of Government with the highest oversight authority over upper education, upon consultation with the entities representing the institutions, taking into consideration, namely, the streamlining of the supply of educational programs, federal policies for human resources training, and available resources.
4. Upper education institutions must report to the member of Government with the highest oversight authority over upper education, on an annual basis, the figures they have established for Licenciature and integrated Masters programs under the provisions of the previous numbers, accompanied by their respective justification.
5. Failure to submit explicit and sufficient justification for the established figures, violation of the applicable legal standards or failure to follow the general guidelines established under the provisions of no. 3 may result in alterations in the amounts referred to in the previous numbers by way of an order issued by the member of Government with the highest oversight authority over upper education and published in *Jornal da República*.
6. The ministry in charge will then release the figures established for the Licenciature and integrated Masters programs.
7. Transferring the amounts established under the provisions of the previous numbers between upper education institutions is not allowed.

**CHAPTER VI**  
**MANAGEMENT PRINCIPLES FOR PUBLIC UPPER EDUCATION**  
**ESTABLISHMENTS**

**Article 35**  
**Organization and Management Regulated by Statutes**

1. Public upper education institutions may adopt under the law whatever institutional organization and management models they deem most appropriate for the achievement of their mission and the specificity of the context in which they operate.

2. Public upper education institutions enjoy statute-based autonomy while complying with the provisions of this law.

3. The articles or organization must define the mission of the institution and take into account its nature and the terms of its organizational documents, if any, and include all the fundamental standards of its internal organization and operations from the scientific, pedagogical, disciplinary, financial and administrative perspectives, while observing the provisions of this law and other applicable standards.

4. The statutes must regulate the following, specifically:

a) The powers of the institution;

b) The framework of its governance and management sectors, composition and modes of elections or designation of members, term duration and modes of cessation;

c) The competencies of its different departments;

d) The autonomy regime of its basic units and respective departments.

5. Upon their creation, public upper education establishments are assigned provisory statutes which are approved by an order issued by the member of Government with the highest oversight authority over upper education and are intended to be effective during the implementation period.

### **Article 36**

#### **Confirmation and Publication of Statutes**

1. The statutes and its amendments are subject to government confirmation, which is granted or refused within a period of 60 days by order of the highest level member of Government in charge of upper education.

2. The confirmation affects the legality of the statutes and its amendments and any refusal must be justified by evidence of failure to observe the Constitution or the legislation or failure to conform the drafting process to the provisions of this document or the statutes themselves.

## **CHAPTER VII**

### **FORMS OF AUTONOMY**

#### **Article 37**

##### **Academic Autonomy**

1. Public upper education establishments enjoy cultural, scientific, pedagogical and disciplinary autonomy under the provisions of the law.

2. Schools and research units also enjoy academic autonomy, namely scientific and pedagogical autonomy under the terms of the statutes of the institution to which they belong, as well as their own statutes.

### **Article 38**

#### **Cultural Autonomy**

Cultural autonomy grants to institutions the ability to define their qualification programs and cultural initiatives.

### **Article 39**

#### **Scientific and Pedagogic Autonomy**

1. Scientific autonomy grants to public upper education institutions the ability to establish, schedule and execute research and other scientific activities without detriment of the proceedings related to public financing of research.

2. Pedagogical autonomy grants to public upper education institutions the ability to draft study plans, define objectives for curriculum units, establish teaching methods, affect resources and select learning evaluation processes, while providing intellectual freedom to teachers and students for the processes of teaching and learning.

### **Article 40**

#### **Disciplinary Autonomy**

1. Without detriment of the competencies of the *Comissão da Função Pública* created by Law no.7/2009 of July 15, disciplinary autonomy grants to all public upper education institutions the power to punish or promote the punishment, under the terms of the law and by-laws, for any disciplinary violations practiced by faculty, researchers and other employees or agents, as well as by students.

2. The following constitute disciplinary violations by students:

a) Negligent violation of any of the duties foreseen in the law, by-laws and regulations;

b) Practice of acts of violence or physical or psychological coercion on other students, namely within the scope of "*praxes académicas*" [student initiation rituals or traditions].

### **Article 41**

#### **Financial Autonomy**

1. Under the terms of the provisions of article 6, number 4, line f), the financing of public upper education establishments by the State Budget, as well as the mode for establishing tuition for the same institutions, are the object of a separate statute, while conforming to the following principles:

- a) Public upper education institutions enjoy financial autonomy under the terms of the law and its regulations and are free to manage their financial resources according to their own criteria, including the annual allocations assigned to them in the State Budget;
- b) They are free to draft and execute their own budgets;
- c) They liquidate and collect their own revenues;
- d) They authorize expenses and make payments.

