



# JORNAL da REPÚBLICA

§ 1.00

OFFICIAL PUBLICATION OF THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE ESTE

## Extraordinary Number

### SUMMARY

#### NATIONAL PARLIAMENT:

Law N.º 25/2021 2 December 2021

Judicial Organisation Law ..... 1

LAW N.º 25/2021

2 December 2021

#### JUDICIAL ORGANISATION LAW

The administration of justice is one of the most relevant sovereignty functions of a democratic state of law, exercised on behalf of the people through the courts, with independence from the legislative and executive powers.

And as such, one of the first and most complete regulations approved by the United Nations Transitional Administration (UNTAET) was on the judicial organization of the territory (Regulation No.2000/11, of 6 March).

More than 20 years later, much has changed in the Timor-Leste legal system. However, the aforementioned UNTAET regulation remains in force and contains the essential of the country's judicial organization, namely its division into four judicial districts, Baucau, Dili, Oe-Cusse Ambeno and Suai.

Other diplomas were later on regulating the rules of procedure, the statute of legal professionals, particularly judges, prosecutors, public defenders and lawyers, and other aspects essential to the proper functioning of the administration of justice, such as the services of the court secretariats, the support services to the courts and judicial holidays.

However, this law is the first, since the independence of

Timor-Leste, to discipline the organization and functioning of the courts, creating conditions for, finally, the installation of the courts foreseen in the Constitution of the Republic.

To this end, the norms that regulate the organization and functioning of the Supreme Court of Justice, provided for in article 124º of the Constitution of the Republic, are approved.

Likewise, a legal framework is approved that will allow the future installation of administrative and tax courts, a category of courts provided for in article 129 of the Constitution of the Republic, once the diplomas that will deal with the organization, functioning and competences and of the process norms of these courts are approved.

On the other hand, the current district courts are succeeded by the judicial courts of first instance created by this law. It is foreseen the possibility of splitting up the aforementioned judicial courts of first instance in judgments with specialized competence in civil matters, in criminal matters and also, whenever the volume and complexity of the processes committed to a given judicial court of first instance justifies it, in matters of family and minors.

Thus, the National Parliament decrees, under the terms of subparagraph c) of paragraph 1 of article 96 of the Constitution of the Republic, to be valid as law, the following:

#### TITLE I GENERAL POVISIONS

##### Article 1.º

##### Object

1. This law establishes the rules of framework and organization of the judiciary system.
2. The judiciary system adopts a flexible organization in which, under the terms of this law, the composition, organization and structure of the courts are adjusted in function of circumstances, demand and availability.

**Article 2.º**  
**Courts**

1. Courts are sovereign bodies with competence to administer justice on behalf of the people.
2. In the administration of justice, the courts are responsible for ensuring the defense of legally protected rights and interests, repressing violations of democratic legality and resolving conflicts of public and private interests.
3. Any individual is guaranteed the inviolable right to be heard and defended in any proceeding, namely in the stage of preliminary assessment of the accusation, to be carried out through a public defender, lawyer or, in the cases provided for by law, by the Public Prosecutor's Office, with the right of appeal under the law.
4. The provisions of the previous number do not affect the use of alternative means of resolving disputes.

**Article 3.º**  
**Independence of the courts**

1. The courts are independent and subject only to the Constitution and the law. .
2. The courts enjoy administrative, financial and patrimonial autonomy.

**Article 4.º**  
**Judges**

1. The jurisdictional function is exclusive to the judges, invested under the terms of the law.
2. The judges are governed by the provisions of the Constitution and the respective statute.
3. In the exercise of their functions, the judges are independent and must only obey the Constitution, the law and their conscience.
4. The law determines the requirements and rules for recruiting judges.
5. The judges are immovable and cannot be suspended, transferred, retired or dismissed, except in accordance with the law.
6. To guarantee their independence, judges cannot be held responsible for their judgements and decisions, except in case provided for by law.
7. The independence of judges is also ensured by the existence of a private body for the management and discipline of the judiciary and by not being subject to any orders or instructions, except for the duty to comply with decisions rendered on appeal by higher courts.

**Article 5.º**  
**Guarantees and incompatibilities**

1. The appointment, placement, transfer and promotion of

Judges and the exercise of disciplinary action are the responsibility of the Superior Council of the Judiciary, under the terms of the law.

2. The acting judges may not perform any other public or private function, except for teaching or scientific research functions of a legal nature, which are not remunerated, under the terms of the law.
3. Acting judges may not be appointed to service committees without the authorization of the Superior Council of the Judiciary.

**Article 6.º**  
**Public Prosecution**

1. Under the terms of the Constitution, the Public Prosecution Service constitutes a hierarchically organized magistracy, subordinate to the Attorney General of the Republic, whose attributions are to represent the State, exercise criminal proceedings, defend minors, absent and incapable, in the defense of democratic legality and the promotion of law enforcement.
2. The Public Prosecution enjoys its own statute, which results in guarantees and incompatibilities of the respective magistrates and their subjection to criteria of legality, objectivity, exemption and obedience to the directives and orders provided for therein.

**Article 7.º**  
**Lawyers**

1. Lawyers participate in the administration of justice, being exclusively responsible for them and with the exceptions provided for in the law, to exercise the sponsorship of the parties, and for this purpose, they cannot be impeded before any jurisdiction, authority or public or private entity.
2. In the exercise of their activity, lawyers enjoy technical discretion and are only bound by criteria of legality and the deontological rules specific to the profession.
3. To ensure the free and independent exercise of the parties' sponsorship, the law guarantees lawyers the right to protection of professional secrecy and the right to special protection of communications with those they represent, as well as the inviolability of documents relating to the exercise of the profession.

