



VI CONSTITUTIONAL GOVERNMENT MINISTRY OF JUSTICE

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Creates the Timorese Bar Association¹

The constitution of the Democratic Republic of Timor-Leste assures, in its Article 26, to all citizens, access to the courts and Justice, for the defence of their rights and legally protected interests, guaranteeing that Justice may not be denied due to insufficient economic means.

Within this framework of values and principles, the exercise of the legal profession is enshrined in Article 135 of the Constitution of the Democratic Republic of Timor-Leste, as a function of social interest, contributing for the sound administration of Justice and the safeguard of the rights and legitimate interests of citizens.

In turn, the free exercise of the legal profession is one of the main guarantees for the full implementation of the Democratic Rule of Law. Ensuring the independence and autonomy of the lawyer, it is for the State to establish a set of rules that guarantee and discipline both the exercise of legal representation and the practice of other acts typical of the legal profession, such as the representation of citizens before the State Administration or before police or military forces.

Concurrent with the need to guarantee, under Article 136 of the Constitution of the Democratic Republic of Timor-Leste, a special regime of inviolability and confidentiality, the exercise of the legal profession and the functions it is entrusted with also requires a special regime of ethical obligations, incompatibilities and criminal and civil liability.

Considering that the United Nations Transitional Administration for East Timor (UNTAET) Regulation no. 24/2001, of 5 September 2001, was limited to the creation of the Legal Aid Service in Timor-Leste, activity undertaken, in its public response system capacity, mainly by the Public Defender's Office, up to 2008 there were no clear rules on the exercise of the legal profession in a private capacity in Timor-Leste, nor there was its own statute.

In turn, the Constitution in 2003, of the Asosiasaun Advogado Timor Lorosa'e is, undoubtedly a milestone in the recent history of legal and judicial representation in Timor-Leste. As a legal person of private law, the liberal professional association,

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the Asosiasaun Advogado Timor Lorosa'e includes among its members not only lawyers, but also judges and prosecutors, which will not be the case within the scope of the Bar Association, due to the specific incompatibility regimes already in place.

Even though the constituent legislator did not expressly provide for, as a guarantee of the exercise of the legal profession, the right to self-organization in the professional regulation of lawyers, namely in the field of access to the profession and its exercise, such intention is in the Law No. 11/2008, of 30 July, which approved the first Juridical Regime Governing Private Legal Profession and Lawyers Training and is also justified by the need to properly frame the lawyers as key partners for the development of the access to the law and justice system.

Law No. 11/2008, of 30 July, with the changes introduced by Decree-Law No. 39/2012, of 1 August and by Law No. 1/2013, of 13 February, established the rules on the private exercise of the legal profession in Timor-Leste and the status and professional training of lawyers, referring from the outset that the regime would be temporary and would be in place until the Bar Association was created and started its functioning.

The present moment is quite different from the experiences at the dawn of the restoration of independence. The growing complexity of the Timorese legal system, which follows the economic and social development, means there are many law firms, both national and international, as well as numerous lawyers exercising the profession in Timor-Leste.

Thus, under the present law, the Timorese Bar Association shall be included in the autonomous administration of the State and as legal person of public law, shall be incorporated as a public association, on which the State shall transfer powers of authority, that originally belong to the state, recognising even if implicitly that the public interest at stake will be better realised by the interested private parties, through organs, namely disciplinary, elected by themselves, with respect for democratic principles and rules.

The entry into force of the present law is expected to contribute in a decisive manner to the significant improvement of the current situation of the Justice Sector, in terms of provision of Justice Services, also contributing for a greater awareness and confidence of the citizens in general in the Justice system itself.

Therefore, the Government presents to the National Parliament, under the provisions of Article 97 paragraph 1 subparagraph c) and Article 115 paragraph 2 subparagraph a) of the Constitution of the Republic, requesting priority and urgency, the following draft law:

CHAPTER I GENERAL PROVISIONS

Article 1 Creation and Statute

1. It is created the Timorese Bar Association, henceforward designated by TBA.
2. The TBA shall be governed by the provisions in the present law and by its Statute.

3. The first General Assembly of the Timorese Bar Association shall be responsible for approving the Statute of the TBA, under the provisions in the present law.
4. The Statute of the TBA shall include the definition of the following matters:
 - a) The TBA Organs, as well as the rules concerning its constitution, election of members and respective functioning;
 - b) Lawyers action and disciplinary procedure;
 - c) Regime governing the registration of lawyers and trainee lawyers with the TBA in accordance with the provisions of this law;
 - d) Regime governing the traineeship under the provisions of this law;
 - e) Rules on the organisation of appointment schedules of the trainee lawyers;
 - f) Rules on the appeal from the acts committed by the TBA organs which are detrimental to its members;
 - g) Procedure that governs the authorization for lawyers to conduct isolated acts on the basis of their home-country professional title, under the terms provided in this law;
 - h) Rules on verification of incompatibility and impediments;
 - i) Duties of the lawyers towards the TBA;
 - j) Rules on information, disclosure and advertisement of the lawyer activity;
 - k) Criteria for setting the fees;
 - l) The TBA Revenue and expenditure and rules on budget execution;
 - m) Rules on membership fees for lawyers.

