



Proposed Law No. .../V

Creates the Timor-Leste Bar Association and approves its statute

Explanatory

Section 26 of the Constitution of the Democratic Republic of Timor-Leste ensures all citizens access to the courts and to justice in order to defend their legally protected rights and interests, guaranteeing that justice shall 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 Republic, as a function of social interest, contributing to the good administration of justice and to safeguard 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 realization of the democratic rule of law. While ensuring the independence and autonomy of lawyers, it is incumbent upon the State to establish a set of rules guaranteeing and disciplining both the exercise of legal representation and the practice of other typical acts of the legal profession, such as the representation of citizens before the State Administration or before the police or military forces.

Simultaneously to the need to guarantee, pursuant to article 136 of the Constitution of the Republic, a special regime of inviolability and confidentiality, the exercise of the legal profession and the functions entrusted to it shall also require the provision of a special regime of deontological duties, incompatibilities, and criminal and civil liability.

Considering that Regulation No. 24/2001 of the United Nations Transitional Administration in Timor-Leste (UNTAET) of 5 September 2001 was limited to the creation of the East Timor Legal Assistance Service, an activity pursued, as a public response system, mainly by the Office of the Public Defender, until 2008 there were no clear rules on the exercise of private legal practice in Timor-Leste, nor any statute of its own.

In turn, the establishment in 2003 of the *Asosiasaun Advogado Timor Lorosa'e* is undoubtedly a milestone in the recent history of legal and judicial advocacy in Timor-Leste.

As a legal person under private law, the association of liberal professionals, *Asosiasaun Advogado Timor Lorosa'e*, includes among its members not only lawyers, but also judges and prosecutors, which would not occur under the Bar Association, due to the specific incompatibility regimes already in place.

Although the legislator did not expressly provide, as a guarantee of the exercise of the legal profession, for the right to self-organization in the professional regulation of lawyers, namely in the discipline of access to the profession or the exercise of the discipline, such intention is contained in Law No 11/2008 of 30 July, which approved the first Legal Regime of Private Practice and Training of Lawyers (RJAPFA),

and also finds justification in the need to duly frame lawyers as fundamental partners in the development of the system of access to law and justice.

The RJAPFA established the rules on the exercise of private legal practice in Timor-Leste and the status and professional training of lawyers, and stated that the regime would be provisional and would remain in force until the Bar Association was created and began its functions.

From the outset, the RJAPFA attributed the scrutiny of compliance with the professional duties of lawyers to the Legal Profession Management and Discipline Council, the majority of whose members were appointed by the Minister of Justice. That is to say, the State indirectly administered the disciplinary responsibility of lawyers and compliance with the aforementioned legal regime.

The present time is very different from that experienced at the dawn of the restoration of independence. The growing complexity of the Timorese legal system, which goes hand in hand with economic and social development, has resulted in the existence and operation in Timor-Leste of multiple national and international law firms, as well as numerous lawyers.

Thus, under the terms of this law, Timor-Leste Bar Association shall be part of the autonomous administration of the State and, as a legal person under public law, it shall constitute a public association, to which the State transfers authority powers originally belonging to it, recognizing, even if implicitly, that the public interest in question shall be better pursued by the interested individuals, through bodies, namely disciplinary bodies, elected by themselves.

To this end, the State ensures that the powers of the Bar Association are exercised within the framework of the Constitution, and the present diploma provides for, inter alia, the observance of the principles of democracy, non-discrimination, limitation of mandates and judicial control.

As for the rest, the solutions enshrined in the abovementioned legal regime have been fundamentally preserved.

Thus, the provisions regarding the catalogue of deontological rights and duties of lawyers, the respective regime of incompatibilities and other guarantees of independence, as well as the requirements of the traineeship that precedes the full exercise of the profession are maintained.

The norms regarding the reservation of activities and titles of lawyers are also maintained. In other words, the principle that only individuals registered as such may legally call themselves lawyers and practice acts proper of the profession is maintained. However, some exceptions are introduced, allowing certain law graduates for whom the requirements for access to and exercise of the activity have been considered unnecessary or disproportionately demanding, to exercise acts proper of lawyers (with the exception of forensic mandate).