**Article 8.º**  
**Public Defenders**

1. Public defenders are responsible for providing free legal assistance to citizens who need it due to their situation of economic or social need, under the terms of the Statute of the Public Defender.
2. Public defenders also ensure the representation in criminal proceedings of defendants who have not constituted a lawyer and intervene in other cases where the law determines the unofficial appointment of public defender.

**Article 9.º**  
**Judicial officers**

The judicial officers ensure the regular processing of legal proceedings and carry out other functions defined by law.

**Article 10.º**  
**Court support services**

Administrative and technical support services ensure the needs of courts in these areas.

**Article 11.º**  
**Jurisdictional Tutelage**

1. Everyone is guaranteed access to the courts to defend their legally protected rights and interests, and injustice cannot be denied due to insufficient economic means.
2. Everyone has the right to legal information and consultation, legal assistance and to be accompanied by a lawyer or public defender, before any authority, under the terms of the law.
3. The law regulates access to the courts in case of insufficient economic means.

**Article 12.º**  
**Court decisions**

1. The decisions of the courts that are not of mere expedient are based on the form provided for by law.
2. Court decisions are mandatory for all public and private entities and prevail over the decisions of any other authorities.
3. The law regulates the terms of execution of court decisions in relation to any authority and determines the sanctions to be applied to those responsible for their non-execution.

**Artigo 13.º**  
**Publicity of hearings**

Court hearings are public, except when the law or the court itself decides otherwise, in a reasoned order, to safeguard the dignity of people in public morals or to guarantee their normal functioning.

**Article 14.º**  
**Judicial year**

1. The judicial year corresponds to the calendar year.
2. The opening of the judicial year is marked by the realization, at the Supreme Court of Justice, of a solemn session, presided by the President of the Republic.

**Artigo 15.º**  
**Judicial holidays**

The judicial holidays starts from 1st August to 15th September.

**Article 16.º**  
**Shift**

In the courts, works shifts are organized to ensure urgent service during judicial holidays.

**Article 17.º**  
**Assistance**

1. In the exercise of their functions, courts have the right to the assistance of the authorities.
2. The provisions of the previous number cover, whenever necessary, the guardian of facilities and the maintenance of order by the security forces.

**Article 18.º**  
**Judicial Organization**

1. The judicial organization of Timor-Leste comprises the judicial courts, the administrative, fiscal and audit courts, and the military courts.
2. The competence, organization, composition and functioning of military courts are established by specific law.
3. Arbitration courts may be created, as well as instruments and forms of non-jurisdictional settlement of disputes may be established.

**Article 19.º**  
**Extension and limits of competence**

1. In the domestic legal order, competence is divided between courts according to matter, hierarchy and territory.
2. Procedural law determines the factors on which the international jurisdiction of the courts depends.
3. Procedural law indicates the factors that determine, in each case, the competent court or judge.

**Article 20.º**  
**Fixation of competence of a court**

1. The competence of a court is established at the time the action is filed, and any subsequent changes in fact are irrelevant, except in cases specifically provided for by law.
2. Amendments to the right are equally irrelevant, unless the body to which the cause was affected is suppressed or competence that it initially lacked for the knowledge of the cause is attributed.

**Article 21.º**  
**Exemption prohibition**

No cause may be moved from one court of competent jurisdiction to another, except in cases specifically provided for by law.

**TITLE II**  
**JUDICIAL COURTS**

**CHAPTER I**  
**GENERAL PROVISIONS**

**Article 22.º**  
**Judicial courts**

These are judicial courts:

- a) The Supreme Court of Justice;
- b) The Court of Appeal;
- c) Thirteen courts of first instance, designated by the name of the municipality or Special Administrative Region where they are located.

**Article 23.º**  
**Competence based on the matter**

1. Judicial courts have competence for causes that are not assigned to another category of court.
2. The present diploma determines the competence on the basis of the subject between the judgements of the judicial courts of first instance, establishing the causes that are attributed to the judge of specialized competence.

**Article 24.º**  
**Competence based on hierarchy**

1. The judicial courts are ranked for the purpose of appeal of their decisions.
2. As a rule, in civil cases, the Supreme Court of Justice decides, on appeal, cases whose value exceeds the jurisdiction of the Court of Appeal and latter of cases whose value exceeds the jurisdiction of the judicial courts of first instance.
3. In criminal matters, competence is defined in the respective procedural law.

**Article 25.º**  
**Jurisdiction**

1. In civil matters, the competence of the Court of Appeal is US\$ 5 000 (five thousand US dollars) and that of the first instance courts is US\$ 1 000 (one thousand US dollars).
2. In criminal matters there is no jurisdiction, without prejudice to the procedural provisions relating to the admissibility of an appeal.
3. The admissibility of appeals under the jurisdiction is regulated by the law in force on the date on which the action was filed.

**Article 26.º**

**Territorial competence of the first instance judicial courts**

The first instance judicial courts have territorial competence corresponding to the area of the municipality or the Special Administrative Region of Oe-Cusse where they are located, with the exception of Dili, which integrates the territory of the municipalities of Dili and Ataúro.

**CHAPTER II**  
**SUPREME COURT OF JUSTICE**

**Section I**  
**Definition, jurisdiction, composition, organization and functioning**

**Article 27.º**  
**Definition and jurisdiction**

The Supreme Court of Justice is the highest body in the hierarchy of judicial courts and the guarantor of the uniform application of the law, with jurisdiction throughout the national territory.

**Article 28.º**  
**Powers of cognition**

1. Apart from the cases provided for by law, the Supreme Court of Justice only deals with matters of law.
2. The Supreme Court of Justice also administers justice in matters of a legal-constitutional and electoral nature.

**Article 29.º**  
**Office**

The Supreme Court of Justice has its office in Dili.