Article 2

Nature, denomination and headquarters

1. The TBA is a public association representing Law graduates who exercise the legal profession, in accordance with the provisions in this law and its Statute;
2. The TBA is independent from the State organs, being free and autonomous in its organization and in establishing its rules;
3. The TBA enjoys legal personality and has administrative, financial and patrimonial autonomy;
4. The TBA has its headquarters in Díli, and may open branches or other forms of representation anywhere in the national territory.

Article 3

Scope

1. The TBA shall exercise the powers and competences conferred by law on the territory of the Democratic Republic of Timor-Leste.

2. The powers and competences of the TBA extend to the activities of registered lawyers and trainee lawyers in the exercise of the legal profession outside of the national territory.

Article 4

Powers of the Bar Association

The powers of the TBA shall be:

- a) Defend the Constitution, the democratic Rule of Law, the rights, freedom and guarantees of the citizens, social justice and Human Rights;
- b) Cooperate in the sound administration of justice;
- c) Contribute for the development of the legal culture, the enhancement of the of the Law and the independence of the profession;
- d) Assign the professional title of lawyer and trainee lawyer, as well as regulate the exercise of the legal profession;
- e) Ensure the social function, dignity and prestige of the legal profession and promote the respect for its respective values and ethical principles;
- f) Promote training, permanent updating and professional development of lawyers and trainee lawyers;
- g) Defend the interests, rights, entitlements and immunities of its members;
- h) Strengthen the solidarity between lawyers;
- i) Ensure the right to defence under the provisions of the Constitution and the law;
- j) Exercise exclusive jurisdiction over disciplinary of lawyers and trainee lawyers;
- k) Be heard on draft law projects that are relevant for the exercise of the legal profession and legal representation in general and propose the legislative changes deemed to be adequate;
- l) Contribute for the exchanges, collaboration and cooperation with similar, national, foreign or international, institutions;
- m) Perform any other duties as assigned by its Statute or by law or that are deemed necessary for the efficient pursuit of other powers.

Article 5

Bar Association Representation

The TBA shall be represented in court or out of court by its President.

Article 6

Correspondence and official request for documents

In the exercise of its legal powers the TBA organs may correspond with any public entities, police and judiciary authorities, as well as request documents, copies,

certificates, information and clarification, including the shipping of cases in trust, under the terms official organs should satisfy the requests from the courts of law.

Article 7

Duty of cooperation

1. All public entities, police and judiciary authorities, have the special duty of total cooperation with the organs of the TBA, in the exercise of its functions.
2. Private persons, both natural and legal, have the duty to cooperate with the organs of the TBA in the exercise of its powers.

Article 8

Honours and treatment

In official ceremonies, the president of the TBA has honours and treatment identical to those owed to the Public Prosecutor of the Republic, being placed immediately to his or her left.

Article 9

Honorary titles

A lawyer who has held a position with the organs of the TBA shall retain the honorary title correspondent to the highest position held.

CHAPTER II

SAFEGUARDS OF THE Exercise of the legal profession

SECTION I

General Provisions

Article 10

Primary function

Lawyers take part in the sound administration of justice and have as their primary function the contribution for the safeguard of the rights and legitimate interests of the citizens.

Article 11

Exercise of the legal profession

1. Unless otherwise provided, only the lawyers and trainee lawyers with a valid registration with the TBA may, across all of the national territory and before any jurisdiction, authority or public or private entity, practice the acts that are proper of the legal profession, namely, exercise of the forensic mandate or legal consultation under the regime of remunerated liberal profession.

2. Public defenders exercising their functions in accordance with its own statute are exempt from the provisions in paragraph 1 above.
3. The exercise of legal consultation by law graduates who are public servants or are in role directly subordinated to a public or private institution does not require registration with the TBA.
4. Professors or Doctors of Laws who are not lawyers and limit their activity to written legal opinions are not considered to be exercising the legal profession.

Article 12

Freedom of exercise

Lawyers may not be prevented by any jurisdiction, authority, or public or private entity from practicing acts that are proper of the legal profession.

Article 13

Forensic mandate and representation by a lawyer

1. Forensic mandate, representation, and assistance by lawyers shall always be admissible, namely when it is intended for defending rights, representing disputed legal relationships and ascertaining interests, or in cases of mere verification, even where these are of an administrative, unofficial, or of any other nature, within the limits of the law.
2. The forensic mandate may not be the object, in any form, of measure or agreement preventing or restricting the personal free choice of the representative by the principal.

Article 14

Safeguards in general

1. The magistrates, enforcement officers and civil servants must accord lawyers, in the exercise of the profession, treatment compatible with the dignity of the legal profession as well as adequate conditions enabling them to thoroughly perform their functions.
2. During trial hearings lawyers shall have their own bench and may intervene while sitting.
3. Lawyers shall not be identified with their clients, or their clients' causes, as a result of performing their duties.
4. Whenever possible, court facilities should always make available a working room specifically intended for lawyers.
5. Lawyers, when in the exercise of their professional duties, shall be afforded priority at any public office, except when performing registry acts.

Article 15

Professional attire

1. It shall be mandatory for lawyers and trainee lawyers to wear a justice robe when pleading orally.
2. The model of the professional attire shall be set in the Statute of the TBA, in accordance with the standard models in use in Timor-Leste.