2. The budgetary regime for public upper education establishments must observe the following rules:

- a) Reliability of revenue and expenses forecasts certified by the *fiscal único* [single inspector];
- b) Consolidation of the budget and accounts of the institution and its basic units;
- c) Efficiency in the use of available financial resources;
- d) Obligation to communicate all provisional management and accountability instruments to the minister responsible for finances and to the minister in charge of upper education;
- e) Subject to inspection by the minister responsible for finances;
- f) Public upper education institutions are subject to the provisions of the law as they relate to a balanced budget and discipline in public accounts.

For the purposes of budgetary transparency, it is a duty of all public upper education institutions to provide their information to the State, thus ensuring budgetary stability and mutual solidarity, as well as to provide information to the community about their financial status in an accessible and rigorous manner.

4. Organic units that enjoy financial autonomy are subject to inspection by the financial inspection department of their own institution.

## **Article 42**

### **Financial Autonomy**

1. Public upper education establishments enjoy *autonomia patrimonial* [proprietary autonomy].
2. The property of each public upper education institution is the entirety of assets and rights transferred to it by the State or by other entities, either public or private, for the accomplishment of its purposes, as well as all assets acquired by the institution itself.
3. The following constitute property of public upper education establishments:
  - a) Real properties acquired or built by the establishment;
  - b) Real properties of the private domain of the State that have been legally transferred to the estate of the establishment.
4. Public upper education institutions may administer assets of public or private domain of the State or another territorial collectivity that may have been granted to them by the owner, under the conditions foreseen in the law and any protocols executed with those entities.
5. Public upper education establishments can acquire and lease land or buildings indispensable to their operations, under the terms of the law.
6. Public upper education institutions can freely dispose of their property under the limitations established in this statute, in the general law and in their bylaws.
7. The alienation, exchange and encumbrance of any property or granting of surface rights will be subject to authorization in the form of a joint order issued by the minister responsible for finances and the member of Government with the highest oversight authority over upper education.
8. Any real estate included in the property of non-university public upper education establishments which is no longer necessary for the fulfillment of the responsibilities and competencies of the institution is, except in cases when the real estate was built or acquired with its own revenue exclusively or with gifts, incorporated to the property of the State by way of a joint order issued by the minister responsible for finances and the member of Government with the highest oversight authority over upper education, upon consultation with the institution.
9. Public upper education institutions must keep inventory of all its property, as well as registration of all assets of the public or private domain of the State under their care.

### **Article 43** **Administrative Autonomy**

1. Public upper education institutions enjoy administrative autonomy and their acts are subject to judicial challenge only, except in the cases foreseen in the law.

2. As institutions with administrative autonomy, public upper education establishments can:

- a) Issue regulations in cases foreseen in the law and its statutes;
- b) Practice administrative acts;
- c) Execute administrative contracts, under the terms of the law.

#### **Article 44**

#### **Autonomy of Private Upper Education Establishments**

1. Private upper education establishments enjoy cultural, scientific and pedagogical autonomy.
2. The provisions in articles 37 through 43 are applicable to private upper education establishments, with the due adaptations.
3. As far as disciplinary autonomy, the institutions draft the necessary regulations, in accordance with the principles and procedures established in the applicable legislation.
4. Each upper education establishment must also establish procedures and sanctions of a disciplinary nature in their student regulations.

### **CHAPTER VIII**

### **INSPECTION AND OVERSIGHT**

#### **Article 45**

#### **Evaluation and Accreditation of Upper Education Establishments**

1. Upper education establishments must create regular self-evaluation mechanisms within the scope of their statutes in order to evaluate their performance.
2. Upper education establishments and their organic units, as well as their respective pedagogical and scientific activities, are subject to the national accreditation and evaluation system, under the terms of the law, and must fulfill their legal obligations and cooperate with the competent jurisdictions.

#### **Article 46**

#### **Inspection**

1. Upper education establishments are subject to the inspection and oversight powers of the State, in general, and must cooperate faithfully and promptly with the competent jurisdictions.



2. Upper education establishments are also subject to inspection by the Ministry with oversight authority.

3. All inspection reports must be notified to the educational establishment and, in the case of private educational establishments, to the instituting entity.

#### **Article 47 Oversight**

1. The power of oversight over upper education institutions is exercised by the Ministry with oversight authority taking into consideration, fundamentally, compliance with the law and protection of the public interest.

2. Besides the specific powers foreseen in this statute, the oversight authority is also responsible for the following:

a) Acknowledging and deciding the appeals filed in accordance with specific legal provisions;

b) Practicing other acts foreseen in the law;

c) It is also the responsibility of the member of Government with the highest oversight authority over upper education to call elections for the departments of upper education institutions, as well as to start the proceedings for electing the president if the competent departments fail to do it in due time.

