

## **LAW No. 3/2010**

**of 21 April**

### **LAW ON NATIONAL DEFENCE**

#### **Preamble**

The current international and internal situation has created new challenges to the State in matters of National Defence. This has been the case especially since 11 September 2001 and, in Timor-Leste, after the events of 11 February 2008. On the one hand, the responsibilities bestowed upon it are not limited to the defence of its constituent elements. On the other hand, the activities in such domain are increasingly and more strictly regulated, both domestically and on the international scene. Hence, the goal of National Security in Timor-Leste is the protection of the characteristic elements of the State. In the light of lessons learned from the past, the Law on National Defence (*Lei da Defesa Nacional*) and the Law on Internal Security (*Lei da Segurança Interna*) have set as their primary goals the defence of the territory's wholeness, the security of the people and the sovereignty of political power. The Integrated System for National Security (*Sistema Integrado de Segurança Nacional*) provides for the joint deployment and operation of forces and services in these two realms, thus distancing itself from the traditional distinction between "National Defence" and "Internal Security" that would supposedly address external and internal threats, respectively. Although external threats are not National Defence's exclusive domain of activity, they are still its preferential realm of intervention, especially bearing in mind the provisions of article 146 of the Constitution of the Democratic Republic of Timor-Leste (CDRTL).

Any new regulatory framework for matters pertaining to National Defence will have to take into consideration the pre-existing regulations which will affect it. The laws that regulate the system of collective security, and especially the UN Charter, determine to a large extent the circumstances under which the authorities may resort to war (*ius ad bellum*) in order to defend the State of Timor-Leste. International law also includes a range of provisions that regulate the conduct of parties in conflicts and are aimed at protecting people and their assets affected by armed conflicts (*ius in bello*). The CDRTL reflects the openness and willingness to accept into the internal legal system the principles enshrined in international law, which is indeed one of the main characteristics of the Democratic Republic of Timor-Leste (DRTL) that was restored on 20 May 2002. It is such an approach that underpins, for instance, the provision that foresees the deployment of F-FDTL as part of the commitments undertaken by the State of Timor-

Leste in matters of collective security whenever the founding covenants or treaties so require.

Attention must also be paid to the internal situation in Timor-Leste and to existing laws and regulations pertaining to National Defence, namely those that concern the specific powers and responsibilities of each of the organs of the State of Timor-Leste in matters of National defence and that it is not necessary to reproduce herein. Again, the existing provisions regarding the organisation of the forces that are responsible for carrying out the functions of the State in matters pertaining to National Defence must be taken into account. This is especially the case with regard to the Armed Forces of Timor-Leste (FALINTIL-FDTL) and the scope of their interventions, namely in matters that are not strictly military and under circumstances deemed to be exceptional by the Constitution.

Thus, the National Parliament, pursuant to article 95(2)(o) of the Constitution of the Democratic Republic of Timor-Leste, enacts the following that shall have the force of law:

## **CHAPTER I GENERAL PROVISIONS**

### **Article 1 National Defence**

The State of Timor-Leste guarantees national independence, the wholeness of its territory and the freedom and security of the communities living in it from any external aggression or threat, pursuant to the Constitution.

### **Article 2 Characteristics of National Defence**

1. National Defence is the activity undertaken by the State of Timor-Leste and its citizens aimed at ensuring national independence, the wholeness of the national territory and the freedom and security of the communities living in it from any external aggression or threat in accordance with the Constitution, the laws and the international treaties, accords and covenants that are in force.
2. National Defence is an integrated, multi-sectoral, multi-disciplinary and inter-ministerial activity involving all organs and collective bodies, especially the Armed Forces of Timor-Leste, FALINTIL - *Forças de Defesa de Timor Leste* (F-FDTL), but without prejudice to other powers and responsibilities assigned by law to other entities, as well as the citizens of the State.

### **Article 3 General Principles**

1. The activities of National Defence shall guarantee national sovereignty, in particular an independent definition of a National Defence Policy (*Política de Defesa Nacional*) and of the country's strategic objectives.
2. National Defence activities shall be pursued in the service of communities, and shall be subject to the Constitution and the laws, under the guidance of democratically-elected sovereign bodies.
3. In defending its sovereignty, the State shall respect human rights and the rights of peoples, the fundamental rights, freedoms and guarantees of national and foreign citizens.
4. National Defence activities shall be pursued in compliance with the principles and standards of international law in force in Timor-Leste, namely with regard to the multilateral system of collective security and the regional and bilateral commitments undertaken by the State.
5. The activities of the State pertaining to National Defence are aimed at preventing and deterring threats. The use of force shall always be secondary to the use of diplomatic means, negotiation and arbitration to achieve a peaceful resolution of any dispute or conflict, and preference shall always be given to the employment of non-lethal weaponry.
6. Resorting to war shall always be secondary to any other possible measure, including negotiation, arbitration and conciliation, to address and find a solution to any international issue or conflict and only in cases of legitimate defence against and effective or imminent aggression.
7. In the pursuit of National Defence, the Democratic Republic of Timor-Leste shall employ the necessary and proportionate means, both within and outside its territory, exclusive economic zone or adjacent sea bed, and also in the air space under its responsibility, while abiding by the provisions of international law.
8. The pursuit of National Security in the framework of collective defence alliances shall value, in particular, the employment of the Defence and Security Forces and of Civil Protection agents in crisis management missions, peace-keeping missions and humanitarian missions, namely in the framework of regional security and cooperation organisations and the United Nations.
9. When undertaking National Defence activities, the State shall abide by the principle of proportionality, causing the least suffering possible to achieve its aims.

10. All citizens have a fundamental duty to take part in National Defence activities, pursuant to the Constitution and the law.

#### **Article 4 Principle of Exclusivity**

1. It shall be exclusively incumbent upon the F-FDTL to provide the military component of National Defence. The F-FDTL shall guarantee the military defence of the DRTL pursuant to article 146 of the Constitution, and any armed associations and military or military-type associations shall be forbidden.
2. The non-military components of National Defence shall be guaranteed by all the organs and collective entities of the State, within the scope of their respective responsibilities, powers and functions, and in accordance with the Constitution, this law and other legislation that is in force.
3. The F-FDTL will take part in the Integrated System for National Security to provide integrated responses to the threats to national security, in particular to the sovereignty and independence of political power, the wholeness of and control over the national territory and the country's natural resources and the security of communities.

#### **Article 5 Civilian-military cooperation**

1. The F-FDTL shall develop specific capabilities for civilian-military cooperation that will allow for integrated responses to risks and threats to National Security, namely providing support and assistance to communities.
2. The aforementioned capabilities shall be put to use, in times of peace, to support the social and economic development of communities and, during a crisis, namely in the aftermath of a natural catastrophe or serious disturbance of law and order, they will contribute to its more effective resolution.
3. The F-FDTL shall support the implementation of the foreign policy of the State of Timor-Leste, namely by taking part in humanitarian missions in the framework of organisations of which the Democratic Republic of Timor-Leste is a member.

#### **Article National Warning System**

1. The National Warning System (*Sistema de Alerta Nacional*, SISTALNAC) is a coherent set of civilian and military measures and actions aimed at ensuring the

highest level of preparedness and support to the Armed Forces of Timor-Leste in their crisis-management efforts.

2. The purpose of SISTALNAC is:

- a) To guarantee the survival of the Armed Forces and enable them to carry out their missions;
- b) To heighten the levels of surveillance, preparation and preparedness at times of crises;
- c) To coordinate existing national capabilities to address crises, maximising their potential and goals;
- d) To provide the system with an adequate degree of flexibility that will enable it to respond in an orderly manner to the fluctuating nature of a crisis and the ensuing return to normalcy or the passage to lower levels of preparedness.

3. The SISTALNAC comprises a series of measures that have to be planned and implemented:

- a) Warning measures aimed at obtaining, in an orderly and flexible manner, the degree of preparedness that is commensurate to the crisis;
- b) Counter-surprise measures, which consist of a series of urgent and defensive military measures aimed at guaranteeing the survival of the Armed Forces in the face of an imminent or present risk and the fulfilment of their missions;
- c) Counter-aggression measures, that allow for a transition between preparation and the development of a given level of preparedness and the permission to deploy forces against third countries.

4. The aforementioned measures that make up SISTALNAC, are approved by the Council of Ministers on a proposal from the member of Government who has the Defence portfolio and after seeking the views of the Superior Council for Defence and Security (*Conselho Superior de Defesa e Segurança*) and shall be regulated in the appropriate instances.

## **CHAPTER II NATIONAL DEFENCE POLICY**

### **Article 7 National Defence Policy**

1. The State of Timor-Leste shall develop a coherent set of principles, objectives, guidelines and measures to guarantee National Defense and to fulfil the functions referred to in the articles above.

2. The National Defence Policy shall be drafted bearing in mind the specific powers of every sovereign organ and in accordance with the Constitution and this law. The National Defence Policy shall be part of the Government Programme adopted by the Council of Ministers and submitted to the National Parliament.
3. It is incumbent upon the Government to lead the National Defence Policy, in coordination with and paying attention to the competences of other sovereign organs in Defence matters.
4. The definition and leadership of the National Defence Policy shall take place in accordance with the provisions in the National Security Policy (*Política de Segurança Nacional*), and particular attention shall be given to the required coordination with the measures envisaged in the realms of Internal Security and Civil Protection and to the participation in the Integrated System of National Security.