Article 16

Searches, seizures, inventories and similar actions in a lawyer's office

1. Searches, apprehensions, inventories, and similar actions in a lawyer's office or in any other place where lawyers have files, as well interception and recording of conversations or communications, by telephone or e-mail address used by the lawyer in the exercise of the legal profession, included in the TBA registration, can only be ordered and conducted by a competent judge.
2. The judge shall, with the required notice, summon the lawyer subject to the action in cause as well as a TBA representative.
3. In the event of failure to attend by the lawyer and the TBA representative or in the event of urgency incompatible with the procedures set out in the preceding paragraph, the judge shall appoint any lawyer who can appear immediately, preferably from those who have been part of the organs of the TBA or when this is not possible, one designated by the lawyer to whom the office or files belong to.
4. Whenever they present themselves or are summoned by the judge, relatives or employees of the interested lawyer may also be present during the actions referred to in paragraph 1 above.
5. Until the lawyer representing the TBA is present the necessary measures to prevent any paperwork or objects from being destroyed or removed can be taken.
6. The service record shall expressly mention the people present at the operations as well as any occurrences that may take place while the operations are taking place.

Article 17

Seizure of documents

1. No correspondence relating to the exercise of the profession, whatever its form may be, can be seized, unless such correspondence is related to the criminal act in relation to which the lawyer has been indicted.
2. The above prohibition extends to correspondence exchanged between the lawyer and a person who has entrusted or intended to entrust him or her with a mandate and has requested legal advice, even if such advice is yet to be given or has been refused, as well as instructions and written information on the subject of the nomination or mandate or requested legal advice.

Article 18

Complaint

1. While the operations referred to in the above paragraphs take place, the interested lawyer, or in his or her absence any relatives or employees present, as well as the TBA representative, may lodge any complaints.
2. When the complaint is made to ensure the preservation of professional confidentiality, the judge must immediately suspend any actions on the documents or objects in question, packing such documents or objects, without reading or examining, in a container sealed at the same time.
3. The substantiation of claims shall be made within five days and delivered to the court where the proceedings are taking place, and the judge shall submit them within an equal period of time to the President of the Court of Appeal along with his or her comments, and where appropriate, with the sealed container referred to in the preceding paragraph.
4. The president of the Appeal Court may, with confidentiality safeguards, unseal the container, returning it with his or her decision, having resealed it.

Article 19

Right to communicate with defendants in detention

Lawyers are entitled under the law to communicate personally and privately with their clients, even when these are imprisoned or detained in a civil or military facility.

Article 20

Information, examination of proceedings and requests for certifications

In the exercise of their profession, lawyers may request from any court or government agency the examination of proceedings, books or documents not considered to have a restricted or secret nature, as well as request, verbally or in writing, that photocopies be made or certificates issued without being necessary to produce a letter of attorney.

Article 21

Petition and right to protest

1. In the course of a hearing or of any other act or service in which they intervene, lawyers shall be allowed, at any time they deem appropriate, to petition verbally or in writing, for what they consider to be convenient to the duty of representation.
2. Where, for any reason whatsoever, a lawyer is not granted the floor, or the petition is not recorded in the minutes, the lawyer may exercise the right to protest, indicating the subject of the petition and the objective that he or she had in mind.

3. Under the law, the protest shall be recorded in the minutes and shall, for all purposes, be considered as a submission of invalidity.

Article 22

Special protection

Whenever, in the exercise of the legal profession, ponderous security reasons so determine, lawyers shall enjoy special protection to be provided by the authorities and police.

SECTION II

Incompatibilities and Impediments

Article 23

General principles

1. Lawyers exercises he rights and interests that are entrusted in them with full technical autonomy and in an impartial, independent and responsible manner.
2. The exercise of the legal profession shall be incompatible with the holding of any position, function or activity that may affect the impartiality, independence, and dignity of the profession.
3. The incompatibilities or impediments are declared and applied by the TBA in accordance with its Statute.

Article 24

Incompatibilities

1. The exercise of the legal profession is incompatible with the performance of the following functions and activities, namely:
 - a) Holder or member of organs of sovereignty and their advisers, members, and staff or agents of said offices;
 - b) Human Rights and Justice Ombudsman and their advisers, members, and staff;
 - c) Judicial magistrates, public prosecutors, public defenders or staff of any court or assigned to the relevant services;
 - d) Notaries or public registrars and their staff;
 - e) Officials, staff or agents of any public services, either central or local in nature, even if personalised, except for professors;
 - f) Members of defence or security services on active service;
 - g) Facilitators and auctioneers and their staff, agents or contractors;
 - h) Members of executive bodies or of the directorate of local government, their staff or agents;

- i) Any other office, function, and activities considered incompatible with the exercise of the legal profession by a specific legal provision.
2. The incompatibilities shall apply irrespective of title, designation, nature and type of procurement or contract, the way of remuneration and, in general terms, whichever the legal framework of the relevant office, function and activity.
3. The incompatibilities shall not apply to individuals who are retirees, pensioners, inactive, on unpaid leave or reservists.
4. It shall be permitted the exercise of the legal profession by individuals referred to in of paragraph 1 subparagraphs e) and f) , when this exercise is performed under a framework of subordination and exclusivity at the service of any of the entities provided for in said subparagraphs.
5. Exceptionally, the TBA may authorise the exercise of the legal profession by notaries and public registrar in locations where there are no lawyers, for renewable periods of 3 years.
6. The authorisation referred to in the preceding paragraph shall be subject to the approval of the Ministry of Justice.