In line with the new model of self-organisation and autonomy (autonomy that is also formative and financial), the Bar Association will now directly ensure the training of its trainees and will have its own revenue, namely contributions from its members.

Nevertheless, the delegation of the powers at stake here does not mean that the State will not collaborate, on an exceptional basis, and within the framework of the law, in the process of setting up this new public association of professionals, namely through the Legal and Judicial Training Centre or by financing the actual process of setting up. With this draft law it is expected to contribute in a decisive manner to the significant improvement of the current situation in the justice sector, in terms

of availability of justice services, also contributing to a greater awareness and confidence of the citizen in general in the justice system itself.

Thus, the Government presents to the National Parliament, under article 97(1)(c) and article 97(a) of the Constitution of the Republic, the following Article 97(1)(c) and Article 115(2)(a) of the Constitution of the Republic, the following draft law:

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The legal profession is qualified by Section 135 of the Constitution of the Republic as a function of social interest, which contributes to the good administration of justice and the safeguarding of the rights and legitimate interests of citizens.

However, until 2008, Timor-Leste did not have clear rules on the exercise of private legal practice, nor a specific statute for lawyers.

In fact, United Nations Transitional Administration in Timor-Leste (UNTAET) Regulation No 24/2001, of 5 September 2001, was limited to the creation of the Timor-Leste Legal Assistance Service, an activity pursued, as a public response system, primarily by the Office of the Public Defender.

On the other hand, the Timor-Leste Lawyers Association (whose establishment, in 2003, was also a milestone in the history of legal and judicial representation in Timor-Leste) was, as it still is today, merely a legal person under private law, of merely voluntary enrolment, and which includes among its members not only lawyers, but also judges and prosecutors.

In this context, the Legal Regime of Private Practice of Law and Training of Lawyers (RJAPFA), approved by Law No. 11/2008 of 30 July and amended by Decree-Law No. 39/2012 of 1 August, Law No. 1/2013 of 13 February and Law No. 4/2015 of 30 December, established the first rules on the practice of private law in Timor-Leste and on the status and professional training of lawyers.

However, the RJAPFA assigned the scrutiny of compliance with the professional duties of lawyers to the Legal Profession Management and Discipline Council, the majority of whose members are appointed by the Minister of Justice. That is to say, in practice, the State indirectly ensured, as it still does today, the disciplinary responsibility of lawyers and compliance with the abovementioned legal regime.

However, such solution has always been assumed to be transitory. Article 57(1) of the RJAPFA itself indicated that such legal framework would only be applicable "while the Bar Association is not created".

Since then, the growing complexity of the Timorese legal system, which accompanies the economic and social development, has meant that multiple law firms, national and international, as well as numerous lawyers, exist and operate in Timor-Leste.

Thus, the time has come to dynamize the regulation of the legal profession and the exercise of the respective disciplinary action, through a closer connection with the sector and its democratic representation in the bodies charged with performing such tasks. To that end, the present statute creates the Timor-Leste Bar Association, a legal person under public law that shall be part of the autonomous administration of the State and to which the functions of admission, supervision, and discipline of lawyers are assigned.

The creation of the Timor-Leste Bar Association aims at introducing a more rigorous scrutiny of compliance with the deontological norms of the legal profession (which are fundamentally maintained) and at providing the country with an institution similar to its counterparts in the other countries of the Community of Portuguese-Speaking Countries, thus strengthening international confidence in the technical and ethical quality of lawyers in Timor-Leste.

Thus, pursuant to paragraph 1 of Section 95 and paragraph 3 of Section 135 of the Constitution of the Republic, the National Parliament enacts the following to be effective as law

Article 1

Object

Timor-Leste Bar Association, hereinafter referred to as OATL, is hereby established and its statute, attached hereto and forming an integral part of this law, is hereby approved.