**Article 8**  
**Characteristics of the National Defence Policy**

1. A National Defence Policy has:
  - a) A permanent character, and is implemented anywhere, at any time;
  - b) A global nature, comprising a military component and non-military components;
  - c) An inter-ministerial scope, since all organs and departments of the State have the duty to promote the necessary conditions for its implementation.
2. The need for National Defence, the duties deriving from it and the major guidelines of the National Defence Policy shall be regularly disseminated to the public and updated.

**Article 9**  
**Permanent objectives of the National Defence Policy**

The national character of the National Defence Policy in the face of any external aggression or threat derives from the following permanent objectives:

- a) To guarantee national independence;
- b) To guarantee the wholeness of the national territory;
- c) To safeguard the freedom and security of communities, as well as the protection of their assets and of the national heritage;

- d) To guarantee the freedom of action of the sovereign organs, the regular operation of democratic institutions and the possibility of carrying out the fundamental tasks of the State;
- e) To contribute to the development of the moral and material capabilities of the national community, so that it may react to or prevent any external aggression or threat using appropriate means;
- f) To guarantee the maintenance or restoration of peace under circumstances that correspond to the national interests.

#### **Article 10**

#### **Strategic Concept of National Defence and Security (*Conceito Estratégico de Defesa e Segurança Nacional*)**

1. The Government shall approve, pursuant to the Constitution and this law, a Strategic Concept of National Defence and Security (*Conceito Estratégico de Defesa e Segurança Nacional*), by means of which the fundamental aspects of the State's global strategy to achieve the objects of the National Defence Policy in the framework of the National Security Policy shall be defined.
2. The Strategic Concept of National Defence and Security shall be adopted by the Council of Ministers on a proposal from the member of the Government who holds the Defence portfolio, and after having sought the views of the Chief of the Defence Force (CEMGFA F-FDTL) and the Superior Council for Defence and Security.
3. Before it is adopted by the organs provided in this law, the Strategic Concept of National Defence and Security shall be discussed and agreed upon with the President of the Republic, in the Superior Council for Defence and Security, and with the National Parliament taking into account their respective powers in this matter.

### **CHAPTER III**

### **SUPERIOR STRUCTURE OF NATIONAL DEFENCE**

#### **SECTION I**

#### **GENERAL PROVISIONS**

#### **Article 11**

#### **Sovereign Organs**

1. The F-FDTL exist to serve the people and are subject to the decisions and guidance of democratic political power. They are strictly non-partisan in accordance with the Constitution, this law and other legislation that is in force.

2. The sovereign organs shall exercise their powers in matters pertaining to National Defence in accordance with the Constitution, this law and other legislation that is in force.
3. In addition to the organs provided in article 11(2), the following organs of the State bear a direct responsibility with regard to the Armed Forces of Timor-Leste (F-FDTL) and the military component of National Defence:
  - a) Superior Council for Defence and Security (*Conselho Superior de Defesa e Segurança*);
  - b) Chief of the Defence Force (*Chefe do Estado-Maior General das Forças Armadas*, CEMGFA);
  - c) Superior Council of Military Defence (*Conselho Superior de Defesa Militar*).

## **Article 12**

### **Organisation of the Superior Structure and Administrative Organisation**

The organisation of the superior structure of National Defence and the Armed Forces shall guarantee and promote its cohesion and specific powers in the defence of the country's sovereignty. The organisation shall be guided by the following three objectives:

- a) To guarantee the necessary skills and capabilities within the Government department responsible for Defence so that it may provide political and strategic guidance; to secure, at this level, the ability to procure resources and to manage them efficiently;
- b) To adapt the structure of the Armed Forces and strengthen its military response capabilities to address current requirements and challenges, new parameters for deployment of the forces and means,
  - i) Internally, supporting the Security Forces and Services in the framework of the Integrated System of National Security,
  - ii) Externally, involvement in multilateral peace-keeping and humanitarian missions in support of the State's foreign policy;
- c) To promote a rational use of structures and resources that will contribute to greater efficacy in the fulfilment of its missions and enhance efficiency of the means being used to such end.

## **Article 13**

### **Administrative Organisation**



National Defence shall be the task of all the organs and collective entities of the State, in particular of those that make up the Integrated System of National Security, as well as other public legal persons, in accordance with the special legislation that shall regulate their organisation and operation.

**SECTION II  
POWERS AND RESPONSIBILITIES OF THE SOVEREIGN ORGANS**

**Article 14  
President of the Republic**

1. The President of the Republic shall have the powers in matters of National Defence that are provided in the Constitution, in this law and in other legislation that is in force, namely:
  - a) To perform the duties of Supreme Commander of the Armed Forces;
  - b) To chair the Superior Council for Defence and Security;
  - c) To promulgate the pieces of legislation and to send for publication the National Parliament's resolutions adopting and ratifying international treaties and conventions;
  - d) To declare war, in case of effective or imminent aggression, and to make peace, on a proposal from the Government, and having sought the views of the Council of State and obtained permission from the National Parliament or, whenever the latter is not in session nor can be summoned immediately, from its Standing Committee;
  - e) To appoint and dismiss the Chief of the Defence Force (CEMGFA) and the Deputy Chief of the Defence Force (Vice-CEMGFA) on a proposal from the Government;
  - f) To declare the state of siege or the state of emergency under the terms provided in the Constitution;
  - g) To lead, in close collaboration with the Government, the negotiations aimed at concluding international agreements in matters of defence and security.
2. The President of the Republic is, *ex officio*, the Supreme Commander of the Armed Forces and has, as such, the following rights and duties:
  - a) The right to take over, in the event of a war and together with the Government, the high command of F-FDTL;
  - b) The right to decide, together with the Government, on the deployment of the F-FDTL;

- c) The right to ratify, whenever it is likely that the Armed Forces will have to resort to force, the rules of engagement that will regulate such use of force and shall be proposed by the member of the Government in charge of National Defence matters and approved by the Council of Ministers;
- d) The right to be informed, by the Government, on the situation of F-FDTL and its members;
- e) The right to consult with the Chief of the Defence Force (CEMGFA) or whoever replaces him;
- f) The right to award military honours and decorations of his/her own accord,;
- g) The right to take the topmost place in the F-FDTL hierarchy;
- h) The duty to contribute to ensure that the F-FDTL remain loyal to the Constitution and the democratic institutions;
- i) The duty to advise the Government about the National Defence Policy.

#### **Article 15 National Parliament**

The National Parliament shall have the legislative and oversight powers in matters of National Defence as are provided in the Constitution and the laws, namely:

- a) To makes laws on matters where it has exclusive competence, pursuant to the Constitution;
- b) To approve, ratify and denounce international law treaties and agreements pursuant to the Constitution, this law and other laws that are in force;
- c) To control and monitor de deployment of the F-FDTL, pursuant to the Constitution, this law and other legislation that is in force;
- d) To elect its representatives on the Superior Council for Defence and Security and other organs provided in the Constitution and the laws;
- e) To grant permission to the President of the Republic to declare war and to make peace;
- f) To define the boundaries of territorial waters, exclusive economic zone and the rights of Timor-Leste over the adjacent seabed;
- g) To adopt legislation on budgetary matters.

#### **Article 16 Government**

1. The Government is the sovereign organ that bears the responsibility for leading and implementing policy in matters of National Defence and is the superior body of the Armed Forces, pursuant to the Constitution and the laws.
2. In matters pertaining to National Defence, it is incumbent upon the Government, in particular:
  - a) To prepare and negotiate international treaties and agreements and to sign, approve, access and denounce those international treaties over which the National Parliament or the President of the Republic do not have exclusive responsibility;
  - b) To submit draft laws or draft resolutions to the National Parliament and to adopt decree-laws;
  - c) To submit proposals to the President of the Republic with regard to declarations of war or the making of peace;
  - d) To submit to the National Parliament and to implement the laws on military programming (*Leis de Programação Militar*);
  - e) To lead the services and activities, both of a civilian and military nature, that are directly administered by the State, and to oversee those services and activities that the State administers indirectly;
  - f) To submit proposals to the President of the Republic with regards to the appointment and dismissal of the Chief of the Defence Force (CEMGFA);
  - g) To decide on civilian or military mobilisation;
  - h) To define and adopt the Strategic Concept of Defence and Security (*Conceito Estratégico de Defesa e Segurança*);
  - i) To define SISTALNAC's rules and mechanisms in the framework of its crisis management responsibilities and to decide on the entry into force of the measures corresponding to its various phases with a view to ensure the preparedness of the Forces;
  - j) To take on any other responsibilities provided in the Constitution and the laws, namely those responsibilities that are related to the Integrated System of National Security.