Article 25

Impediments to the exercise of the legal profession

1. The lawyer is barred from practicing professional acts and from exert any influence over entities, public or private, where he exercises or has exercised functions which may give raise to, in particular, an incompatibility, if those acts or influence are in conflict with the ethical rules contained herein, namely the general principles set out in of Article 23 paragraphs 1 and 2.
2. The lawyers who have held office in and performed any of the functions and activities referred to in Article 24 paragraph 1 subparagraph a) are barred from representing pecuniary actions against the State in any jurisdiction.
3. Additionally the impediment is upheld when the lawyer:
 - a) Is a teacher when the subject of the action is the public services he is affected to;
 - b) Has intervened in the respective proceeding in his or her capacity as a Judicial magistrate or as a Public Prosecutor, a public defender, a judicial officer, a witness, a declarant, or an expert;
 - c) Has assisted, advised, or represented the adversary party on the same matter;
 - d) The disputed matter is linked to another matter in which he or she is assisting, advising, or representing, or has assisted, advised, or represented, the adversary party;
 - e) The spouse or a relative, or akin in the straight line or up to the second degree of the collateral line, participates in the judicial proceeding as a magistrate, defender, or bailiff;

- f) Pleads against an employer with whom he or she as a link in the capacity of subordinated employee.

CHAPTER III
PROFESSIONAL DEONTOLOGY

SECTION I
GENERAL PRINCIPLES

Article 26

General principles

1. In the exercise of the legal profession and outside of it, lawyers should behave as they are serving justice and the law and, as such, they shall show themselves as worthy of the honour and the responsibilities inherent to the profession.
2. In the exercise of the legal profession, lawyers shall, always and under any circumstances, maintain the highest independence and impartiality and shall not make use of their mandate to pursue objectives other than those strictly professional.
3. Lawyers shall observe punctually and scrupulously the duties provided for in this statute as well as all those duties imposed on them by the law and the professional praxis vis-à-vis other lawyers, magistracies, public defenders, clients, and any public or private entities.
4. Honesty, probity, integrity, loyalty, comity and sincerity are professional duties.

Article 27

Lawyers' duties owed to the community

1. The following shall constitute duties of the lawyer, owed to the community:
 - a) Defend the rights, freedoms and guarantees;
 - b) Seek the good application of the laws, swift administration of justice and the enhancement of the legal culture and institutions;
 - c) Not to advocate against the expressed law, not to use unlawful means or expedients, nor to promote actions manifestly dilatory, useless, or detrimental to the correct application of the law or to the discovery of truth;
 - d) Seek the good application of the laws, swift administration of justice and the enhancement of the legal culture and institutions;
 - e) Refuse pleading and representing in matters that he or she considers unjust;

- f) Refuse to provide services whenever there are serious suspicions that the operation or juridical performance in question aims the attainment of illicit results and the interested party does not intend to abstain from such operation;
- g) Refuse to receive and manage funds that do not correspond strictly to a matter entrusted to him or her;
- h) Cooperate in enabling access to the law;
- i) Not to use the mandate to pursue objectives that are not of a professional nature;
- j) Protest against breaches of human rights and fight any arbitrariness that he or she becomes aware of;
- k) Refuse any mandate or provision of professional services that, under any circumstances, do not result from a direct and free choice of the interested party by the principal;
- l) Not to solicit or seek clients, him or herself or through an intermediary.

Article 28

Professional secrecy

1. Lawyers are obliged to observe professional secrecy regarding all facts they become aware in the exercise of their functions or whilst providing their services, namely regarding facts:
 - a) Professional matters disclosed to them, exclusively, by their clients or as instructed by their clients;
 - b) That the lawyer has become aware of due to a position held with the TBA;
 - c) Professional matters disclosed by a colleague with whom the lawyer is associated or with whom he or she collaborates;
 - d) Communicated to the lawyer by a co-author, co-defendant or co-interested party of his or her client or by their representative;
 - e) Facts which the clients' opposing party or their representatives have communicated to the lawyer in the course of negotiations for amicable agreement that aims to end the dispute or litigation;
 - f) Facts the lawyer became aware of in the course of failed negotiations, orally or written, in which he or she has intervened.
2. Obligation of professional secrecy exists regardless as to whether or not the services requested or entrusted to the lawyer involve any judicial or extra-judicial representation, should be remunerated or not, or the lawyer has accepted or not to represent or to execute the service, and the same shall apply to all lawyers who, either directly or indirectly, have had intervention in the service.

3. Professional secrecy shall also be extended to documents or other things having a direct or indirect relation to the facts in question.
4. Professional secrecy shall cease in relation to everything that is absolutely necessary for protecting the dignity, rights, and legitimate interests of the lawyers themselves and the clients or their representatives upon prior authorisation by the TBA.
5. Statements and actions by lawyers in violation of professional secrecy shall not be used as evidence in court.
6. Notwithstanding the exemption provided for in paragraph 4 above, lawyers may maintain professional secrecy.
7. The duty to keep professional secrecy regarding the facts described in paragraph 1 above shall extend to individuals collaborating with lawyers in the exercise of their professional activity, and the sanction provided for in paragraph 5 above shall apply.
8. Lawyers must demand from the persons referred to in the preceding number compliance with the duty therein prior to commencement of the collaboration.