**Article 30.º**  
**Composition and designation of Judges**

1. The Supreme Court of Justice is composed of seven judges, of which at least four are career judges, who may be appointed to the remaining positions as magistrates of the Public Prosecution Service and jurists or recognized merit.
2. One of the judges is elected by the National Parliament and the others are appointed by the Superior Council of the Judiciary, under the terms of paragraph 2 of article 125 of the Constitution of the Republic.
3. The Supreme Court of Justice has a President and a Vice President.
4. The judge of the Supreme Court of Justice has the designation of Counselor Judge.

**Article 31.º**  
**Eligibility requirements**

Timorese citizens in full of enjoyment of their civil and

political rights who are career judges, public prosecutors or jurists of recognized merit can be elected or appointed as the judges of the Supreme Court of Justice.

**Article 32.º**  
**Replacement**

1. Counselor judges of the Supreme Court of Justice are successively replaced by their peers and, if this is not possible, by the most senior judges in the highest category exercising functions at the Court of Appeal who have not intervened in the process.
2. In case of equal seniority, the substitute judge must be the oldest.

**Article 33.º**  
**Organization**

1. The Supreme Court of Justice is organized in plenary and in sections.
2. The Supreme Court of Justice has a section for civil matters and a section for criminal matters.
3. The plenary of the Supreme Court of Justice consists of all counselor judges.
4. The counselor judges, alternately take their seats on the right and left of the President, starting with the Vice-President and the others following the order of seniority.

**Article 34.º**  
**Quórum and functioning**

1. The Supreme Court of Justice, in plenary, can only function when at least five counselor judges are present, including the President or the Vice-President.
2. The Supreme Court of Justice, in sections, can only function when the majority of the respective counselors are present, including the President or Vice-President.
3. The Supreme Court of Justice functions:
  - a) In sections, such as a court of first instance, in the cases provided for by law.
  - b) In plenary, as a court of second and sole instance, in cases expressly provided for by law.

**Article 35.º**  
**Deliberations**

1. Deliberations are taken by the plurality of votes of the counselor judges present.
2. Each counselor judge has one vote and the President, or the Vice-President, when he/she is substituted, has a casting vote.
3. Counselor judges have the right to cast a defeated vote.

**Section II**

**President and Vice President**

**Article 36.º**  
**Nomination and mandate of the president**

1. The President of the Supreme Court of Justice is appointed by the President of the Republic, for a term of four years, from among the judges appointed to the Court, to be ratified by the National Parliament, under the terms established in the Constitution.
2. The outgoing President remains in office until the new President takes office.
3. The President of the Supreme Court of Justice is sworn in by the President of the Republic, in the presence of the other counselor judges.
4. In his absence or impediment, the President of the Supreme Court of Justice is replaced by the Vice-President and, in his absence, by the most senior counselor judge in the court.

**Article 37.º**  
**Competence of the President**

1. It is the responsibility of the President of the Supreme Court of Justice:
  - a) Representing the Court and the judiciary power, having precedence among all judges;
  - b) Directing the Court, supervising its services, ensuring its normal functioning and issuing any service orders that it considers necessary;
  - c) Preside the plenary, the section meetings and the conferences, when attending them;
  - d) Carry out disciplinary action on judicial officers serving at the Court, in relation to disciplinary offenses punishable by a penalty less than a fine;
  - e) To swear in the Vice-President, the counselors, the Judge Secretary of the Superior Council of the Magistracy and the Director-General of the Courts;
  - f) To swear in the President, Vice-President and judges of the Court of Appeal;
  - g) To swear in the administrator judges and judges of the first instance judicial courts and the Judicial Secretary;
  - h) To homologate the tables of ordinary sessions and convene extraordinary sessions;
  - i) To preside, whenever necessary, at conferences, without the right to vote;
  - j) To judge conflicts of competence between the sections of the Supreme Court of Justice and between the Supreme Court of Justice and the other judicial courts;

**Section III**

**Plenary**

**Article 41.º**

**Competence of the second instance plenary**

1. The plenary of the Supreme Court of Justice, as a court of second instance, is responsible for:
  - a) To judge appeals against decisions rendered at first instance by the Supreme Court of Justice;
  - b) Exercising the other duties conferred by law.
2. The distribution is made with the exclusion of the rapporteur of the judgement that is the object of the appeal.

**Article 42.º**

**Competence of the plenary in a single instance**

1. The plenary of the Supreme Court of Justice, as a single-instance court, is responsible for:
  - a) To judge the President of the Republic of a clear and serious violation of the Constitution;
  - b) Assess and declare the unconstitutionality and illegality of legislative and normative acts of State bodies;
  - c) Preventively verify the constitutionality and legality of legislative acts and referendums;
  - d) To judge requests for verification of unconstitutionality due to omission of legislative measures presented under the terms of article 151 of the Constitution;
  - e) Verify the legality of the constitution of political parties and their coalitions, order their registration and declare the loss of their respective status, under the terms of the Constitution and the law;
  - f) To standardize the jurisprudence of the Supreme Court of Justice under the terms of the procedural law;
  - g) Exercising other competences conferred by law.
2. It is incumbent upon the plenary of the Supreme Court of Justice, as a single-instance court, to decide, on appeal, of the decisions of the courts:
  - a) That refuse the application of a rule, based on unconstitutionality;
  - b) That apply a rule whose unconstitutionality has been raised during the process;
  - c) That refuse to apply a rule contained in a legislative act based on its illegality;
  - d) That apply a rule previously judged unconstitutional by the Supreme Court of Justice itself;

- k) Suspend or reduce the distribution of cases to counselor judges when, for serious reasons, this is justified;
  - l) Proceed with the redistribution of cases when, in the exclusive interest of their good progress, this appears as indispensable, namely in cases of prolonged impediment by the rapporteur;
  - m) Organize shifts to ensure urgent service during holidays periods, with prior hearing by the judges and, whenever possible, 60 days in advance;
  - n) Direct and promote cooperation and international relations actions;
  - o) Carry out other competencies provided for by law.
2. The President may delegate the powers assigned to him to the Vice President.