3. In the event of situations of serious institutional crisis in public institutions that cannot be resolved within the context of their autonomy, the Government, by way of a justified order issued by the member of Government with the highest oversight authority over upper education, upon consultation with the top authority in the establishment, may intervene in the institution and take the appropriate measures, including suspension of statutory authorities and appointment of an independent individual for managing the institution to the extent and for the amount of time strictly necessary to resume institutional normalcy and reconstitute self-government as promptly as possible in the institution.

4. The intervention cannot affect the cultural, scientific and pedagogical autonomy of the institution or challenge the academic freedom or the freedom to teach and to learn within the institution.

#### **Article 48 Compulsory Closing**

1. The following will be causes for compulsory closing of upper education institutions by determination of the Government:

- a) Failure to comply with the requirements necessary for operations;
  - b) In the case of private upper education establishments, the absence of any of the postulations for recognition as institutions of the public interest;
  - c) Seriously negative institutional evaluation;
  - d) Serious institutional or pedagogical degradation in the conditions of operation.
2. The procedures for closing are accompanied by the competent services of the ministry with oversight authority and take place with an order issued by the member of Government with the highest oversight authority over upper education and published in *Jornal da República*, establishing the conditions and deadlines for said procedures.
3. The ministerial decision must be preceded by consultation to the parties responsible for the educational establishment and, in the case of private establishments, of the instituting entity, under penalty of nullity.
4. The compulsory closing of educational establishments can be requested to the administrative and law enforcement authorities, with a notice about the corresponding order.
5. Compulsory closing may also be determined in the case of one basic unit or authorized study program found to be in one of the situations foreseen in no. 1.

#### **Article 49** **Preventive Measures**

1. In the event of failure to comply with the provisions of this law on the part of the institutions or in the event of serious disturbance in the operations of the educational establishments, the member of Government with the highest oversight authority over upper education may do the following:
- a) Forward a formal warning to the institution or the instituting entity, accompanied or not by a date established for normalization of the situation;
  - b) Establish the temporary suspension of operations of study programs;
  - c) Suspend school activities for a period of time not to exceed three months.

#### **Article 50** **Liability for Damages and Violations**

1. Upper education institutions are responsible for property damage caused to third parties by its officers, employees and agents, under the terms of the law, without detriment of academic and scientific freedoms.

2. Officers, employees and agents of public upper education establishments are subject to civil, disciplinary, financial and criminal liability for any violations committed by them under general terms.

## **CHAPTER IX TRANSPARENCY**

### **Article 51 Annual Report**

Upper education institutions approve and publish a consolidated annual report on their activities, accompanied by opinions and determinations of their competent agencies, accounting for the following, specifically:

- a) Degree of compliance with strategic and annual plans;
- b) Achievement of established objectives;
- c) Efficiency of administrative and financial management;
- d) Progress in equity and financial status and sustainability of the institution;
- e) Faculty and non-faculty changes;
- f) Evolution of admissions and attendance to study programs;
- g) Academic degrees and diplomas granted;
- h) Employability of graduates;
- i) Internationalization of the institution and number of foreign students;
- j) Outreach activities and established partnerships;
- l) Self-evaluation and external evaluation procedures and its results.

### **Article 52 Accounts**

1. Public upper education institutions must submit a report every year with the consolidated accounting of all its basic units.

2. The report referred to in the previous number must include a description and explanation of all cost structures, specification of the different teaching and research

activities for the various types of careers, so as to ensure the best practices in accounting and registratino of the cost structure of teaching and research establishments.

### **Article 53** **Data Availability**

1. All upper education establishments will make available in their websites all the data relevant for public knowledge about the offerings of the institution, including study programs, degrees granted, research conducted and services provided.

2. The data made available online must include the self-evaluation and external evaluation reports of the institution and its basic units, as well as its study programs, and mention the following:

- a) The accurate contents of all authorizations for operation of study programs and official approval of degrees;
- b) Mission and objectives of the educational establishment;
- c) Bylaws and regulations;
- d) Basic units;
- e) Study programs in operation, degrees granted and curriculum structure;
- f) Names of faculty, their employment regime and service provision regime;
- g) School evaluation regime;
- h) Accreditation titles and results of evaluation of the institution and its study programs;
- i) Rights and duties of students, including all tuition and fees payable by students;
- j) Social services offered;
- l) Learning and failure indexes, as well as employability per study program;
- m) Other data foreseen in the law or statutes.

### **Article 54** **Effective Date**

This statute will be in effect on the day following its publication in *Jornal da República*.

Approved at the Council of Ministers on March 17, 2010.

Publication ordered.

The Prime Minister.

**Kay Rala Xanana Gusmão**

The Ministry of Education

**João Cândia Freitas, Ph.D.**

Enacted on 4/ 20/2010.

Publication ordered.

The President

**José Ramos Horta**