Article 29

Public discussion of professional matters

1. Lawyers shall not influence or attempt to influence, through the media, the settlement of judicial actions or other ongoing matters.
2. Lawyers shall not discuss in public or through the media any matters that are either ongoing or due to commence, nor shall they contribute for such discussion.
3. Cases of emergency and circumstantial cases whereby the commentary by lawyers is justified are exempt, as is the case of legitimate right of response or protest when prior public comments have been made on the case, in such terms it is licit to fear a negative influence on the trial and decision of matter ongoing or due to commence.
4. Outside the cases provided for in the preceding paragraph, lawyers may make comments, exceptionally, with TBA prior authorisation, whenever the exercise of such right of response is justified, to prevent or remedy injury to the dignity, rights and legitimate interests of the client or the lawyers themselves.

Article 30

General duty of civilness

In the exercise of the legal profession lawyers shall proceed with civilness, namely towards other lawyers, public defenders, magistrates, experts, interpreters, witnesses and other parties intervening in the proceedings.

Article 31

Representation against lawyers, public defenders, or magistrates

Before promoting any judicial, disciplinary, or any other actions against other lawyers, public defenders, or magistrates, lawyers shall communicate their intention to them in writing, providing them with the explanations they deem necessary, save where they are actions or acts of a secret or urgent nature.

SECTION II

DEALINGS WITH CLIENT

Article 32

Duties of the lawyer owed to the client

1. The relationship between lawyers and client shall be founded on mutual trust.
2. Without prejudice to the legal and ethical norms, lawyers have the duty to act in a way that defends the legitimate interests of the client.
3. In the relationship with the client the following duties of the lawyers shall be observed:
 - a) Give the client a conscientious opinion on the worthiness of the right or pretention the former invokes;
 - b) Study carefully and treat zealously the matters they are entrusted with, using for such effect all the resources of their experience, knowledge and activity;
 - c) Advise all the composition they find just and equitable;
 - d) Give the client, whenever requested, information on the progression of the matters that they were entrusted with, on the criteria used for setting the fees, giving whenever possible an indication of the approximate total amount.
 - e) Give the client account of all monies received, whatever its origin, and present a note of the fees and expenses whenever requested;
 - f) Use adequately any values, documents or objects entrusted to them;
 - g) Not to enter into contracts on the object of the matters entrusted to them for self-advantage nor in any way request or accept participation in the outcomes of the cause;
 - h) Undertake every effort to prevent their clients from exercising any reprisals against the opponent, their lawyer, public defender, magistrate or other intervening party, or from being impolite towards them;
 - i) Not to abandon the representation of the client or the follow-up of the matters entrusted to them without justified reason.
4. Even where a justified reason exists, lawyers shall not abandon the representation in such a way that makes it impossible for the client to obtain assistance from another lawyer in a timely manner;
5. Where representation or follow up of the matters in question is abandoned and accruals have been received in advance or for payment

of fees or expenses, arrangements or any other costs, any surplus shall be returned to the client as soon as possible.

Article 33

Acceptance of representation and duty of competence

1. Lawyers may not accept to represent or provide any professional services if they have not been entrusted by the free will of the client, or another lawyer representing the client, or if they have not been nominated for representation purposes by a legally empowered entity.
2. Lawyers shall not accept to represent in any matters they are aware, or should be aware, they do not have competence or availability to act on it promptly, unless acting jointly with another lawyer with competence and availability.

Article 34

Conflict of interests

1. Lawyers shall refuse to represent a matter in which they have already intervened in any other capacity or one which is connected with another they represent, or have represented, the opponent party.
2. Lawyers shall refuse to represent against those who, in another ongoing matter, are being represented by them.
3. Lawyers may not advise, represent or act for two or more clients, in the same or connected matters, if there is conflict between the interests of said clients.
4. If a conflict of interests arises between two or more clients, as well as the risk of breach of professional secrecy or lessening of his or her independence, the lawyer shall cease to act for all the clients within the scope of said conflict.
5. Lawyers shall abstain from accepting a new client if that jeopardises the fulfilment of the duty of professional secrecy regarding matters of a previous client, or if the knowledge of said matters results in unlawful or unjustified advantages for the new client.
6. Wherever the lawyer exercises the legal profession in association, whether as a law firm or not, the provisions in the preceding paragraphs shall apply both to the association and each of the members individually.

Article 35

Prohibition of *quota litis* and fee sharing

Lawyers shall be prohibited from:

- a) Demanding, as a fee, a portion of the debt subject or any other claim;
- b) Sharing fees, even as way of commission or other way of compensation, unless with lawyers or trainee lawyers with whom he

or she collaborates or whom have provided collaboration on the matter;

- c) Laying down that the right to fees shall be dependent from the outcomes of the quest or deal.

Article 36

Valuables and documents belonging to the client

1. Once the representation entrusted to lawyers ceases, lawyers shall return the documents, valuables or objects that may have been handed over to them and that are necessary for proving the client's case or whose retention may cause serious damages to the client.
2. As regards other valuables and objects under their custody, lawyers shall enjoy the right of retention in order to guarantee payment of fees and reimbursement of expenses.

SECTION III

DEALINGS WITH THE COURTS

Article 37

Duty of loyalty

1. Lawyers shall, at all times, act with diligence and loyalty in conducting the proceedings.
2. Without prejudice to their independence, lawyers shall treat magistrates with the respect owed to their function and shall abstain from intervening in their decisions either directly, in conversations or in writing, or through an intermediary, and they shall be considered as being the interested party themselves.
3. Lawyers are particularly prevented from sending or enabling the sending of any briefs to judges or arbitrators or from, in any form, resorting to disloyal methods for protecting the interests of the parties.