3. The President is not part of the sections and processes for reporting are not distributed to him.

**Article 38.º**  
**Election of Vice President**

1. The Vice-President is elected by the counselors judges, by secret ballot.
2. The counselor judge who obtains more than half of the valid votes is elected Vice-President.
3. In the event that none of the judges obtain the number of votes referred to in the previous number, a second ballot is realized, in which only the two most voted counselor judges compete, applying, in the event of a tie, the criterion of seniority in the court.
4. In case of a tie in the second round, the oldest Vice-President in the category is considered elected.

**Article 39.º**  
**Mandate of Vice President**

1. The Vice-President is elected for a mandate of four years and his functions are terminated with the taking office of his replacement.
2. Re-election is only allowed once.

**Article 40.º**  
**Competence of Vice President**

The Vice-President of the Court in the exercise of his functions and replaces him in his absences and impediments.

- e) Rejecting the application of a rule contained in a legislative act based on its conflict with an international convention, or applying it in disagreement with what was previously decided by the Supreme Court of Justice;
- f) Exercising other competences conferred by law.

#### **Article 43.º**

##### **Electoral competence**

It is incumbent upon the plenary of the Supreme Court of Justice, as a single-instance court, in the specific domain of elections:

- a) Verify the legal requirements required for candidacies for President of the Republic and for Member of the National Parliament,
- b) Judge, in the last instance, the regularity and validity of the acts of the electoral process, under the terms of the respective law;
- c) Validate and proclaim the results of the electoral processes referred to in paragraph a);
- d) Exercising other competences conferred by law.

#### **Section IV**

##### **Sections**

#### **Article 44.º**

##### **Composition and Presidency**

- 1. Each section is constituted by a minimum of three judges.
- 2. The President of the Section is elected from among its members, by secret ballot.

#### **Article 45.º**

##### **Specialization of Competences**

- 1. The Supreme Court of Justice comprises sections in civil matters and in criminal matters.
- 2. The civil section judges the causes that are not assigned to the criminal section judges the causes of a criminal nature.

#### **Article 46.º**

##### **Section Competence**

- 1. The sections, according to their specialization, are responsible:
  - a) To judge appeals;
  - b) To judge the President of the Republic, the president of the National Parliament and the Prime Minister, for the crimes committed in the exercise of their functions;
  - c) To Judge cases for crimes committed by judges of Supreme Court of Justice and the Court of Appeal and magistrates of the Public Prosecution Service who exercise functions at these courts, and appeals in administrative matters relating to them;
  - d) Judge the civil actions brought against judges of the

Supreme Court of Justice and the Court of Appeal and magistrates of the Public Prosecution Service who exercise functions at these courts, because of their functions;

- e) Knowing about the requests for *habeas corpus* due to illegal detention or imprisonment;
- f) Judging conflicts of competence between judicial courts and administrative and tax courts, the Vice-President of the High Administrative, Tax and Audit acting as an assistant in the respective judgement;
- g) Knowing the requests for review of criminal sentences that contain penalties that are irreconcilable with the national legal system and decree their annulment, suspension and review, replacing them with corresponding penalties;
- h) Decide on the request for attribution of competence to another court of the same type and hierarchy, in cases of obstruction to the exercise of jurisdiction by the competent court;
- i) To judge, through the rapporteur, the terms of the resources that are committed by the procedural law;
- j) Carry out, under the terms of the law of procedure, the jurisdictional acts relating to the investigation in the processes referred to in subparagraphs b) and c);
- k) Exercising other competences conferred by law.

- 2. Apart from the cases provided for in the procedural law in sub-paragraphs i) and j) of the previous number, the judgement is carried out by three judges, with one judge being responsible for reporting and the other judges for deputy functions.
- 3. The intervention of judges in the trial is carried out, under the terms of the procedural law, according to the order of precedence.

#### **Article 47.º**

##### **Completion of sections**

- 1. It is incumbent upon the President of the Supreme Court of Justice to distribute the judges among the sections, successively taking into account their degree of specialization, the convenience of the service and the expressed preference.
- 2. The judges of one section may be added to another, in the accumulation of functions, always taking into account the criteria established in the preceding paragraph.
- 3. The President of the Supreme Court of Justice may authorize the change of section or the exchange between judges of different sections, in compliance with the provisions of paragraph 1 in nº 1.
- 4. The President of the Supreme Court of Justice may determine the temporary change of section of a judge when, for a reasons of disability or illness, this proves

necessary to ensure the minimum number established in this law.

5. When the rapporteur changes section, his/her competence and that of his/her deputies who have had visa for judgement are maintained.

### **CHAPTER III COURT OF APPEAL**

#### **Article 48.º**

##### **Offices and territorial competence**

The Court of Appeal has its office in Dili and has jurisdiction throughout the national territory.

#### **Article 49.º**

##### **Composition and designation of judges**

1. The Court of Appeal is composed of nine judges, without prejudice to the possibility of establishing by decree-law a panel of superior judges, after the consultation with the Superior Council of the Judiciary.
2. Judges are appointed by the Superior Council of the Judiciary, from among the judges of law, under the terms of the Statute of Judicial Magistrates.
3. The judge of the Court of Appeal has the designation of Desembargator Judge.

#### **Article 50.º**

##### **Organization and functioning**

1. The Court of Appeal functions in Plenary and in two sections, one civil and one criminal.
2. The Plenary constitutes of all the desembargator judges in exercise of their functions and can only function with at least half of its members.
3. The criminal section judges criminal and administrative offenses and the civil section judges all causes.
4. In addition to the sections mentioned in paragraph 1, the Court of Appeal may also comprise specialized sections, whose installation depends on the volume or complexity of the work, created by decree-law, after listening to the Superior Council of the Judiciary.
5. The sessions take place according to an agenda, and the date and time of the hearings must be included in a table posted, in advance, in the court's lobby.