Article 2

Safeguarding earlier effects

1. The effects and acts practised under Law No. 11/2008, of 30 July, as amended by Decree-Law No. 39/2012, of 1 August, and Laws Nos. 1/2013, of 13 February and 4/2015, of 30 December, shall be safeguarded.
2. Lawyers currently registered with the Legal Profession Management and Discipline Council under the regime referred to in the preceding number shall be considered automatically registered with the OATL.
3. Foreign lawyers currently registered with the Legal Profession Management and Discipline Council under the regime referred to in paragraph 1 above shall be obliged to update the data concerning their registration within 90 days after the first elections to the organs of OATL.
4. As long as the Legal Profession Management and Discipline Council remains in office under the terms of article 4, registration with the OATL shall be carried out under the terms provided for in the regime referred to in paragraph 1 of this Article.

Article 3

Attributions of the Court of Appeal

Until such time as the Supreme Court of Justice is established, references in the OATL Statute to the Supreme Court of Justice and to the President of the Supreme Court of Justice shall be deemed to be references to the Court of Appeal and to the President of the Court of Appeal, respectively.

Article 4

Legal Profession Management and Discipline Council

1. The Legal Profession Management and Discipline Council shall remain in office until the members of the organs of the OATL elected in the first elections pursuant to article 6 take office.
2. All proceedings, enquiries, requests, and applications, even those pending or awaiting decision, as well as all registrations concerning or relating thereto, shall be transferred to the

competent organs of the OATL, according to the subject matter and under the terms of the previous number.

Article 5 **Installing Committee**

1. The setting-up committee of the OATL is hereby created and shall be composed by the current governing body of the Timor-Leste Bar Association.
2. The Installation Committee of OATL shall have the sole responsibility of organizing and convening the first session of the General Assembly of OATL and promoting the elections for the bodies of OATL.

Article 6 **First Session of the General Assembly of OATL**

1. All lawyers and probationary lawyers registered with the Legal Profession Management and Discipline Council in force shall be entitled to participate in the first session of the General Assembly of OATL.
2. The first session of the General Assembly of OATL shall be held within 90 days after the entry into force of the present statute.
3. The first session of the General Assembly of OATL shall have the following purposes:
 - a) The election of the organs of OATL;
 - b) To define the amount of the fee to be paid by each lawyer and trainee lawyer
 - c) Approval of the model of the professional license of lawyers and probationary lawyers
 - d) Approval of the professional attire of lawyers.

Article 7 **Revocation rule**

Without prejudice to the provisions contained in article 2, Law No. 11/2008, of 30 July, as amended by Decree-Law No. 39/2012, of 1 August, and by Decree-Laws No. 39/2012, of 1 August, is hereby repealed the Laws no. 1/2013, of 13 February and 4/2015, of 30 December.

Article 8 **Entry into force**

The present law shall enter into force 180 days after its publication. Approved on

The Speaker of the National Parliament,
Promulgated on

To be published.

The President of the Republic.

ANNEX

(referred to in Article 1)

**STATUTE OF TIMOR-LESTE BAR ASSOCIATION
CHAPTER I GENERAL PROVISIONS**

Article 1

Name, nature and headquarters

1. The Timor-Leste Bar Association, hereinafter referred to as OATL, is a public association representing lawyers and trainee lawyers who, in accordance with the present statute and the applicable legal provisions, practice law in the Democratic Republic of Timor-Leste (RDTL).
2. OATL shall be governed by the present statute.
3. OATL shall have its Headquarters in Dili and shall enjoy legal personality, not being subject to orientation powers of the organs of the State or of any public or private collective person, and shall be independent and autonomous in pursuing its goals.
4. The powers of legality over OATL provided for in the legal framework of public professional associations shall be exercised by the Minister of Justice.

Article 2

Scope

1. OATL shall pursue the attributions and exercise the competencies conferred upon it by law and these statutes within the national territory.
2. The attributions and competencies referred to in the preceding paragraph shall be extensive to the activity of the lawyers and trainee lawyers registered with it when exercising their respective profession outside the RDTL.