Article 38

Dealings with witnesses

Lawyers shall be prevented from establishing contacts with witnesses or other parties intervening in the proceedings with the objective of instructing, influencing them, or otherwise altering their testimonial, being detrimental to the search for the truth.

Article 39

Duty of correctness

1. Without prejudice of the duty to adequately represent the interests of their clients, lawyers shall exercise legal representation within the limits of the law and civility.
2. Lawyers shall prevent their clients from exerting any reprisals against their adversary and being less polite towards the opposing lawyers, magistrates, arbitrators and any other parties intervening in the proceedings.

SECTION IV
DEALINGS BETWEEN LAWYERS

Article 40

Duty of solidarity

Professional solidarity imposes a relationship of trust and cooperation between lawyers, to the benefit of their clients and to avoid useless litigation, conciliating, as much as possible, the interests of the legal profession with the interests of Justice and of those who seek it.

Article 41

Reciprocal duties between lawyers

1. The following shall constitute the duties of lawyers in their reciprocal dealings:
 - a) To act with the highest correctness, civility, and candour, abstaining themselves from any personal attack, dishonourable criticism or depressing references, of substance or form;
 - b) Not to make public statements on a matter known to have been entrusted to another lawyer, save in the presence of the latter or with his or her prior consent;
 - c) To act with the highest loyalty, not attempting to obtain unlawful or undue advantages for their own clients;
 - d) Not to contact or maintain dealings, even in writing, with any opposing party represented by a lawyer, save where this has been previously authorised by the latter or is a result of a legal or contractual imposition;
 - e) Not to invoke in public, particularly before the court, any failed transactional negotiations, both verbal and written, in which a lawyer has intervened;
 - f) Not to sign opinions, procedural documents and written pleadings, or other professional writings not written by them or with their collaboration.

Article 42

Correspondence between lawyers

1. Whenever lawyers wish their communication with another lawyer to be confidential in nature, they shall express, clearly, such intention.
2. In any event confidential communications may not be used as evidence, and are exempt from the provisions set in Article 28 paragraph 4.
3. Lawyers who are recipients of confidential communications who are not able to guarantee its confidentiality shall return it to sender without revealing its content to third parties.

CHAPTER IV

INTERNATIONAL COOPERATION

Article 43

General principles

1. The TBA shall be governed, in its international relations, in an independent way.
2. The TBA has friendship and cooperation relations with its counterpart institutions in other countries, in order to pursue its powers, maintaining privileged ties with its counterparts in countries whose official language is Portuguese, with the União dos Advogados de Língua Portuguesa [Union of Portuguese Speaking Lawyers] and with its counterparts in neighbouring countries and region.
3. The TBA shall employ its best efforts with the countries belonging to the Community of Portuguese Speaking Countries in order to, due to its linguistic proximity and the share of legal matrix, establish protocols that, respecting the idea of reciprocity, enable the exercise of the legal profession by foreign lawyers from those countries in Timor-Leste and by Timorese lawyers in those countries.

CHAPTER V

LAWYERS AND TRAINEE LAWYERS

SECTION I

REGISTRATION

Article 44

Professional licence

1. Lawyers or trainee lawyers in the exercise of their functions shall be obliged to make prove of their registration through valid professional licence, to be shown or attached as a copy, as required by the situation.

2. The courts may demand at any time the presentation of the professional licence, as prove of registration, by lawyers and trainee lawyers who present themselves before the court in the exercise of their functions.

Article 45

Restrictions to the right to register

Registration as lawyer or trainee lawyer shall not be open to any individual who:

- a) Has been convicted, by a final ruling, and sentenced to imprisonment for committing an intentional crime;
- b) Is not fully enjoying their civil rights;
- c) Has been declared by a final sentence to be incapable of governing his or her own person and property;
- d) Finds himself or herself in a situation of incompatibility, or is inhibited from the exercise of the legal profession;
- e) Being a magistrate, public defender, or civil servant, following disciplinary proceedings has been dismissed, retired, or placed in a situation of inactivity for lack of moral integrity.

Article 46

Exercise of the legal profession by non-registered individuals

1. Without prejudice to the applicable criminal law, those who breach the provisions set in Article 11 paragraph 1 are, save for judicial nomination, excluded from the process by a judge order, by the courts own motion before a complaint made by the TBA or petition by the interested parties.
2. The judge shall, in his or her prudent discretion, safeguard in his or her order irreparable damage to the legitimate interests of the parties.
3. If the scenario set in the preceding number occurs during a court case, the offender shall be prevented from continuing to intervene in the legal proceeding and, straightway the judge shall nominate an appointed lawyer to represent the interested parties, until such time they provide their own legal representation within the time limit given by the court, at the risk upon expiration of the time limit of ceasing the right to nomination, and suspending the instance or continuing the process without representation.

SECTION II

TRAINING AND REGISTRATION AS TRAINEE LAWYER

Article 47

Training

1. It is the competence of the TBA to ensure the execution of the preparatory registration procedures of trainee lawyers, the general orientation of the training, access to training in the judicial districts, the teaching of knowledge

of technical-professional and deontological nature and the training assessment system.

2. The TBA shall regulate the precise model of initial and complementary learning during the training, the organisation structure of the training services and their relevant competences, the continuous assessment system, the receiving scheme and integration in the training model of external training provided by other institutions and the organisation and realisation of final assessment examination and aggregation.