**Article 17**  
**Prime Minister**

The Prime Minister bears the political responsibility for leading the National Defence Policy. It is incumbent upon him/her, in particular:

- a) To coordinate and guide the activities of all ministers in matters that are related to National Defence;
- b) To take part in the proceedings of the Superior Council for Defence and Security;
- c) To submit a proposal to the Council of Ministers, together with the member of the Government that is responsible for the National Defence portfolio, on the definition of the Strategic Concept of Defence and Security;
- d) To submit a proposal to the Council of Ministers, together with the member of the Government that is responsible for Defence, regarding the appointment and dismissal of the Chief of the Defence Force (CEMGFA), Deputy Chief of the Defence Force (Vice-CEMGFA) and the Commanders of the Components of the Armed Forces (*Comandantes das Componentes*);
- e) To lead the inter-ministerial activities related to the implementation of the National Defence Policy;
- f) To inform the President of the Republic on matters pertaining to the National Defence Policy and its implementation;
- g) In the event of a war, to lead the war effort together with the President of the Republic;
- h) To take on any other responsibilities provided in the Constitution and the laws, namely those that are related to the Integrated System of National Security.

**Article 18**  
**Members of the Government**

1. The member of the Government who holds the portfolio of National Defence bears the political responsibility for designing and implementing the military component of the National Defence Policy, for the management of the F-FDTL and for preparing the military means and resources and the outcome of their employment, as well as for the management of the organs, services and agencies that are dependent upon it, namely:
  - a) To submit to the Council of Ministers proposals on matters that are within the Council of Ministers' purview with regard to the military component of the National Defence Policy;
  - b) To take part in the proceedings of the Superior Council for Defence and Security and to chair the Superior Council for Military Defence;

- c) To establish links between the Government department that bears responsibility for National Defence and the remaining Government departments;
- d) To coordinate and provide guidance to activities related to the fulfilment of military commitments that derive from international agreements, as well as the relations with counterpart ministries and international military organisations, without prejudice to the powers of the Minister for Foreign Affairs;
- e) To adopt and send for publication all the necessary acts to a good implementation of military laws that are not a specific responsibility of the Council of Ministers and other organs;
- f) To adopt a Ministerial Instruction on Military Planning and Defence (*Directiva Ministerial de Planeamento e Defesa Militar, DMPDM*) in the framework of the strategic planning of the forces which determines the Forces' Planning Cycle (*Ciclo de Planeamento de Forças*) and to oversee compliance with it by the Armed Forces;
- g) To guide and draft the budget of the Government department that bears responsibility over National Defence matters, as well as to draft laws on military programming (*Lei de Programação Militar*), and to guide and oversee their implementation, as well as to oversee the management of military assets, without prejudice to the powers assigned to the Minister of Finance;
- h) To design and lead the implementation of the national policy on the procurement of weaponry and other hardware for National Defence;
- i) To direct the activity of all the other organs and services that depend from it;
- j) To submit a draft definition of the Strategic Concept of Defence and National Security (*Conceito Estratégico de Defesa e Segurança Nacional*) to the Council of Ministers and to oversee its implementation;
- k) To seek the views of the Superior Council for Defence and Security on the Strategic Military Concept (*Conceito Estratégico Militar*) and on the missions of the Armed Forces and the System of Forces (*Sistema de Forças*) that is required for those missions to be fulfilled, as proposed by the Chief of the Defence Force (CEMGFA);
- l) To approve the Arrangement of the System of Forces (*Dispositivo dos Sistemas de Forças*) as defined by the Chief of the Defence Force (CEMGFA);
- m) To authorise military training activities and military exercises;

- n) To license any works in areas subject to the military authorities (*servidão militar*);
  - o) To appoint and dismiss those in posts or heading bodies that depend directly upon the Government and whose appointment is not a responsibility of another State organ;
  - p) To approve the appointments to the rank of General, after a decision has been made by the Superior Council for Military Defence.
2. It is also incumbent upon the member of the Government who has the Defence portfolio to monitor the adequate management of the human, material and financial resources at the disposal of the F-FDTL, as well as the correct enforcement of the applicable legislation.
3. The remaining members of the Government are politically responsible for the implementation of the non-military components of the National Defence Policy, within the scope of their respective powers and responsibilities. It shall be incumbent upon them, in particular:
- a) To contribute, within the scope and responsibilities of their respective ministries, to the drafting of the Strategic Concept of National Defence and National Security (*Conceito Estratégico de Defesa Nacional e Segurança Nacional*);
  - b) To lead the activities within their respective ministries that somehow have a bearing on the implementation of the National Defence policy;
  - c) To investigate and prepare the adaptation of their services to situations of war or crises;
  - d) To lead the involvement of their services and staff in the mobilisation and civil protection effort;
  - e) To deal with the National Defence tasks that may be assigned to them by preparing and employing the resources that depend upon them.

**Article 19**  
**Superior Council for Defence and Security**

1. The Superior Council for Defence and Security is the President of the Republic's advisory body on matters pertaining to defence and sovereignty.
2. While exercising its advisory functions, and without prejudice to any other provisions in the law, it is incumbent upon the Superior Council for Defence and Security to issue opinions on the following matters:

- a) National Defence Policy;
  - b) General guidelines of the Strategic Concept of National Defence and Security (*Conceito Estratégico de Defesa e Segurança Nacional*) and Strategic Military Concept (*Conceito Estratégico Militar*);
  - c) Accession to international conventions of a military nature;
  - d) Legislation related to the organisation of National Defence and the definition of the duties associated with it as well as the organisation, operation and discipline of the F-FDTL;
  - e) Laws on military programming (*Leis de Programação Militar*) and key defence infrastructures;
  - f) Conditions for the deployment of the F-FDTL in the event of a State of Siege or State of Emergency;
  - g) Strategic Military Concept (*Conceito Estratégico Militar*) and definition of the specific missions to be assigned to the F-FDTL, the System of Forces (*Sistema de Forças*) that is required to fulfil such missions, on a proposal from the member of the Government overseeing National Defence matters and based on a project submitted by the Chief of the Defence Force (CEMGFA);
  - h) Measures to be taken in the event of an alert, mobilisation and war;
  - i) Proposals regarding the appointment and dismissal of generals and other high-ranking officers to the posts referred to in this law;
  - j) To perform, in times of war, the functions and roles provided in this law.
3. The opinions of the Superior Council for Defence and Security shall not be published, unless the Council itself decides otherwise.
  4. The Superior Council for Defence and Security shall be chaired by the President of the Republic and should include civilian and military representatives, with a larger number of civilian representatives.
  5. The composition, organisation and proceedings of the Superior Council for Defence and Security shall be regulated by a specific legal instrument.

## **Article 20**

### **Superior Council for Military Defence**

1. The Superior Council for Military Defence (*Conselho Superior de Defesa Militar*) is the main military advisory body of the member of the Government who is responsible for matters pertaining to National Defence. The Superior Council for Military Defence comprises:

- a) the Chief of the Defence Force (CEMGFA);
  - b) the Deputy Chief of the Defence Force (Vice CEMGFA);
  - c) the Chief of Staff of the Armed Forces (*Chefe de Estado-Maior das Forças Armadas*);
  - d) the Commanders of the Components of the Armed Forces (Land Force, Light Naval Force, Air Support, Training and Support Services)
  - e) the member of the Government who is responsible in matters pertaining to National Defence;
  - f) other entities that may be invited to take in the proceedings of the Council whenever topics in which they are experts are to be discussed.
2. The Superior Council for Military Defence shall meet whenever convened by the member of the Government who is responsible for matters pertaining to National Defence. The organisation and proceedings of the Superior Council for Military Defence shall be regulated by a specific legal instrument.
  3. It is incumbent upon the Superior Council for Military Defence to issue opinions, whenever so required by the member of the Government who is responsible for matters pertaining to National Defence, on matters that are within the scope of the Government's competences in National Defence.

## **CHAPTER IV STRATEGIC PLANNING OF THE FORCES**

### **Article 21 Ministerial Instruction on Military Planning and Defence**

1. The Ministerial Instruction on Military Planning and Defence (*Directiva Ministerial de Planeamento e Defesa Militar*, DMPDM) defines the guidelines of Strategic Military Planning in the pursuit of Military Defence. Such guidelines shall be defined for a particular time frame and shall consider the objectives to be achieved and the existing functional constraints, as well as the threats and risks of the strategic environment.
2. The Ministerial Instruction on Military Planning and Defence is approved by the member of the Government that is responsible for matters pertaining to Defence and shall be the key reference for the F-FDTL regarding its Force Planning Cycle (*Ciclo de Planeamento de Forças*).
3. A DMPDM, as defined in the framework of the Force Planning Cycle shall:



- a) Guide Strategic Military Planning, setting it against the backdrop of National Defence Strategic Planning;
- b) Define the objectives to be achieved in the military component of National Defence,
- c) Be the main reference in the Forces Planning Cycle, leading to the definition of the "Objectives of the Force" (*Objetivos de Força*) through the presentation of "Proposals regarding the Force" (*Propostas de Força*) and the approval by the National Parliament of the programmes for their funding and implementation;
- d) Keep the investment priorities updated by adopting an integrated approach to the material and human resources of the F-FDTL that will allow the force to evolve, while keeping in mind the capabilities of a System of Forces that has to be credible and effective in fulfilling its missions.