Article 3

Tasks of the OATL

Under the terms of the law and of these statutes, the tasks of OATL shall be:

- a. To defend the Constitution, the democratic rule of law, the rights, freedoms and guarantees of citizens, social justice and human rights;
- b. To contribute to the good administration of justice, namely by defending human rights and safeguarding the rights, freedoms and guarantees of citizens
- c. To grant the professional title of lawyer and probationary lawyer, as well as regulate the exercise of the respective profession
- d. Safeguard the social function, dignity, prestige, and independence of the legal profession and promote the respect for the respective values and deontological principles
- e. Promote permanent professional training, updating, and improvement of the lawyers and trainee lawyers

- f. To promote the access to the knowledge and application of the law, as well as contribute to the development of legal culture and to the improvement of the drafting of legislation
- g. To defend the interests, rights, prerogatives, and immunities of its members
- h. To strengthen solidarity among lawyers
- i. To ensure access to the law under the terms of the Constitution and the law;
- j. To exercise, exclusively, disciplinary jurisdiction over lawyers and trainee lawyers, in accordance with the present statute and in conformity with the guarantees of due legal process and ample defence
- k. To pronounce upon the draft legislative diplomas that are of interest to the exercise of the legal profession and to legal representation in general, and to propose the legislative amendments that are deemed convenient
- l. To contribute to the exchange, collaboration, and cooperation with similar national, foreign, or international institutions
- m. To exercise the other functions conferred upon it by the present statutes or by law or that prove to be necessary or convenient for the efficient pursuit of the other attributions.

Article 4 Representation of the OATL

1. The OATL shall be represented in and out of court by its President.
2. For the purpose of defending its members in all matters relating to the exercise of the profession or the holding of positions in the OATL bodies, whether in relation to responsibilities that are required of them or offences committed against them, the OATL may exercise the rights of assistant or grant legal representation in proceedings of any nature whatsoever.

Article 5 Resources

1. Acts carried out by OATL organs in the exercise of their attributions shall be subject to the hierarchical appeals provided for in these statutes.
2. The deadline for filing the appeals referred to in the previous number shall be 30 days.
3. The acts practiced by the OATL bodies may also be appealed against, under the general terms of law.

Article 6
Correspondence and official document requisition

In the exercise of their legal powers, OATL bodies may correspond with any public entities, judicial and police authorities, as well as request documents, copies, certificates, information and clarifications, including the forwarding of files in confidence, under the terms in which official bodies must comply with requests from judicial courts.

Article 7
Duty to collaborate

1. All public entities, judicial authorities and police have a special duty to provide full collaboration to the bodies of the OATL in the exercise of their functions.
2. Private individuals and legal persons shall have a duty to collaborate with the organs of the OATL in the exercise of their competencies.

Article 8
Honours and treatment

At official ceremonies, the President of the Bar Association of the OATL shall receive the same honors and treatment as those due to the Attorney General of the Republic, and shall be placed immediately to his left.

Article 9
Honorary titles

Lawyers who have held offices within the organs of OATL shall retain, as honorary titles, the title corresponding to the highest office they have held.

Article 10
Hearing

OATL shall be mandatorily heard on draft legislative or regulatory diplomas prior to their approval whenever they are of interest to the exercise of the legal profession, to legal representation, to the administration of justice, and to public professional associations.

CHAPTER II
ORGANS OF THE OATL

SECTION I
GENERAL PROVISIONS

Article 11
Bodies

1. The OATL shall pursue its attributions through its own organs.
2. The following shall be OATL's organs:
 - a. The General Assembly;
 - b. The President of the Board of Directors;

- c. The Board of Directors
 - d. The Jurisdictional and Fiscal Council.
3. The members of the OATL bodies referred to in subparagraphs b) to d) of the preceding number shall be elected for a term of office corresponding to three calendar years.
 4. The President of the Bar Association may only be re-elected once.

Article 12

Eligibility

1. Only lawyers of Timorese nationality with a valid registration and without any disciplinary punishment higher than a warning shall be eligible for election to the bodies of the OATL.
2. The exercise of functions as member of the Board of Directors and as member of the Jurisdictional and Supervisory Board shall be mutually incompatible.
3. Candidates to the elected bodies of the OATL shall have a minimum of three years of professional practice in Timor-Leste, excluding any probationary period.
4. In the case of candidates for President of the Bar Association, the minimum period referred to in the preceding number shall be five years of practice of the profession in Timor-Leste, excluding any probationary period.