Article 48

Registration as trainee lawyer

1. Individuals who have been awarded a degree in Law by any of the Timorese universities officially authorised to award degrees may register as trainee lawyers.
2. Individuals who have been awarded a degree in law by foreign universities officially recognised or classed as equivalent may also register as trainee lawyers.
3. To register as trainee lawyer the interested party shall present his or her birth certificate, degree award letter, certificate of criminal record, identity card and 3 photographs in a similar format accepted for the identity card.

Article 49

Training duration, aim and stages

1. The training period is twenty four months.
2. The training courses shall commence, at least, once every civil year, on a date to be set by the general council.
3. The training aims to familiarise the trainee lawyer with the acts and more usual terms of forensic practice, and thus provide knowledge of rights and duties of lawyers.
4. The training course is divided by two distinct stages, the first with the duration of 15 months and the second, with the duration of 9 months.
5. The first training stage is intended to deepen the technical-professional knowledge and fundamental ethics and a command of matters directly linked to the practice of the legal profession.
6. The second period of training is intended to give for an experience of the legal profession, through personal contact with the normal operation of a law firm, the courts and other services related to the administration of justice, as well as enhancing the technical knowledge previously acquired.

Article 50

Competences of the trainee lawyers

1. During the first stage of training, the trainee lawyer shall not be allowed to practice any acts proper of the professional lawyer.

2. During the second stage of training, and once the professional licence has been obtained, the trainee lawyer shall be allowed to practice the following professional acts:
 - a) Exercise the legal profession in criminal proceedings relating to crimes for which the adequate proceeding is determined by the complaint;
 - b) Exercise the legal profession in non-criminal proceedings the value of which does not exceed 5,000 USD;
 - c) Provide legal advice.
3. Trainee lawyers may also practice acts proper of the legal profession in all other cases, irrespective of their nature and value, providing they are effectively accompanied by their mentor.
4. Trainee lawyers shall always indicate their status whenever they intervene in any act with professional nature.

Article 51

First stage of the training

1. During the first stage of the training, trainee lawyers attend a course with theoretical and practical nature, versed in the core subjects directly linked to the exercise of the legal profession, administered by the body responsible for the legal and judicial training of the Ministry of Justice, under the programmatic orientation of the TBA.
2. The TBA shall also promote, during the first stage of the training, the organisation of seminars, of essentially practical nature, resourcing to the support of the body named in the preceding paragraph, as well as the participation of representatives of other professions and collaboration of entities, national or foreign, related to legal training.
3. The first stage of the training ends with an exam assessing the acquired knowledge and the presentation by the trainee lawyer of a specific report on one of the themes studied during the first stage of the training.
4. Access by the trainee lawyer to the second stage of the training will be dependent on:
 - a) Successfully passing the exam assessing the acquired knowledge;
 - b) Positive assessment of the report referred to in the preceding paragraph.

Article 52

Second stage of the training

1. The trainee lawyers admitted to the second stage of the training shall receive their professional licence, where their qualification shall be designated as "trainee lawyer".
2. The general orientation of the second stage of the training continues to lay with the TBA and the trainee lawyers shall cumulatively:

- a) Exercise the activity correspondent to their specific competence, under the direction of a mentor with, at least, five years of effective exercise of the legal profession, freely chosen by the trainee lawyer;
 - b) Participate in the legal proceedings they are nominated for under the law and provide legal advice pro bono to those economically disadvantaged, under the direction of the TBA;
 - c) Forward every month to the TBA a copy of a pleading and an appeal statement, which cannot be on matters previously handled by the trainee lawyer;
 - d) Present a dissertation on professional ethics.
3. The second stage of the training ends with an individual assessment of the training, determined by the assessment of the work presented, being the attribution of the title of lawyer also dependent on the approval in the national assessment and aggregation examination.

Article 53

Officious appointment and legal aid

Without prejudice to other legal provisions concerning the legal aid, in officious appointment processes or when the legal aid applicant does not indicate a lawyer and in the absence of a public defender, the judge may refer to the TBA a request for appointment of an officious trainee lawyer concerning proceedings within the competence of trainee lawyers, as provided for in Article 50.

Article 54

Continued professional development of lawyers

Continued professional development is a duty of all lawyers, and it is the responsibility of the TBA to organise the training services intended to safeguard the constant updating of the technical and legal knowledge, the deontological principles and the conditions governing the exercise of the activity, focussing predominantly on themes arising from the development of the legal sciences, technological advances and the evolution of civil society.

SECTION III

REGISTRATION AS LAWYER

Article 55

Registration requirements

1. Under the provisions of this law and the TBA Statute, the registration as lawyer shall be dependent on the successful achievement of the training obligations.
2. The following persons shall be exempted from completion of the training:

- a) Magistrate and public defenders with professional exercise equal to or greater than the period of training, whom have positive assessment;
- b) Jurists of renown merit, masters and doctors of Laws, who demonstrate they possess sufficient knowledge and professional experience in the fields of internal or international law enabling them to give legal advice, with the dignity and competence demanded from the profession;
- c) Foreign lawyers whose membership of the TBA is admitted under the provisions set out in the subsequent Article.