#### **Article 51.º**

##### **Competence of the Court**

1. It is incumbent upon the Court of Appeal, functioning in Plenary, to exercise the powers conferred by law.
2. It is incumbent upon the sections, according to their specialization:

- a) To judge the appeals of the decisions of the judicial courts of first instance;
- b) To judge civil actions brought against first instance judges and public prosecutors, on account of their functions;
- c) To judge cases for crimes committed by first instance judges and public prosecutors and appeals in administrative matters concerning them;
- d) To judge the judicial processes of international judicial cooperation in criminal matters;
- e) To judge the review and confirmation processes of a foreign sentence, without prejudice to the competence legally assigned to other courts;
- f) To judge, through the rapporteur, the terms of appeals that are committed by the procedural law;
- g) To carry out, under the terms of the procedural law, the judicial acts relating to the investigation and carry out a preliminary assessment of the accusation in the processes referred to in paragraph c) of this article;
- h) To judge the appeals of the decisions of the military courts of first instance, being assured the assistance by a military man;
- i) Exercising other powers conferred by law.

3. Apart from the cases provided for in the procedural law, the judgment is carried out by three judges, with one judge being responsible for reporting and the others for deputy.
4. The intervention of the judges of the trial is carried out, under the terms of the law of the procedure, according to the order of precedence.

#### **Article 52.º**

##### **President**

1. The President is elected by the judges of the Court, by secret ballot, from among the judges appointed to the Court, for a term of four years, renewable.
2. The election of the President is subject to the provisions for the election of the Vice President of the Supreme Court of Justice.
3. The President of the Court of Appeal is responsible for:
  - a) Represent the court;
  - b) Preside the plenary of the court, where in the case of a tie, he has the casting vote;
  - c) Preside the full range of the specialized sections and, when attending or participating in the conferences;
  - d) Homologate the tables of ordinary sessions and convene extraordinary sessions;



- e) Calculate the loser at the conferences;
- f) Directing the court, supervising its services and ensuring its normal functioning, issuing the service orders that are necessary;
- g) Judging conflicts of competence between courts of first instance;
- h) Decide on complaints against the rejection or retention of the appeal in the first instance;
- i) Distribute the judges among the sections, taking into account their degree of specialization, the convenience of service and the expressed preference;
- j) Undertake the redistribution of cases in cases of prolonged impediment by the rapporteur;
- k) Organize works shifts to ensure urgent service during holidays period, with prior hearing by the judges and, whenever possible, 60 days in advance;
- l) Carry out disciplinary action on the judicial officers serving in the court, in relation to a serious penalty less than the penalty of fine;
- m) Carry out other functions conferred by law.

- 4. The decision rendered under the terms of sub-paragraph 1) of number 3 may be claimed by the Plenary of the Superior Council of the Judiciary.
- 5. The President assisted by the Vice President, to whom he can delegate representation functions.
- 6. The President has a 50% reduction in the distribution of processes for reporting.

**Article 53.º**  
**Subsidiary application**

The provisions of articles 36.º, 38.º, 39.º, 40.º e 44.º are applicable to the Court of Appeal, with the necessary adaptations

**CHAPTER IV**  
**COURTS OF FIRST INSTANCE**

**Section I**  
**General provisions, organization and functioning**

**Article 54.º**  
**Definition**

Courts of first instance are designated by the name of the municipality or Special Administrative Region in which they are located.

**Article 55.º**  
**Competence**

- 1. It is incumbent upon the judicial courts of first instance to prepare and judge cases relating to causes not covered by the competence of other courts.

- 2. The judicial courts of first instance are, depending on the causes attributed to them, courts of general jurisdiction or courts of specialized competence.

**Article 56.º**  
**Unfolding**

- 1. Judicial courts of first instance may be divided into judgments of general or specialized competence, to be defined by decree-law, after listening the Superior Council of the Magistracy, the Superior Council of the Public Ministry, the Superior Council of the Public Defender's Office and the Order of Lawyers.
- 2. Specialized competence judgments may be of the following nature:
  - a) Cível;
  - b) Criminal;
  - c) Family and minors.

**Article 57.º**  
**Functioning**

- 1. Judicial courts of first instance function either as a single court or as a collective court, under the terms of the procedural law.
- 2. In each court of judgment, one or more judges of law shall exercise functions.
- 3. The law may provide for the collaboration of qualified technicians when the judgment of the matter of fact depends on special knowledge.
- 4. The collective court is composed of three judges.

**Article 58.º**  
**Replacement of judges of law**

- The judges of law are replaced, in their absence or impediment, according to the following successive criteria:
- a) By the judge of the next judgment of the same jurisdiction of the same court, the judge of the last judgment being replaced by the one of the first;
  - b) By a judge from another jurisdiction of the same court, chosen by drawing lots to be carried out by the administrator judge;
  - c) By a judge of the court with the closest office, of the same instance and jurisdiction, chosen by drawing lots to be carried out by the administrator judge;
  - d) By a judge of the court with the nearest office, of the same instance, chosen by drawing lots to be carried out by the administrator judge.

**Article 59.º**  
**Panel of judges**

1. The number of judges is fixed by a joint ministerial diploma of the members of the Government responsible for the areas of finance and justice, under a proposal by the Superior Council of the Judiciary.
2. Judges receive, when deployed, allowances under the terms of general law and without time limit.
3. The remuneration of auxiliary judges corresponds to that which they would be responsible for if they exercised functions as effective in the courts to which they are deployed.

**Article 60.º**  
**Distribution shifts**

1. In courts with more than one judge, there is a judge on shift, who presides the distribution and decides on matters related to it.
2. With the exception of those that take place on the judicial holidays, the shifts are fortnightly and begin on the 1st and 16th of each month, followed by the order of numbering of the judgments and in judgments with more than one judge, the order of seniority of the judges.