## **Article 22 Strategic Military Concept**

1. In order to fulfil the military dimension of the Strategic Concept of National Defence and Security, the Chief of the Defence Force (CEMGFA) shall draft a Strategic Military Concept (*Conceito Estratégico Militar*).
2. The Strategic Military Concept shall be approved by the member of the Government who is responsible for National Defence matters, on a proposal from the Chief of the Defence Force and having sought the views of the Superior Council for Defence and Security.

## **Article 23 Missions of the Armed Forces**

1. The general mission of the Armed Forces, pursuant to the Constitution, is to ensure the military defence of the country against any external aggression or threat, taking into consideration their nature or the way in which they may manifest themselves.
2. Besides the aforementioned general mission, the F-FDTL can fulfil the international commitments of the country in military terms, by taking part in humanitarian and peace-keeping missions and in technical-military cooperation initiatives.
3. The F-FDTL are part of the Integrated System of National Security and, in accordance with the law, support the civilian authorities in Civil Protection missions and in tasks related to the fulfilment of the basic needs and improvement of the living conditions of communities, including in situations of public calamity that do not warrant the suspension of constitutional rights.

4. The specific missions of the F-FDTL which derive from the aforementioned missions drafted by the Chief of the Defence Force (CEMGFA) are approved by the member of the Government with responsibility for matters pertaining to National Defence having sought the views of the Superior Council for Defence and Security.

#### **Article 24** **System of Forces and their Arrangement**

1. The System of Forces (*Sistema de Forças*) comprises:
  - a) An operational component that includes the set of forces and associated resources from the point of view of the operational deployment of the F-FDTL;
  - b) A fixed or territorial component that is made of the set of organs and services that are essential to the organisation of and that provide general support to the F-FDTL.
2. The types of forces and their numbers that are required to fulfil F-FDTL's missions, both in times of war and on a permanent basis, are defined taking into account their specific capabilities and the need to ensure that there is an adequate degree of complementarity between the resources employed both in operational and logistics terms.
3. The System of Forces shall have the ability to expand within the time limits established in the general defence plans or in the contingency plans for the forces or resources contemplated therein.
4. The main objectives of the System of Forces are:
  - a) To act as a credible deterrence;
  - b) To establish and train a national contingent based on compulsory military service or on a volunteer-based service whose mobilisation will generate the maximal national capability to defend the territory in the case of an external threat, until such time when the System of Forces is in place.
5. The definition of the Systems of Forces required to carry out F-FDTL's missions is proposed by the Chief of the Defence Force (CEMGFA) and approved by the member of the Government that is responsible for matters pertaining to National Defence, once the views of the Superior Council for Defence and Security have been sought.
6. The arrangement of the Systems of Forces (*Dispositivo dos Sistemas de Forças*) shall be approved by the member of the Government that is responsible for matters pertaining to National Defence, on a proposal from the Chief of the Defence Force (CEMGFA) and having sought the views of the Superior Council for Military Defence .

**CHAPTER V**  
**ORGANISATION AND OPERATION OF THE ARMED FORCES OF TIMOR-LESTE**

**SECTION I**  
**GENERAL PROVISIONS**

**Article 25**  
**General Principles**

1. It shall be incumbent upon the F-FDTL to ensure, especially in accordance with the Constitution and the laws that are in force, and without prejudice to agreements of international law that may be in force in Timor-Leste, the execution of the military component of National Defence.
2. In military terms, National Defence shall be guaranteed exclusively by the F-FDTL, with the exceptions provided in the law, and any armed associations or military, paramilitary or military-type associations shall be prohibited.
3. The other organs and collective entities of the State, especially the Security Forces and Services, shall collaborate in National Defence activities, without prejudice to the powers and responsibilities assigned to other entities in the framework of the Integrated System of National Security.
4. The F-FDTL shall be subject to the sovereign organs pursuant to the Constitution, this law and other legislation that is in force.
5. The composition, organisation and structure of the F-FDTL shall be one and only one across the whole territory, and it shall be defined in specific legislation.
6. The F-FDTL shall be comprised, exclusively, by East Timorese citizens.

**Article 26**  
**Administrative Organisation**

National Defence shall be ensured by all the organs and collective entities of the State, namely by those that make up the Integrated System of National Security, as well as by other public collective bodies, in accordance with special legislation that will regulate their organisation and operation.

**Article 27**  
**Direct Central Administration**

1. The Government shall establish, in its structure, a governmental department of central administration, that shall be tasked with preparing and implementing the National Defence Policy in accordance with the Constitution, this law and other

legislation that is in force, as well as guarantee and oversee the management of the F-FDTL and the organs, services and bodies integrated in this force.

2. The F-FDTL are integrated into the direct administration by the State through the Government department that is competent in matters pertaining to Defence, from which depend all those responsible for other organs, services and bodies of a military nature placed under its aegis.
3. The structure of the governmental department that is competent in matters pertaining to Defence shall be adopted by a decree-law.

### **Article 28** **Generation and Preparedness of the Forces**

1. The Generation and Preparedness of the Forces (*Geração e Aprontamento das Forças*) is based on the specific missions defined under this law, which identify the operational requirements and the capabilities of the F-FDTL, without prejudice to their principal mission, as defined in the Constitution.
2. The Generation and Preparedness of the Forces takes into consideration the principles enshrined in the Integrated System of National Security as defined in the law, as well as the Concept of Integrated Deployment (*Conceito de Emprego Integrado*) of F-FDTL in which there is a special focus on the establishment of Task-Forces (*Forças-Tarefa*) for carrying out specific missions assigned to F-FDTL at national or international level.
3. The F-FDTL shall be responsible for ensuring the preparedness of the Forces in terms of Personnel, Hardware and Training through defined Standards of Operational Preparedness (*Padrões de Prontidão Operacional*) defined by the Chief of the Defence Force (CEMGFA), who shall be solely responsible for the process of Generation and Preparedness of the Forces in accordance with the missions assigned to them at political-military level.

### **Article 29** **Chief of the Defence Force**

1. The Chief of the Defence Force (*Chefe do Estado-Maior-General das Forças Armadas*, CEMGFA) is the military chief with the highest authority in the hierarchy of the Armed Forces and the main military advisor to the member of the Government who bears the responsibility for matters pertaining to National Defence, and shall perform the duties and exercise the powers provided in the law.
2. The Chief of the Defence Force is a general who is appointed and dismissed by the President of the Republic on a proposal from the Government and upon seeking the

views of the Superior Council for Military Defence and the Superior Council for Security and Defence, through the member of the Government who bears responsibility for matters pertaining to National Defence.

3. The Chief of the Defence Force is answerable at any time before the Government through the member of the Government who bears responsibility for matters pertaining to National Defence, for the preparedness, availability, sustainability and employment of the forces and resources that make up the operational component of the System of Forces in the framework of the missions assigned to it.
4. In times of peace, the Chief of the Defence Force shall be responsible for the operational command of the Armed Forces. He shall have as his subordinate commanders the Commanders of the Components (*Comandantes de Componente*), Commanders of the Sectors (*Comandantes de Sector*) and the Operational Commands (*Comandos Operacionais*) that may be established under him/her.
5. In times of war, and under the authority of the President of the Republic and the Government, the Chief of the Defence Force exercises complete command over the Armed Forces.
6. In states considered exceptional from a constitutional viewpoint, the Chief of the Defence Force shall exercise the powers provided in the law.
7. The Deputy Chief of the Defence Force (Vice-CEMGFA) is the Chief of the Defence Force's direct assistant, replacing him/her in his/her absence.

**Article 30**  
**Powers of the Chief of the Defence Force (CEMGFA)**

1. It is incumbent upon the Chief of the Defence Force (CEMGFA):
  - a) To plan, direct and control the implementation of the military defence strategy as adopted by his/her superiors, namely the operational deployment of the System of Forces;
  - b) To define the concept of integrated deployment of the F-FDTL (*Conceito de Emprego Integrado das F-FDTL*) and to adapt it whenever necessary in accordance with the Strategic Military Concept (*Conceito Estratégico Militar*), as approved by his/her superiors and bearing in mind the capabilities, possibilities and vulnerabilities of the Force, as well as the likely scenarios for deployment;
  - c) To identify the Operational Requirements (*Requisitos Operacionais*) that will determine the doctrine, training and global needs in terms of equipment to be procured, in the framework of the guidelines provided for the planning of the

forces in the Ministerial Instruction on Military Planning and Defence (*Directiva Ministerial de Planeamento e Defesa Militar*);