Article 56

Registration and exercise of the legal profession in Timor-Leste by foreigners

1. Foreign lawyers may register with the TBA in the same terms Timorese lawyers providing their country offers equal privilege to Timorese lawyers.
2. Further to the provided in the preceding paragraph, foreign lawyers who wish to register with the TBA shall fulfil the following requirements, cumulatively:
 - a) Hold a degree in Law;
 - b) Have, at least, five years of relevant professional experience;
 - c) Have knowledge of the current Timorese legal framework;
 - d) Have written and spoken command of at least one of the official languages.

Article 57

Exercise of isolated acts by lawyers with their home-country professional title

1. Notwithstanding the above provisions, the provision of one-off isolated legal acts in Timor-Leste by foreign lawyers who exercise their activity based on their home-country professional title shall be permitted, providing the relevant authorisation is requested to the TBA.
2. Without prejudice to the provisions in the preceding paragraph, the representation and judicial mandate before the Timorese courts may only be exercised by foreign lawyers who perform their activities under the conditions referred to in paragraph 1, under the orientation of a lawyer registered with the TBA.
3. Foreign lawyers authorised to exercise isolated legal acts in Timor-Leste based on their home-country professional title shall be subject to the applicable professional and deontological rules.

CHAPTER VI

CRIMINAL AND CIVIL LIABILITY

Article 58

Crime of unlawful exercise of the legal profession

1. Unless the law provides otherwise, shall be punished with a fine up to 120 days, a person who, in violation of Article 11:
 - a) Undertakes acts proper of the legal profession and in particular, exercises the forensic mandate or gives legal advice under a regime of remunerated liberal profession.
 - b) Assists or collaborates in the practice of said acts,
2. The criminal proceedings are dependent on the complaint.
3. In addition to the injured party, the TBA also holds the right to complaint.

Article 59

Civil liability

1. For purposes of civil liability, any acts committed in violation of Article 11 shall be presumed as culpable acts.
2. TBA has standing to bring civil liability actions for the recovery of damages resulting from injury to the public interest which is required to safeguard and defend.

Article 60

Office for the exercise of the legal profession or legal consultation

1. The operation of an office or chamber, whatever its legal form, providing legal services or legal advice to third parties is prohibited.
2. Offices and chambers consisting exclusively of lawyers, law firms and legal advice chambers arranged by the TBA and the Public Defender are exempt from the provisions in the preceding paragraph.
3. Breach of the provisions in paragraph 1 above subjects the persons running the office or working therein to the penalty provided for in Article 58 paragraph 1, and gives the TBA the right to petition the competent judicial authorities to close the office or chamber.
4. Legal advice services held by legally constituted non-profit associations, to enable the defence of common interests legitimately associated with and represented by them are not covered by the prohibition in paragraph 1 above, provided that the acts referred to in Article 58 paragraph 1 subparagraph a) are performed individually by a lawyer or trainee lawyer.

CHAPTER VII

TRANSITIONAL AND FINAL PROVISIONS

Article 61

Safeguard of previous effects

The effects of the transitional regime enshrined in Article 68 of Law No. 11/2008, of 30 July, with the wording given to it by Decree-Law No. 39/2012, of 1 August and by Law No. 1/2013, of 13 February, are safeguarded.

Article 62

Legal Profession Management and Discipline Council

1. The Legal Profession Management and Discipline Council shall remain in function until the swearing in of the members of the various organs of the TBA, elected in the first elections, under the provisions in Article 64.
2. The Legal Profession Management and Discipline Council is responsible for organising the first General Assembly of lawyers.
3. All processes, investigations, applications and requests, even those that are ongoing or awaiting a decision, as well as all relevant records, shall be handed over to the competent TBA organs, depending on the subject and in accordance with the provisions in the preceding paragraph.

Article 63

Constitution of the first General Assembly of the TBA

1. The first general assembly of the TBA shall be constituted by all lawyers and trainee lawyers who have a valid registration with the Legal Profession Management and Discipline Council.
2. The first General Assembly of the TBA shall take place within 90 days of the publication of this law.
3. The first General Assembly of the TBA shall have competence to:
 - a) Approve the Statute of the TBA;
 - b) Set the remaining organs of the TBA, in addition to the General Assembly and the President;
 - c) Elect the President of the TBA;
 - d) Approve the budget of the TBA;
 - e) Approve a schedule of fees, of an indicative nature, in order to assist lawyers in the equitable establishment of their fees;
 - f) Define the value of the mandatory membership to be paid by each lawyer and trainee lawyer;
 - g) Approve the model of the professional licence for lawyers and trainee lawyers;
 - h) Approve the model of the justice robe for the lawyer.

Article 64

First elections

The first elections of members for the remaining organs of the TBA shall occur three months after first General Assembly takes place.

Article 65

Law firms

The creation and functioning of law firms shall be the object of a particular law.

Article 66

Mandatory publication

The statutes of the TBA, as well as all the regulations which emerge from the competent organs of the TBA and the administrative decisions subject to judicial review relating to the exercise of the legal profession, shall be mandatorily published in the Official Gazette and posted in the official website of the TBA.

Article 67

Repeal

Unless otherwise provided it is repealed Law No. 11/2008, of 30 July, with the alterations introduced by Decree-Law No. 39/2012, of 1 August and by the Law No. 1/2013, of 13 February, as well as any other norms that contradict the provisions in this law.

Article 68

Entry into force

This law shall entry into force the day after its publication in the Official Gazette.

Approved by the Council of Ministers on 28 April 2015

The Prime Minister,

Rui Maria de Araújo

The Minister for Justice

Ivo Valente