**Article 61.º**  
**Urgent service shifts**

1. In addition to the shifts referred to in article 16, shifts are also organized to ensure the urgent service provided for in the Code of Criminal Procedure, in the law on international criminal judicial cooperation, in matters of mental health, in matters of child protection and young people in danger and under the legal regime of entry, stay, departure and removal of foreigner from the national territory, which must be carried out on Saturdays, on holidays that fall on Mondays and on the second holiday, in case of consecutive holidays.
2. The organization of the shifts mentioned in article 16 and in the previous number and the elaboration of the respective map is the responsibility of the judge administrator of the court, with prior hearing of the judges and, with 90 days in advance.

**Section II**  
**Management**

**Article 62.º**  
**Administrator judge**

In each court of first instance there is an administrator judge:

**Article 63.º**  
**Nomination**

1. The administrator judge is appointed, by choice, by the Superior Council of the Judiciary, in a service commission, for a period of three years, from among

Judges who exercise effective functions as judges of law and have five years of effective service in the courts and rank not less than «Good».

2. The service commission does not open a vacancy and may be terminated at any time, by a reasoned deliberation of the Superior Council for the Judiciary.
3. The administrator judge is replaced, in his absence or impediment, by the oldest judge of the respective court.

**Article 64.º**  
**Renovation**

The administrative judge's service commission may be renewed once, upon favorable assessment by the Superior Council of the Judiciary, considering the way in which he/she exercised these functions.

**Article 65.º**  
**Competences**

1. The administrator judge has competences of representation and direction, procedural, administrative and functional management.
2. The administrator judge has the following competences of representation and direction:
  - a) Representing and directing the court;
  - b) Monitor the achievement of the goals set for the courts services by officials;
  - c) Promote the realization of planning and evaluation meetings of the results of the court, with the participation of judges and/or officials;
  - d) Adopt or propose measures to the competent authorities, namely, to reduce bureaucracy, simplify procedures, use information technologies and transparency of the justice system;
  - e) To elaborate, for presentation to the Superior Council of the Judiciary, an annual report on the status of services and the quality of the response.
3. The administrator judge has the following functional competences:
  - a) Swear in the judicial secretary, judicial officers and officials;
  - b) Submit for approval by the Superior Council of the Judiciary the shift maps referred to in paragraph no. 2 of article 61º;
  - c) Authorize the holidays of the persons mentioned in subparagraph a) and approve the respective annual maps;
  - d) Carry out disciplinary action on judicial officers and officials serving at the court in relation to penalty of

less than a fine and, in other cases, create disciplinary proceedings, if the offense occurs in the respective court.

4. The administrator judge has the following procedural management competences:

- a) To propose to the Superior Council of the Judiciary the working methods and measurable objectives for the court, when deemed necessary;
- b) Monitor the procedural movement of the court, identifying, in particular, cases that are pending for an excessive time or that are not resolved within a reasonable period, informing the Superior Council of the Judiciary and proposing the measures that are justified;
- c) Suggest the application of procedural simplification and streamlining measures;
- d) Propose to the Superior Council of the Judiciary the re-allocation of judges, with their agreement, in the scope of the court of first instance, with a view to a rational and efficient distribution of the service;
- e) Undertake the re-allocation of judicial officers and civil servants within the respective court and within the legally defined limits.

5. The administrator judge has the following administrative powers:

- a) Presenting proposals for the court's budget;
- b) Prepare annual and multi-year activity plans and activity reports;
- c) Elaborate the internal regulations of the court of first instance and of the respective judgments;
- d) Propose the budget amendments considered appropriate;
- e) Participate in the design and implementation of measures for the organization and modernization of courts;
- f) Plan human resource needs.

6. The administrator judge also exercise the competencies delegated to him by the Superior Council of the Judiciary.

### **Section III**

#### **General competence and specialized competence judgments**

##### **Article 66.º**

##### **General competence judgment**

1. Judgment with generic competence have competence, in their respective territorial area, to judge all cases

that are not assigned to another court.

2. General competence judgments also have competence to:
  - a) Exercise, within the scope of the enforcement process, the powers provided for in the Code of Civil Procedure;
  - b) Comply with warrants, letters, official letters and communications addressed to them by the competent courts or authorities;
  - c) Judging the appeals of the decisions of administrative authorities in administrative infraction proceedings;
  - d) Exercising other powers conferred by law.

##### **Article 67.º**

##### **Criminal judgments**

Criminal judgments are responsible for:

- a) The preparation, judgment and subsequent terms of criminal causes;
- b) The jurisdictional functions relating to the investigation;
- c) The processing of patrimonial guarantee measures provided for in the Code of Criminal Procedure;
- d) Judgment of the appeals of the decisions of the administrative authorities in the process of infraction;
- e) Monitor and supervising the execution of sentences or measures depriving their liberty, as well as guaranteeing the rights of inmates, pronouncing on the legality of the decisions of the prison services in the cases and terms provided for by law;
- f) The execution of costs arising from the processes processed by them.

##### **Article 68.º**

##### **Civil Judgments**

The civil judgments are responsible for the preparation and judgment of cases of a civil nature and those that are not expressly attributed to other courts or judgments.

##### **Article 69.º**

##### **Family and Minors judgments**

1. It is incumbent upon the family and minor judgments to prepare, judge, and know about incidents relating to:
  - a) Matters relating to civil status of individuals and their families, namely:
    - i. Voluntary jurisdiction proceedings relating to spouses;
    - ii. Actions for separation of persons and property and for divorce;

- iii. Actions for declaration of non-existence of annulment of civil marriage;
- iv. Actions and executions for support between spouses and between ex-spouses;
- v. Other actions related to the marital status of individuals and families.