- d) To assess the state of preparedness, availability, efficacy and ability to sustain combat of the forces;
- e) To plan and direct the joint operational training and to formulate the guidelines for training to be followed in combined exercises;
- f) To study and plan the preparation of the F-FDTL from a situation of peace to a situation of war;
- g) To ensure that the systems of Command, Control, Computers, Intelligence, Surveillance and Reconnaissance (*Sistemas de Comando, Controlo, Computadores, Informações, Vigilância e Reconhecimento, C4ISR*) are coordinated and operational in terms of the operations and across the territory;
- h) To take part in the drafting, under the guidance of the member of the Government who bears responsibility for matters pertaining to National Defence, of the draft laws on military programming (*Lei de Programação Militar*) relating to the General Staff of the F-FDTL (*Estado-Maior General das F-FDTL*) and to submit them to the Superior Council of Military Defence. It is incumbent upon the Chief of the Defence Force (CEMGFA) to lead their implementation without prejudice to the specific powers of the Government department that bears responsibility for matters pertaining to National Defence;
- i) To lead the organs placed directly under him/her, namely to manage the military and civilian personnel in such organs;
- j) To make use of the powers bestowed upon him/her in matters of military justice and to manage disciplinary matters in the organs under his/her purview;
- k) To submit to the member of the Government who bears responsibility for matters pertaining to National Defence:
  - I. A draft proposal for the Strategic Military Concept (*Conceito Estratégico Militar*)
  - II. A draft proposal for a joint military doctrine (*doutrina militar conjunta*);
  - III. A draft proposal regarding F-FDTL's System of Forces and their Arrangement (*Sistema de Forças e Dispositivo das F-FDTL*);

- IV. A draft proposal regarding F-FDTL's specific missions (*Missões Específicas das F-FDTL*);
  - V. A draft proposal regarding the System of Military Service (*Sistema de Serviço Militar*);
  - VI. Draft proposals to be submitted regularly on the Development Plan for the Force (*Plano de Desenvolvimento da Força*, PDF) for the short-, medium and long-term;
  - VII. The levels of preparedness, availability and capability to sustain combat of the forces;
  - VIII. The military defence plans (*planos de defesa militar*) and the contingency plans (*planos de contingência*);
  - IX. The matters of a general nature related to the organs placed under him/her;
  - X. The structure of the territorial , operational and administrative commands under him/her;
  - XI. The appointment and dismissal of the commanders placed directly under him/her;
  - XII. Opinions on F-FDTL's draft annual budgets, particularly on any aspects that have a bearing on their operational capabilities;
  - XIII. The involvement of the F-FDTL in fulfilling military commitments that derive from international agreements, relations with military bodies from other nations as well as international organisations, and in diplomatic representations abroad;
  - XIV. Establishing restrictions to the use of property rights in areas adjacent to military facilities or facilities that are important from a National Defence perspective.
2. It is also incumbent upon the Chief of the Defence Force (CEMGFA) to approve the Instruction on the Planning of the Forces (*Directiva de Planeamento de Forças*, DPF), that should take into consideration the Ministerial Instruction on Military Planning and Defence (*Directiva Ministerial de Planeamento e Defesa Militar*) which identifies the needs and capabilities that have to be maintained, provided or established, through the submission of "Proposals regarding the Force" (*Propostas de Força*) that will lead to the definition of "Objectives for the Force" (*Objectivos de Força*), with a view to getting the National Parliament to approve the necessary programmes for

their implementation and funding through the Law on Military Programming (*Lei de Programação Militar*).

3. The Chief of the Defence Force shall be assisted in the performance of his/her duties by the Deputy Chief of the Defence Force (*Vice-CEMGFA*) and by the Chief of Staff of the Armed Forces (*Chefe do Estado-Maior das Forças Armadas*).

**Article 31**  
**Deputy Chief of the Defence Force**

1. The Deputy Chief of the Defence Force (*Vice-Chefe do Estado-Maior General das Forças Armadas, Vice-CEMGFA*) is a general who is a direct assistant of the Chief of the Defence Force (CEMGFA).
2. The Deputy Chief of the Defence Force is appointed and dismissed by the President of the Republic on a proposal from the Government, after the views of the Chief of the Defence Force have been sought.

**SECTION II**  
**ORGANISATION AND OPERATION OF THE F-FDTL**

**Article 32**  
**Organisation of the F-FDTL**

1. The F-FDTL shall be organised with a view to ensuring that they are effectively ready and that their forces are effectively employed in the fulfilment of the missions that were assigned to them.
2. The organisation of the F-FDTL shall be guided by the principles of effectiveness in the fulfilment of their missions, efficient use of the means available and rationalisation of the resources. In particular, the F-FDTL shall guarantee:
  - a) A balanced relationship between the operational component of the System of Forces and its fixed or territorial component;
  - b) The number of echelons and organs of command and leadership that are adequate to an effective performance by F-FDTL;
  - c) The coordination and complementarity between the different components, through their integrated operational deployment;
  - d) An adequate use of the F-FDTL's human, military and civilian potential, namely by ensuring the effectiveness of the recruitment system .
3. The general organisation of the F-FDTL comprises:
  - a) Command (I);



- b) General Staff of the Armed Forces (*Estado-Maior General das Forças Armadas*);
  - c) Advisory Body (*Órgão de Conselho*);
  - d) Territorial organs (*Órgãos de implantação territorial*);
  - e) Components: land, light naval force, air support, training and support services (*Força Terrestre, Força Naval Ligeira, Apoio Aéreo, Formação e Treino e Apoio de Serviços*);
  - f) Elements of the operational component of the System of Forces;
4. The Naval Component further comprises other organs that are part of the System of the Maritime Authority (*Sistema de Autoridade Marítima*), which is regulated by its own legislation.
  5. The organisation shall ensure the flexibility and self-sufficiency of the forces so as to allow them to reinforce, regroup and provide adequate support to the various echelons of the military so that they may adapt to the various situations encountered and still preserve their combat potential.
  6. The permanent organisation of the F-FDTL in times of peace or during a war should permit, while respecting their generic mission, the easiest possible transition to a state of war.
  7. The general bases for the organisation of the F-FDTL and their Components shall be developed in specific legislation that will define the internal organisation, the functions and powers.

### **Article 33** **Structure of the F-FDTL**

1. The F-FDTL are a joint and structured force that is integrated from an operational viewpoint. The overall operational command of the Components lies with the Chief of the Defence Force (CEMGFA).
2. The general structure of the F-FDTL comprises:
  - a) The General Staff of the Armed Forces (*Estado-Maior General das Forças Armadas*);
  - b) The military organs of command of the F-FDTL (*órgãos militares de Comando*);
  - c) The Components.

3. The military organs of Command of the F-FDTL are the Chief of the Defence Force (*Chefe do Estado-Maior General das Forças Armadas*) and the Commanders of the Components.
4. In designing the Forces, special attention shall be given to their involvement in the Integrated System of National Security, which shall be established in specific legislation and that promotes the flexibility, mobility and inter-operability of the resources.
5. The F-FDTL shall be structured and have the size, composition and organisation deemed adequate to the fulfilment of their missions. The requirements and capabilities of the Force shall be identified bearing in mind the likely scenarios for deployment and special attention shall be granted to the notion of Task Force (*Força-Tarefa*) adapted to a specific mission, provided in the Law on National Security.
6. The F-FDTL shall comprise Regular Forces (*Forças Regulares*) and Reserve Forces (*Forças de Reserva*).
7. Civilian-military cooperation shall focus on the inter-operability of the Defence and Security Forces and shall be guaranteed in accordance with the Constitution, this law and other legislation that is in force and includes the administrative structure that has been enacted.
8. In the design of the forces, special attention shall be granted to the experience acquired in the struggle of resistance by the FALINTIL, which shall be considered as reserve National Defence Forces (*Forças de Defesa Nacional na reserva*), pursuant to special legislation to be adopted by means of a decree-law on the reserve status.

**Article 34**  
**General Staff of the Armed Forces**

1. The General Staff of the Armed Forces (*Estado-Maior General das Forças Armadas*) includes:
  - a) The Chief of the Defence Force (CEMGFA),
  - b) The Joint Coordinating Staff (*Estado-Maior Coordenador Conjunto*);
  - c) The F-FDTL Operations Centre (*Centro de Operações das F-FDTL*);
  - d) The Commands of the Components (*Comandos de Componente*).
2. The Joint Coordinating Staff is the body responsible for planning and for assisting the Chief of the Defence Force in decision-making processes. It includes the Staff Divisions (*Divisões do Estado-Maior*) and the general support bodies and is headed

by the Chief of Staff of the Armed Forces (*Chefe de Estado-Maior das Forças Armadas*).

3. The F-FDTL Operations Centre is the body that supports the operational command of the F-FDTL by the Chief of the Defence Force and shall become the Joint General Headquarters (*Quartel-General Conjunto*) in case of war to ensure that there is overall command over the forces .
4. The structure and powers of the General Staff of the F-FDTL shall be defined in specific legislation.

### **Article 35 Components of the F-FDTL**

1. The structure of the F-FDTL comprises the Regular Forces (*Forças Regulares*) with the following Components:
  - a) Land Force Component (*Componente de Força Terrestre*);
  - b) Light Naval Force Component (*Componente de Força Naval Ligeira*);
  - c) Air Support Component (*Componente de Apoio Aéreo*);
  - d) Training Component (*Componente de Formação e Treino*);
  - e) Support Services Component (*Componente de Apoio de Serviços*).
2. Specific command may also be establish for undertaking specific missions, namely in the framework of civilian-military cooperation and the deployment of the F-FDTL in the context of the Integrated System of National Security, provided in specific legislation.
3. In a state of war, and pursuant to the law, Chief-Commands (*Comandos-Chefe*) may be established under the Chief of the Defence Force (CEMGFA) for conducting military operations. Their respective commanders shall be granted specific powers, forces and resources by the Command.