Article 13

Applications

1. Election to the bodies of the OATL shall depend upon the presentation of proposals for candidacy, which shall be submitted to the acting Chairperson of the General Assembly by 30 September of the year immediately prior to the commencement of the subsequent term of office.
2. Candidacy proposals for OATL bodies shall be subscribed by a minimum of 20 lawyers with a registration in force.
3. Proposals of candidacy shall contain a personal declaration of acceptance by all the candidates.
4. Where no nomination to one of the bodies of OATL is submitted within the period provided for in paragraph 1 above, nomination to such body may exceptionally take place until 10 days after the expiration of the period provided for in paragraph 1 above.
5. If, notwithstanding the provisions of the preceding paragraph, no candidacy is presented for any of the bodies of the OATL, the outgoing body shall present one, with exemption from the provisions of paragraph 2, within 10 days following the end of the period provided for in the preceding paragraph.
6. Up to 15 days prior to the date set for holding the elections, the President of the General Assembly shall validate the fulfilment of the legal requirements of the candidacies received within the time limits set forth in this article.

Article 14
Date of elections

The elections for the various OATL bodies shall be held simultaneously, between 3 and 15 November of the year immediately prior to the beginning of the subsequent term of office, on the date designated by the President of the General Assembly.

Article 15
Voting

1. Only lawyers with a valid registration shall have the right to vote.
2. The vote in the elections referred to in article 15 above shall be secret and shall be exercised in person.

Article 16
Taking office

The officers elected to the bodies shall take office before the incumbent Chairman of the General Assembly within 15 days as from the date of the respective election.

Article 17
Loss of Office

1. Lawyers elected to exercise functions in organs of the OATL shall perform them with assiduity, diligence, and zeal.
2. Lawyers who, without justifiable reason, do not exercise the respective functions with assiduity, diligence, and zeal, or who hinder the functioning of the organ to which they belong, shall lose their functions.
3. Loss of office pursuant to the present article shall be proposed by the organ itself to the General Assembly.

Section 18
Effects of Disciplinary Penalties on the Exercise of Office

1. The mandate for exercising any elective office in the OATL shall cease when the respective holder is permanently subjected to a disciplinary penalty greater than a warning.
2. In the event of preventive suspension or a disciplinary decision against which an appeal has been lodged, the punished incumbent shall be suspended from holding office until a final and unappealable decision is taken.

Article 19
Replacement of Chairpersons and other members of collegiate bodies

1. In case of early termination of the term of office of the President of an OATL organ, namely due to resignation, loss of office for disciplinary reasons, death, or permanent impediment, the organ in question shall, in the first ordinary session following the fact, elect a new

President from among its members and, from among the eligible lawyers, shall co-opt a new member of the referred organ.

2. In case of early termination of mandate of the other members of the collegial organs of OATL, namely due to resignation, loss of mandate for disciplinary reasons, death, or permanent impediment, the substitutes shall be appointed by the other acting members of the organ in question, from among the eligible lawyers.

Article 20

Temporary impediment of the presidents and other members of the collegiate organs

In the event of temporary impediment of any member of the organs, the organ to which the impeded member belongs shall determine his or her replacement for the duration of the respective impediment.

SECTION II GENERAL MEETING

Section 21 Composition and Competence

1. The General Assembly of OATL shall be composed by all lawyers with their registration in force.
2. It shall be incumbent upon the General Assembly to deliberate on all matters not included within the specific competencies of the other bodies of OATL.

Article 22 Functioning

1. The proceedings of the General Meeting shall be presided over by the President of the General Meeting.
2. The Chairman of the General Meeting may appoint up to two secretaries to assist him in the exercise of the respective duties.