- b) Matters relating to minors and children of full age, namely:
  - i. Establish the tutelage and administration of assets;
  - ii. Constitute, convert, revoke and review the adoption bond;
  - iii. Regulate the exercise of parental responsibilities and become aware of issues that concern them;
  - iv. Decree the measure of promotion and protection of trust to the person selected for adoption or the institution with a view to future adoption;
  - v. Authorize the legal representative of minors to perform certain acts, confirm those that have performed without authorization and provide for the acceptance of donations;
  - vi. Carry out the official investigation of maternity and paternity and prepare and judge actions to challenge and investigate maternity and paternity;
  - vii. Decide, in case of disagreement between the parents, on the name and surnames of the minor.
- c) The educational and protection measures tutelage matter, namely:
  - i. Apply promotion and protection measures and monitor their execution, when required, whenever a child or young person is in a situation of danger;
  - ii. Appreciate the facts qualified by law as a crime committed by a minor aged between 12 and 16, with a view to applying a tutelage measure;
  - iii. Execute, review and terminate the tutelary measures.

- 2. The act of creation of each family and minors judgments strengthens the competences that are specifically attributed to it from among those provided for in the previous number.

### **TITLE III**

## **ADMINISTRATIVE, FISCAL AND AUDIT COURTS**

### **CHAPTER I ORGANIZATION**

#### **Article 70.º Definition**

Administrative, tax and audit court are the category of courts

responsible for judging disputes arising from administrative and tax legal relationships and exercising the jurisdiction of accounts.

#### **Article 71.º**

### **Administrative, tax and audit courts**

These are administrative, tax and audit courts:

- a) The superior Administrative, Fiscal and Audit Court;
- b) Administrative and tax courts of first instance.

#### **Article 72.º**

### **Organization and functioning**

- 1. The competence, organization and functioning of administrative, tax and audit courts are defined by law.
- 2. Rules of procedure in administrative, tax and audit courts are approved by law.

#### **Article 73.º**

### **Statute of judges**

- 1. The judges of the administrative, tax and audit courts are regulated by the Statute of Judicial Magistrates and are subject to the jurisdiction of the Superior Council of the Judiciary.
- 2. When administrative and tax courts are installed, the Superior Council of the Judiciary shall reflect in its composition the presence of representatives of judges and judicial officers of this category of courts.

## **CHAPTER II**

### **SUPERIOR ADMINISTRATIVE, FISCAL AND AUDIT COURT**

#### **Article 74.º**

### **Definition, jurisdiction and office**

- 1. The Superior Administrative, Tax and Audit Court is the highest body in the hierarchy of the administrative, tax and audit courts, without prejudice to the competence of the Supreme Court of Justice.
- 2. The High Administrative, Fiscal and Audit Court has jurisdiction throughout the national territory.
- 3. The High Administrative, Fiscal and Audit Court has its office in Dili.

#### **Article 75.º**

### **Chamber of Accounts**

- 1. The jurisdiction of Accounts is exercised by the Chamber of Accounts of the Superior Administrative, Fiscal and Audit Court.
- 2. Administrative, tax and audit courts are the category of regularity of public revenues and expenditures, they appreciate good management and effective responsibility

for financial infractions, under the terms provided for in their Organic Law.

3. The Chamber of Auditors has jurisdiction and powers of financial control both in the national territory and abroad, in relation to services, bodies or representations of the State abroad.

**Article 76.º**  
**Composition of the Court**

1. The judges of the Superior Administrative, Fiscal and Audit Court are appointed by the Superior Council of the Judiciary, through a curricular competition between career judges, public prosecutors and jurists of recognized merit.
2. In the Chamber of Auditors, one or two judges are specialists of recognized merit in the field of Public Finance.
3. The judge of the Superior Administrative, Fiscal and Audit Court is designated as Counselor Judge.

**TITLE IV**  
**FINAL AND TRANSITIONAL PROVISIONS**

**Article 77.º**  
**Installation of judicial courts**

1. The Supreme Court of Justice is installed within a maximum period of 24 months, counting from the entry into force of this law.
2. The Court of Appeal is installed within a maximum period of 24 months, counting from the entry into force of this law
3. The first instance judicial courts of Baucau, Dili, Oe-Cusse Ambeno and Suai succeed the current district courts of Baucau, Dili, Oe-Cusse Ambeno and Suai, and maintain their respective territorial competence.
4. When the necessary human and financial conditions are met and the exigency impose them, the other judicial courts of first instance are installed, by Decree-law.
5. When all the judicial courts of first instance are not yet installed, each new court is installed, a decision may be made to extend its territorial competence to more than one municipality.

**Artigo 78.º**  
**Transition of judges from the current Court of Appeal to the new Court of Appeal**

1. The judges of the current Court of Appeal move to the new Court of Appeal, at the time of the installation of the latter, for which purpose, until the opening of the process of selection of judges for this Court, they present a declaration of acceptance of the post.
2. Judicial officers and other staff working at the Court are also transferred to the new Court of Appeal.

**Article 79.º**  
**Installation of Courts**

It is incumbent upon the Government to install the courts provided for in this statute.

**Article 80.º**  
**Transitional exercise of the competences of the Superior Administrative, Tax and Audit Court and of the administrative and tax courts**

1. Until the establishment of the Superior Administrative, Tax and Audit Court and the administrative and tax courts, their competences are exercised by the judicial courts.
2. Once the Supreme Court of Justice is installed, and while the Superior Administrative, Fiscal and Audit Court is not installed, the respective Chamber of Auditors works with the Supreme Court of Justice.