### **Article 36 Operation of the F-FDTL**

1. The preparation of the country for National Defence, and in particular of the F-FDTL, shall take place on a permanent basis.
2. The operation of the F-FDTL in times of peace shall be aimed, first and foremost, at preparing the forces for their principal mission as provided in the Constitution, as well as other specific missions, bearing in mind the three relevant functions:
  - a) Military,

- b) Diplomatic;
  - c) Public interest.
3. The operation of the F-FDTL shall be in accordance with the Constitution and the legislation that is in force, and shall implement the National Defence Policy (*Política de Defesa Nacional*) that has been defined and the Strategic Concept of National Defence (*Conceito Estratégico de Defesa Nacional*) with a view to fulfilling the guidelines defined at the following levels:
- a) Strategic Military Concept (*Conceito Estratégico Militar*);
  - b) Missions of the Armed Forces (*Missões das Forças Armadas*);
  - c) System of Forces (*Sistema de Forças*);
  - d) Arrangement of the Forces (*Dispositivo*).
4. The operation of the F-FDTL shall be adequately regulated from the point of view of their subsequent organisational development, following the entry into force of this law and the consolidation of the institution in functional terms.

### **Article 37** **Military Intelligence System**

1. The Military Intelligence System (*Sistema de Informações Militares, SIM*) of the F-FDTL shall provide exclusively military intelligence of an operational and tactical nature. The management and coordination of its intelligence gathering efforts shall be guided by the directives issued by the Government department that bears responsibility for matters pertaining to National Defence.
2. The SIM is an integrated system that comprises the doctrine, procedures, staff, equipment, facilities and means of communication and that is responsible for undertaking the information gathering activities of the F-FDTL that are deemed necessary to the fulfilment of their missions and to guarantee military security. In particular, it shall be incumbent upon SIM:
- a) To research and process items of news in the framework of its military intelligence and counter-intelligence activities and to gather the information required to assess the threats to national sovereignty and territorial wholeness, as well as to military security;
  - b) To define general standards with regard to military security, namely with regard to the physical security of personnel, information, hardware and facilities and to supervise their implementation;

- c) To cooperate whenever required with other intelligence services, namely with the National Intelligence Service (*Serviço Nacional de Inteligência*) and the Intelligence Service of PNTL (*Serviço de Informações da PNTL*), with a view to ensuring an adequate flow and management of the intelligence being gathered.
3. The SIM shall ensure effectiveness and coordination of the intelligence production cycle, so as to act as an organ that can warn, identify, circumscribe, control and manage damages caused. In so doing, it shall be an instrument of National Defence by providing the Armed Forces with a greater capability to respond and deploy their resources, acting as a multiplying factor and effectively supporting decision-making processes at political-military level.
4. The General Staff of the Armed Forces of Timor-Leste (*Estado-Maior General das Forças Armadas de Timor-Leste*) shall oversee the activities of the SIM, namely by adopting its organisational structure which shall comprise :
  - a) Intelligence Division (*Divisão de Informações, DINFOMIL*)
  - b) Intelligence Sections of the Components (*Secções de Informações das Componentes*) and
  - c) Human Intelligence Liaison Teams (*Equipas de Ligação de HUMINT*).
5. The organisational structure of the SIM shall provide the following capabilities:
  - a) Management and coordination of the intelligence gathering efforts (OSINT and HUMINT);
  - b) Liaising with intelligence sources through HUMINT;
  - c) Management of databases and intelligence flows;
  - d) Analysis, processing and dissemination of intelligence;
  - e) Guidance, coordination and supervision of military counter-intelligence and security;
  - f) Liaising with the main research bodies through the communications and IT system of the F-FDTL.
6. The integration of SIM into the National Intelligence Service shall be regulated by specific legislation and shall ensure that the member of the Government who bears responsibility for matters pertaining to National Defence and the F-FDTL gets an adequate flow of strategic-type intelligence.

### **SECTION III MILITARY EQUIPMENT AND PROGRAMMING**

**Article 38**  
**Equipment and Weaponry of the F-FDTL**

1. The purchase of hardware for the F-FDTL shall be regulated by specific legislation that will define the technical and legal procedures to be followed in the procurement of military hardware.
2. The law on military procurement (*lei do aprovisionamento militar*) shall ensure adherence to the principles of impartiality, equality and pursuit of the public interest.
3. The procurement of equipment for the F-FDTL shall be guided by the needs defined in the Concept of Deployment (*Conceito de Emprego*) and Operational Requirements (*Requisitos Operacionais*) of the F-FDTL. Special attention shall be given to F-FDTL's specific missions and to the use of non-lethal weaponry.
4. The equipment, and particularly weaponry, shall be inventoried, checked and stored in accordance to the terms of an Instruction to be issued by the Chief of the Defence Staff (CEMGFA). Only the military who are on duty shall be allowed to use weapons appropriate to their duties.
5. Any violation of the provision in the previous paragraph shall be considered a disciplinary offence to be adequately defined in specific legislation .

**Article 39**  
**Military Programming**

1. The estimates of military expenses to be incurred by the State in supplying the Armed Forces with the necessary equipment and in investing the defence infrastructures shall be the object of medium-term planning, in accordance with the legislation on military programming (*legislação de programação militar*) that shall be approved by the National Parliament.
2. Military programming shall be guided by the needs identified in the Concept of Deployment (*Conceito de Emprego*) and in the Operational Requirements (*Requisitos Operacionais*) of the F-FDTL, that will be based on the military requirements and capabilities that are necessary for the F-FDTL to fulfil the missions assigned to them.
3. It is mandatory for the draft annual budget of the Government department that bears responsibility over matters pertaining to National Defence to include in the chapter of the budget that relates to the purchase of equipment for the F-FDTL and military infrastructures whatever has been defined for the relevant financial year in the Law on Military Programming (*Lei de Programação Militar*) that is in force.
4. Without prejudice to the powers of the National Parliament in these matters, the Government shall guide and oversee the drafting and implementation of the Laws on

Military Programming and F-FDTL's annual budgets, as well as the management of their assets. The Government, in the use of its own and delegated powers, shall supervise the organs of the F-FDTL that are responsible for financial management.

## **CHAPTER VI DUTIES OF NATIONAL DEFENCE**

### **Article 40 General Principles**

1. All East Timorese citizens have the fundamental right and duty to take part in National Defence activities.
2. The activity of National Defence is a responsibility of the national community in general, and of each and every East Timorese citizen in particular. National Defence must be ensured by the State and is a special responsibility of the sovereign organs.
3. The F-FDTL shall be responsible for the military defence of the country and, in accordance with the law, for fulfilling the international commitments of the State in military terms by participating in humanitarian and peace-keeping missions organised by the international organisations to which Timor-Leste is a party.
4. It is the right and duty of each and every East Timorese to engage in active and passive resistance to the foreign occupation of the territory, and of the holders of sovereign organs who are prevented from performing their duties freely, to act in such a way as to create the conditions for their freedom to be re-established and to guide the resistance, aimed at the re-establishment of national independence and the restoration of sovereignty.

### **Article 41 Military Service**

1. The performance of military duties by citizens shall be regulated in special legislation, which shall set the terms for the performance of military service, civic service (*serviço cívico*), conscientious objection (*objecção de consciência*) and the summoning of citizens for military duty (*convocação*).
2. The special legislation that will regulate under what terms citizens shall carry out their military duties may provide for conscription/compulsory military service (*serviço militar obrigatório*) and voluntary military service (*serviço militar voluntário*), depending on the needs of the F-FDTL to recruit personnel.
3. The status of conscientious objector (*Estatuto do Objector de Consciência*) shall be necessarily acknowledged and awarded to those citizens who for ideological,

political, religious or philosophical reasons cannot perform compulsory military service.

#### **Article 42 Mobilisation and Requisition**

1. The State may summon the human and material resources deemed essential for National Defence by mobilising or requisitioning them, in accordance with the provisions in this law and the complementary legislation that is in force.
2. The mobilisation shall include individuals who may be subject to military discipline and the requisition is aimed at procuring material assets, services, companies or rights and shall always be subject to a fair compensation.

#### **Article 43 Mobilisation**

1. For the purposes of the previous article, mobilisation may have a military or civilian nature, depending on whether the individuals covered by the mobilisation are to be placed under the F-FDTL or under civilian authorities.
2. Mobilisation may be general or partial, depending on whether it involves all or only part of the citizens covered by it.
3. Mobilisation may be imposed for specific periods of time, zones of the national territory or sectors of activity.
4. The mobilisation of the Reserve Forces (*Forças de Reserva*) provided in article 33, shall be authorised by the President of the Republic on a proposal from the Government and upon an initiative from the Chief of the Defence Force (CEMGFA), once the views of the Superior Council for Defence and Security have been sought and whenever the circumstances of constitutional exception require such mobilisation.