**Article 81.º**  
**First access to a judge of the Supreme Court of Justice**

1. To the first appointment of the positions of Counselor Judge provided for in paragraph n.º 2 b) of article 125º of the Constitution, the present transitional rules are applied to ensure the composition necessary for its entry into function, in accordance with the provisions of the Constitution of the Republic and this article.
2. Within a maximum period of 90 days after the entry into force of this law, the opening of a competition for the first filling of the positions of counselor judge provided for in paragraph b) of paragraph n.º 2 of article 125.º of the Constitution is declared, through Notice published in Journal of the Republic by the Recruitment and Selection Commission.
3. The following may be candidates for a counselor judge:
  - a) All judges and public prosecutors of the Republic with at least ten years of professional practice;
  - b) Jurists of recognized merit with at least fifteen years of uninterrupted or interpolated professional activity in the field of law, namely in law, public defenders, university teaching or in legal advice to public institutions, even if retired or have completed the age limit for cessation of functions, provided that they meet health conditions and the other requirements for filling and taking up the position, defined in this law.
4. Candidates are graduated according to the following criteria:
  - a) Documentary evaluation that should take into account:
    - i) University, post-university and professional curriculum;

- ii) Graduation obtained in qualification or admission contests, as well as promotion or performance evaluation in public positions;
  - iii) Activity carried out in the exercise of legal professions, especially forensics, consultation, advice or legal education;
  - iv) Scientific or technical work carried out;
- b) Assessment exam of technical competences for the exercise of the functions of Counselor Judge;
- c) Professional interview that must take into account other factors that support the suitability, merit or qualifications of the applicants for the position of Counselor Judge.
5. The graduation and the evaluation process foreseen in the previous number have a technical-legal nature and consist of the assessment of the professional capacity to perform the position of Counselor Judge, being carried out by a jury.
6. The General State Budget for 2022 contains the budget provision necessary for the filling of the posts of advisor judges.

**Article 82.º**

**Access to Court of Appeal judge**

1. In order to fill the existing vacancies for the post of disembargator judge of the Court of Appeal, the present transitional rules apply.
2. Within a maximum period of 90 days after the entry into force of this law, the opening of a competition to fill the positions of disembargator judge existing at the time is declared, through a Notice published in the Journal of the Republic by the Recruitment and Selection Commission.
3. All judges with at least eight years of experience in the profession can be candidates for a disembargator judge.
4. Candidates are selected according to the following criteria:
- a) Documentary evaluation that should take into account:
    - i) University, post-university and professional curriculum;
    - ii) Graduation obtained in qualification or admission contests, as well as promotion or performance evaluation in the functioning;
    - iii) Scientific or technical work carried out;
  - b) Exam to assess technical skills for the exercise of the functions of a disembargator judge;
  - c) Professional interview, which must take into account other factors that support the suitability, merit or

Qualifications of applicants for the post of disembargator judge.

5. The graduation and the evaluation process foreseen in the previous number have a technical-legal nature and consist of the assessment of the professional capacity for the performance of the position of disembargator judge, being carried out by a jury.
6. The General State Budget for 2022 contains the budget provision necessary to fill the posts of disembargator judges

**Article 83.º**

**Recruitment and Selection Commission**

1. Within a maximum period of 45 days after the entry into force of this law, the President of the Republic appoints, by decree, the Recruitment and Selection Commission for the first filling of the posts of judges of the Supreme Court of Justice and the filling of the posts of Judge of the Court of Appeal.
2. The commission provided for in the previous number is composed of three national citizens, as follows:
- a) One appointed by the President of the Republic, who presides;
  - b) Two nominated by the National Parliament, proposed by the parliamentary benches, in unnominal form, elected by the Members of the National Parliament.
3. National citizens graduated in law with at least 10 years of professional experience, followed or interpolated, of exercising the legal profession and with extensive experience in the justice sector in Timor-Leste can be nominated to integrate the Recruitment and Selection Commission.
4. Excluded from the previous number are national citizens exercising functions in the judiciary or the Public Prosecutor's Office.
5. It is incumbent upon the Commission, within the scope of the first appointment of judges to the Supreme Court of Justice and the appointment of judges to the Court of Appeal, to hire a jury, in charge of carrying out the documentary evaluation, the evaluation examination and professional interview of candidates.
6. The following can only be members of the jury:
- a) Counselor judges, from higher courts of Portuguese-speaking civil system countries, in office or retired, in the case of competition for access to the post of judge of the Supreme Court of Justice;
  - b) Counselor judges, or judges from Portuguese-speaking civil system countries, in office or retired, in the case of competition for access to the post of judge of the Court of Appeal.

7. The Commission must communicate, by the end of the third quarter of 2022, to the President of the Republic and to the National Parliament, through a written report, the result of the final ranking of the candidates who meet the requirements for appointment to Judge Counselor and disembargator Judge. Promulgated on 1 December 2021.  
Publish.
8. The Commission must, by the end of the third quarter of 2022, send the Report of the final ranking of the competitors to the Superior Council of the Judiciary, so that it proceeds, within a maximum period of 30 days, to the appointment of the Counselor Judges and the Disembargator Judges, from among those qualified for this purpose by the jury. The President of the Republic,  
**Francisco Guterres Lú Olo**
9. The Commission approves the regulation of documentary evaluation, the evaluation exam and the professional interview, the final classification of the competitors as well as its internal regulations, within a period of thirty days counting from its appointment.
10. The Commission is based in the National Parliament, which provides administrative and technical support, and any other support deemed necessary.
11. The National Parliament disposes of the form of remuneration to the members of the Commission.
12. The commission's function expenses are financed by the General State Budget, as an expense entered in the National Parliament's appropriations.

**Article 84.º**  
**Revocation rule**

The following are revoked:

- a) The UNTAET Regulation n.º 2000/11, of 6 de March 2000, on the Organization of Courts in Timor-Leste, amended by the UNTAET Regulation n.º 2000/14, of 10 May 2000, n.º 2001/18, of 21 July 2001, and n.º 2001/25, of 14 September 2001.
- b) Article 1.º of Decree-Law n.º 15/2015, of 24 June, which provides for judicial holidays.

**Article 85.º**  
**Entry in force**

This law enters into force 90 days after the date of its publication.

Approved on 13 October 2021.

The President of National Parliament

**Aniceto Longuinhos Guterres Lopes**