#### **Article 44 Requisition**

1. Movable and immovable assets may be requisitioned by the Government, against a fair compensation, whenever those assets are deemed essential to National Defence and it is not possible or convenient to obtain them using normal market procedures.
2. The requisition may involve industrial facilities and be aimed at making these produce for National Defence.



3. Means of transportation, communication or any other means deemed essential for National Defence may also be requisitioned, together with their respective staff, resources and infrastructures.
4. Exclusive enjoyment of industrial property rights may be requisitioned for the time deemed necessary for the purpose of National Defence.

**CHAPTER VII  
DEPLOYMENT OF THE F-FDTL**

**SECTION I  
GENERAL PROVISIONS**

**Article 45  
Types of Deployment**

1. The F-FDTL shall guarantee the military defence of national independence, the wholeness of the national territory and the freedom and security of the communities living therein against any external aggression or threat.
2. The F-FDTL shall perform all the other missions provided in the Constitution and in the legislation, especially those missions that are of public interest and those that derive from the support it provides to the implementation of the State's external policy.
3. The involvement of the F-FDTL in the Integrated System of National Security shall be in accordance with the law.
4. The F-FDTL may be deployed in the framework of their specific missions pursuant to article 23 of this law and taking into consideration the mechanisms provided in the law.

**Article 46  
Principles**

1. The deployment of the F-FDTL shall be in accordance with the Constitution, this law and other legislation that is in force, as well as the provisions in the pacts and covenants of international law that are in force in the Democratic Republic of Timor-Leste.
2. The F-FDTL, as well as any other entities taking part in activities of National Defence, shall strictly abide by the Constitution and the law, shall respect the fundamental rights, freedoms and guarantees of citizens and the rights of peoples, and shall obey the orders coming from the instances of political power and the administrative hierarchy.

3. The use of force by the F-FDTL, as well as by other entities that take part in activities of National Defence, shall always be secondary to the use of prevention, deterrence, negotiation and arbitration in order to cause the least suffering possible to achieve its aims, and preference shall always be given to the employment of non-lethal weaponry.
4. In order to ensure the preparedness of the forces for operational deployment, the Chief of the Defence Force (CEMGFA) shall define levels of preparedness in accordance with the objectives and the priorities established at political-military level. For that purpose, an instruction on the preparedness and sustainability of the operational component of the System of Forces (*Directiva de prontidão e sustentação da Componente Operacional do Sistema de Forças*) shall be issued
5. The Chief of the Defence Force shall have an Operational Reserve (*Reserva Operacional*) directly under his/her orders with a high level of preparedness that shall be deployed whenever the security situation so warrants and strictly in accordance with the law.
6. The Operational Planning of F-FDTL's missions shall be a responsibility of the Chief of the Defence Force and shall be aimed at preparing the Forces and the resources of the System of Forces for specific and likely missions. For that purpose, Contingency Plans (*Planos de Contingência*), Defence Plans (*Planos de Defesa*) and Operational Plans (*Planos de Operações*) shall be drawn up.

#### **Article 47 Use of Force**

1. The use of force and the threat to resort to force by the Defence Forces shall strictly abide by the Constitution and the legislation that is in force, namely the provisions of international law that are in force in Timor-Leste.
2. The use of force, the threat to resort to force or the activities related to its use shall be controlled for legal and political reasons by defining Rules of Engagement (*Regras de Empenhamento*).
3. The Rules of Engagement, for forces and individuals alike, and at all levels of command, shall define the circumstances, conditions, degrees and ways in which force can be used and shall be defined and approved according to the legislation that is in force.
4. In times of war or of a defence emergency, the member of the Government that is responsible for matters pertaining to Defence, may order all or part of the Reserve Defence Forces to enter into full-time continuous military service until such time when he orders the termination of such service.

## **SECTION II STATE OF WAR**

### **Article 48 State of War**

1. The state of war (*estado de guerra*) comprises the time period between a declaration of war and the making of peace, pursuant to the Constitution.
2. In a state of war, the competent organs shall adopt, pursuant to the Constitution and the laws that are in force, as well as the provisions of international law to which Timor-Leste has acceded, all the political, legal and financial measures deemed adequate to conducting the war and re-establishing peace, according to the following principles:
  - a) Total commitment in the pursuit of the goals of the war;
  - b) Adjustment of the national economy to the war effort;
  - c) Mobilising and requesting the necessary resources for National Defence, taking into consideration both the F-FDTL and the security forces, as well as their coordination with an active and passive resistance structure;
  - d) Urgency in satisfying the needs that result from the priority awarded to the military component.
3. The State does not commit itself to paying compensation for damages caused, directly or indirectly, by actions of war, who are the aggressor's responsibility and whose compensation will be demanded in the peace-making process.

### **Article 49 Conducting the War**

1. The direction of the war at the highest level shall befall on the President of the Republic and the Government, within the scope of their respective constitutional and legal powers.
2. The National Parliament shall be kept constantly informed in order to be able to exercise its oversight and monitoring functions.
3. The military direction of the war shall be incumbent upon the Chief of the Defence Force (CEMGFA), who shall be assisted by all levels of the military structure, in line with the options that were made and the directives approved by the competent sovereign organs.

### **Article 50**

### **Superior Council for Defence and Security**

1. Once a war has been declared, the Superior Council for Defence and Security shall permanently sit in session to assist the President of the Republic, the Prime Minister and the member of the Government who is responsible for matters pertaining to National Defence, in everything that concerns the direction of the war at the highest level. The Council shall have the powers provided in the Constitution, this law and other legislation that is in force, namely its organic law.
2. In a state of war, it shall be incumbent upon the Superior Council for Defence and Security to assess:
  - a) The definition and activation of the theatres and areas of operations;
  - b) The letters of command (*cartas de comando*) prepared for commanders-in-chief (*comandantes-chefes*),
  - c) The general guidance of military operations and war plans;
  - d) Proposals regarding the adoption of adequate measures to fulfil the needs of the Armed Forces and of communities.
3. The member of the government who is responsible for matters pertaining to National Defence shall keep the Superior Council for Defence and Security permanently informed about the situation of all the resources that were assigned to National Defence.
4. The letters of command (*cartas de comando*) shall be signed by the President of the Republic, the Prime Minister, the member of the Government who is competent in matters pertaining to National Defence and by the Chief of the Defence Force (CEMGFA). Such letters shall necessarily include a clear and precise indication of the mission being assigned; the hierarchical dependency and degree of authority; the area where such authority is to be exercised and the entities that will be covered by it; the resources assigned to the mission as well as any other relevant aspects.

### **Article 51 F-FDTL in a State of War**

1. In a state of war, the Armed Forces will play a predominant role in National Defence, without prejudice to the employment of all the necessary resources to assist the military in their actions.
2. Once war has been declared, the Chief of the Defence Force (CEMGFA) shall take over complete control over the Armed Forces. He/she is answerable before the President of the Republic and the Government for the preparation and execution of

operations and he/she shall be assisted by the commanders of the various components (*Comandantes das Componentes*).

3. The Commanders of the Components shall assist the Chief of the Defence Force in conducting military operations and in drafting proposals for the appointment of commanders of the various theatres and areas of operations. They are answerable before the Chief of the Defence Force for carrying out the orders received from their superiors and they are responsible for the performance of the forces under their command.
4. It is incumbent upon the Chief of the Defence Force to submit for the approval by the member of Government who is responsible for matters pertaining to National Defence, after seeking the views of the Superior Council for Defence and Security, the proposed definition of theatres and areas of operations, as well as any proposals regarding the appointment or dismissal of their respective commanders and their letters of command (*cartas de comando*).
5. In a state of war, and with a view of carrying out military operations, the Council of Ministers may delegate to the competent military authorities certain powers and resources usually assigned to ministerial departments, after seeking the views of the Superior Council of Defence and Security.

### **SECTION III OTHER DEPLOYMENTS OF THE F-FDTL**

#### **Article 52 Involvement in Peacekeeping and Humanitarian Operations**

1. Whenever required by the founding pacts or covenants of international organisations to which the Democratic Republic of Timor-Leste is a party, the F-FDTL may take part in operations decided by the competent bodies of those organisations, with the agreement of the State and in accordance with the general rules for the deployment of the F-FDTL.
2. The deployment or employment of the F-FDTL is decided, in the cases referred to in paragraph 1 above, by the Government and the President of the Republic, who will have sought the views of the National Parliament and the Superior Council of Defence and Security.
3. The Chief of the Defence Force (CEMGFA) shall bear responsibility for the operational command of the F-FDTL, without prejudice to the involvement in multinational forces, and he/she shall be directly answerable before the Government and the President of the Republic.

4. The National Parliament shall be kept constantly informed so that it may exercise its monitoring and oversight functions.

**Article 53**  
**State of Constitutional Exception**

The laws that regulate the state of siege and the state of emergency shall also define the conditions for the employment of the F-FDTL under such circumstances.

**Article 54**  
**Support to civilian authorities**

1. The involvement of the F-FDTL in missions to assist civilian authorities under circumstances not provided in the previous article, such as in the event of a crisis, public calamity or catastrophe, or a serious disturbance of law and order, shall take place under the terms provided by the Integrated System of National Security which is established by law .
2. The F-FDTL may be deployed to assist in providing additional security to the holders of sovereign organs, in situations where an alert or a precautionary warning were issued. This deployment shall be subject to the definition of Rules of Engagement for the use of force and to appropriate command and control arrangements.

**CHAPTER VIII**  
**MILITARY STATUS**

**Article 55**  
**Military Status**

The status of the military (*estatuto da condição militar*) provided by this law, including in particular the rights and duties that assist the military and the principles guiding their careers, is a responsibility that befalls on the Government. The military status is characterised by:

- a) Subjection to the interests of the nation and to democratic political power;
- b) Constant availability to fight to defend the homeland and the willingness to sacrifice one's life, if necessary;
- c) Accepting the risks inherent to the fulfilment of military missions, as well as training in times of peace and war;
- d) Subjection to the military hierarchy, pursuant to the law;
- e) Own disciplinary rules;
- f) Constant availability to serve;

- g) Restrictions regarding certain rights, freedoms and guarantees, pursuant to this law;
- h) Abiding by the code of military honour and conduct regardless of the circumstances, thus contributing to the prestige and the high moral standards of the Armed Forces;
- i) Specific rights, allowances and benefits, namely with regard to social care, health care, pay, career development and training.

**Article 56**  
**Oath of enlistment (*Juramento de Bandeira*)**

The military publicly commit themselves to respecting the Constitution, to being constantly available to fight and defend the country and to respecting all the additional relevant legislation, pursuant to a specific law.

**Article 57**  
**Justice and Discipline**

1. The specific requirements regarding justice and discipline that apply to the military shall be regulated in the Code of Military Justice (*Código de Justiça Militar*) and in the Regulations on Military Discipline (*Regulamento de Disciplina Militar*), to be adopted pursuant to the Constitution.
2. In military disciplinary and criminal procedures, the principle of legality shall be respected and defendants shall have the right to be effectively heard in a hearing (*direito de audiência efectiva do arguido*).
3. The duty to obey and to carry out, in full and promptly, the instructions issued by a superior in the military hierarchy regarding professional matters shall only cease when obeying such orders would be synonymous to committing a crime.

**Article 58**  
**Careers and Promotions**

1. The career regime and the pay scales for the military shall be regulated in specific legislation.
2. Any promotions up to the rank of Colonel shall be dealt with exclusively within the armed forces and are a responsibility that lies with the Chief of the Defence Staff (CEMGFA), being subject to rectification by the member of the Government that has responsibility over matters pertaining to National Defence. Promotions shall be subject to specific rules, to be defined in special legislation, and shall take into account, in particular:

- a) The relevance of an individual's military training;
  - b) The use of an individual's professional capabilities, which should be assessed according to the skills and experience demonstrated by him/her,
  - c) An individual's ability to adapt to innovation and transformations resulting from scientific, technical and professional developments;
  - d) The need to harmonise an individual's own skills and interest with the interests pursued by the F-FDTL.
3. The promotions to the rank of general, as well as the promotions of generals, shall require a decision by the member of the Government who is responsible for matters pertaining to National Defence, on a proposal from the Chief of the Defence Force and subject to confirmation by the President of the Republic, after having sought the views of the Superior Council for Defence and Security.
  4. No member of the military shall benefit or be disadvantaged in his/her career by reason of his/her origins, gender, race, territory of origin, religion, political or ideological views, economic or social circumstances.
  5. Any acts related to the professional performance of the military, namely those that result in the non-promotion to any rank, have to be clearly grounded in accordance with the law, and they may be appealed against administratively, as well as brought before the competent court, pursuant to the relevant procedural legislation.

#### **Article 59** **Allowances and benefits**

1. Because of the specificity of the military profession, those serving in the armed forces shall be entitled to a range of different allowances and benefits to be defined by the Government in a specific regulation.
2. The military and their families shall be entitled to a specific health care and protection system, namely with regard to their retirement, survival pensions, health care, support in the event of disability and other forms of social care.

#### **Article 60** **Reserve and retirement**

1. The military who are permanent staff (*militares dos quadros permanentes*) are subject to transfer to the reserve and retirement under conditions of age, military career and service to be defined by the Government in a specific regulation.
2. The military in the reserve force (*militares na reserva*) will remain available to serve and shall be entitled to some form of payment that should be adequate to the



situation they find themselves in. This shall be regulated in specific legislation to be adopted by the Government.

**Article 61**  
**Military titles and honours**

Military personnel are entitled to bear the titles and enjoy the honours, rules of seniority, immunities and waivers provided in the legislation.

**Article 62**  
**Training**

1. Military personnel have the right and the duty to be provided with training in general knowledge, civic education, scientific, technical and professional subjects, both at the start and on a permanent basis throughout their military careers, that is adequate to the fulfilment of the roles and missions that are assigned to them.
2. Military personnel are also entitled to be provided with refresher courses with a view to building their skills and abilities, both as human beings and from a professional viewpoint, and also with a view of being able to advance in their respective careers.

**Article 63**  
**Restrictions to the enjoyment of rights by the military**

1. The F-FDTL exist to serve the people and are strictly non-partisan. The enjoyment of the rights and freedoms of military and military-type personnel who are permanent members of or under contract and on active duty with the armed forces, such as freedom of speech, freedom to assemble and demonstrate, freedom of association and the right to petition, and the right to be elected shall be regulated in accordance with the paragraphs below.
2. The citizens referred to in this article are barred from making political statements or any other statements that will jeopardise the cohesion and discipline of the F-FDTL or that represent a violation of the duty of its members to be politically independent and non-partisan.
3. The citizens referred to in this article are barred from making public statements on issues pertaining to the F-FDTL without an authorisation from their military superior, unless such statements concern purely technical issues and are part of publications produced by the F-FDTL and are authored by military who have permanent roles in their respective editorial boards.
4. The citizens referred to in this article are barred from convening or taking part in any demonstration of a political or partisan nature or related to industrial relations.

5. The citizens referred to in this article shall not be members of political associations, political parties or trade unions nor take part in any activities undertaken by such organisations. They may, however, join professional associations that have the power to set professional standards, in which case their participation shall be circumscribed to the scope of such standard-setting activities.
6. The restrictions referred to in this article shall not apply to their participation in official ceremonies, nor their participation in conferences or debates promoted by institutes or associations that do not have a party-political nature.
7. The citizens referred to in this article shall not promote or submit collective petitions addressed to the sovereign organs or their respective military superiors on political matters or matters relating to the Armed Forces.
8. The members of F-FDTL, once they have exhausted all possible avenues provided by the law, are entitled to file complaints, on an individual basis, with the Ombudsman for Human Rights and Justice, against acts or omissions by the public powers overseeing the F-FDTL that have resulted in violations of their rights, freedoms and guarantees or that have caused them any type of harm, except on matters of an operational or classified nature.
9. The citizens referred to in this article shall not be eligible to the Presidency of the Republic, National Parliament, as well as to any other organ of a legal person governed by public law, except for those who are reservists or in retirement.
10. In times of peace, no request by a member of the military to become a reservist for the purpose of running for any of the posts mentioned in paragraph 63(9) above shall be refused.
11. The citizens referred to in this article shall be subject to the restrictions to the constitutional provisions regarding workers' rights provided in this law.
12. The citizens who are undertaking compulsory military service or in the armed forces on a voluntary basis have a duty to remain politically independent, non-partisan and independent from any trade union.

#### **Article 64** **Military Hierarchy**

1. The hierarchical nature of the military institution determines that a rank is necessarily assigned to each individual member of the military, to which shall correspond different command, leadership, inspection and supervisory functions and their associated responsibilities.

2. The existence of a military hierarchy necessarily implies the existence of a duty to obey and the associated disciplinary powers.

**Article 65**  
**Complaints by citizens**

1. Citizens are entitled to file complaints with the Ombudsman for Human Rights and Justice, in accordance with the general terms of the law and bearing in mind the public powers bestowed upon him/her, against acts or omissions by the F-FDTL that have resulted in violations of their rights, freedoms and guarantees or that have caused them any type of harm.
2. The provisions in the previous paragraph shall be without prejudice to any other administrative or judicial entitlement of citizens, and shall not exclude any type of liability on the part of the perpetrator.

**CHAPTER IX**  
**FINAL AND TRANSIENT PROVISIONS**

**Article 66**  
**Final provisions**

1. The necessary legislation shall be approved to implement the provisions in this law. In particular, care will be taken to ensure adequate coordination and consistency across all the legislation pertaining to National Security .
2. Any doubts concerning the application of this law that may be settled by a ministerial instruction, whether they are related to issues pertaining to the organisation, operation or discipline of the Armed Forces, require a prior consultation with the Chief of the Defence Force (CEMGFA).

**Article 67**  
**Repeal**

All legal and regulatory provisions that contradict the provisions in this law are hereby repealed.

**Article 68**  
**Entry into force**

This law shall come into force on the day following its publication .

Approved on 12 March 2010.

The President of the National Parliament,

Fernando La Sama de Araújo

Promulgated on 9/4/2010

To be published.

The President of the Republic

Dr. José Ramos Horta