Article 23 Meetings

1. The General Assembly shall meet in ordinary session to elect the bodies of OATL, to discuss and approve its annual budget, and to discuss and vote on its report and accounts.
2. The General Assembly shall meet in extraordinary session upon convocation by the President of the General Assembly, at his or her initiative, or when so requested by the Board of Directors, by the Jurisdictional and Tax Council, or by one fifth of the lawyers with a current registration, provided that the object of the convocation is legal and has a connection with the interests of the profession.

Article 24
Ordinary session

1. The General Assembly shall convene in ordinary session for the election of the other bodies of OATL under the terms laid down in article 14.
2. The General Assembly session to discuss and approve the annual budget of OATL shall be held in December of the year prior to the financial year to which it relates.
3. The General Assembly session to discuss and approve the report and accounts shall be held in March of the year immediately preceding the financial year in question.

Section 25
Notices of General Meetings

1. The General Meeting sessions shall be convened in writing, by electronic means, with a delivery report, at least 10 days prior to the date designated for the session, whether it is an ordinary or extraordinary session.
2. With the convening notice for the General Meeting sessions, the respective agenda is immediately forwarded and, in the case of sessions intended for the discussion and approval of the budget or the discussion and approval of the report and accounts, a copy of the documents in question is immediately sent.

Article 26
Deliberations

1. At the General Assembly sessions, voting by proxy in favour of another lawyer with a valid registration shall be admissible, except where the election of OATL bodies is at stake.
2. The proxy shall be contained in the letter addressed to the President of the General Assembly and shall bear the signature of the principal.
3. The General Assembly shall only have deliberative powers, at first convening, if at least half of its members are present or represented.
4. In the absence of quorum, the General Meeting shall reconvene 30 minutes after the time stated in the notice convening it and shall then deliberate with any number of members.
5. The General Assembly passes its decisions by an absolute majority of the votes of the members present and represented, unless the law or the present statute provides otherwise.
6. Decisions aimed at proposing to the Government or the National Parliament the amendment of the present statute, through the corresponding legislative initiative, shall require a majority of three quarters of the members present and represented.
7. Deliberations concerning the dismissal of members of the corporate bodies shall require a majority of three quarters of the members present and represented.

SECTION III
Bastonário

Article 27
President of the OATL

The President of the OATL is the President of the President of the Board of Directors and, inherently, of the General Assembly.

Article 28
Competence

1. It shall be incumbent upon the President of the Board of Directors:
 - a. Representing the OATL in and out of court, namely before sovereign bodies;
 - b. Representing the institutes integrated in the OATL
 - c. Chairing the Board of Directors of the OATL
 - d. To chair the OATL General Assembly
 - e. To attend, if he so wishes, the meetings of the Jurisdictional and Fiscal Council, without the right to vote;
 - f. To use the casting vote in case of a tie in the decisions taken by the bodies he presides over
 - g. Interpose contentious appeals against the decisions of all the organs of the OATL that he considers contrary to the law and regulations or to the interests of the OATL or its members.
2. The President may delegate any of his competencies to any member of the Board.
3. The President may, with the agreement of the Board of Directors, delegate the representation of OATL or assign specifically determined functions to any lawyer.
4. The President may also consult the former President, individually or in a meeting chaired by him/her, and delegate to them the representation of the Bar Association or assign them specifically determined functions.

SECTION IV
BOARD OF DIRECTORS

Article 29
Composition and powers

- i. 1. The Executive Board shall consist of three full members, including the President of the Bar Association, a secretary-general and a treasurer.
2. The Executive Committee may only deliberate with the presence of the majority of its members in full exercise of their functions, the President having the casting vote.
3. The Secretary-General shall substitute the President of the Bar Association in his absences and impediments.
4. It is the responsibility of the Board of Directors:

- a. Ensure the compliance with the legislation concerning the OATL and respective regulations and the pursuit of the attributions conferred upon it;
 - b. To execute and enforce the legitimate deliberations of the General Assembly and the Jurisdictional and Fiscal Council
 - c. To promote the collection of revenue and authorise budget expenditure, being able, when necessary, to promote the opening of extraordinary credits
 - d. To present annually to the General Assembly the draft budget for the following calendar year, the accounts for the previous calendar year and the report on the annual activities;
 - e. To forward to the National Parliament and the Government the report on OATL's annual activities by 31 March of the year following the one to which it relates
 - f. To promote, by its own initiative or at the request of the General Assembly, the necessary acts for the legal representation of lawyers or for OATL to become an assistant, under the terms provided in paragraph 2 of Article 4
 - g. To commission any of the OATL bodies or the respective members to prepare opinions on any matters within their competencies and that are of interest to the pursuit of OATL's attributions
 - h. To direct the services of the OATL
 - i. To decide on requests for exemption from the obligation of professional secrecy submitted by lawyers under paragraph 4 of Article 54
 - j. To promote and ensure the training of lawyers and trainee lawyers in accordance with the requirements imposed by law for the exercise of the profession
 - k. Exercise the other competences conferred upon it by the laws and regulations.
5. The Board of Directors may delegate to any of its members, wholly or in part, the competences for performing certain acts or types of acts.
6. The Secretary-General shall be responsible for coordinating the executive functions referred to in paragraph 4(g) above.

Article 30

Meetings

The Executive Board shall meet when convened by the President of the Bar Association, at his or her initiative or at the written request of the majority of its members in full exercise of their functions and at least once a month.

SECTION V

JUDICIAL AND SUPERVISORY COUNCILS

Article 31

Composition and powers

1. The Legal and Tax Council shall consist of three effective members and two alternate members, having a chairperson, a secretary and a member.
2. The Jurisdictional and Fiscal Council may only deliberate with the presence of the majority of its members in full exercise of their functions and the Chairman shall have the casting vote in case of a tie.
3. The Secretary shall substitute the President in his or her absence and impediments.
4. It is incumbent upon the Legal and Tax Council:
 - a. Investigate and decide the disciplinary proceedings in which the President, former President and current members of the Jurisdictional and Fiscal Council are accused;
 - b. Judge appeals against decisions of the OATL bodies that determine the loss of office of any of its members or declare any impediment to their exercise;
 - c. Deliberate on the impediments and loss of office of its members and preventively suspend them in case of disciplinary misconduct during the respective process;
 - d. To convene sessions of the General Assembly, when the time limit for convening them has been exceeded;
 - e. Draw up and approve its own rules of procedure
 - f. Draw up the proposed regulation and amendments to the fee regulations and submit them for approval by the General Assembly
 - g. To prepare the proposal of regulation and amendments to the disciplinary regulation and submit them to the approval of the General Assembly
 - h. To deliberate on the resignation from the office of President;
 - i. Ratify expulsion sanctions;
 - j. Give an opinion on fees, when requested by the courts, by other boards or, in relation to the respective accounts, by any lawyer or his representative or any consulter or constituent;
 - k. Give an opinion on the annual report and accounts of the Board
 - l. To monitor and control the financial management of the OATL
 - m. To appraise and issue its opinion on the budget, activity report and annual accounts of the OATL
 - n. To supervise the organization of OATL accounts and compliance with legal and regulatory provisions, in the budgetary, accounting and treasury areas

- o. To pronounce on any matter of interest to the OATL in the budgetary, accounting, financial, and fiscal domains that is submitted to its appraisal by the President of the Board or by the Executive Committee
- p. To request from the other bodies of the OATL all information and clarifications necessary for the performance of its functions;
- q. To exercise the other attributions conferred upon it by law or regulations.

Article 32
Ordinary and extraordinary sessions

The Legal and Fiscal Council shall meet in ordinary session every three months and in extraordinary session whenever it is convened by the respective President, on his or her own initiative, at the request of any of the members of the Council or at the request of the President or the Board of Directors.

CHAPTER III
LEGAL PRACTICE

SECTION I
GENERAL PROVISIONS

Article 33
Principal function

Lawyers participate in the good administration of justice and their main function shall be to contribute to safeguard the rights and legitimate interests of citizens.

Article 34
Exercise of the legal profession and reservation of title

- 1. Only lawyers and probationary lawyers with a valid registration with the OATL may, throughout the national territory and before any jurisdiction, authority, or public or private entity, practice acts proper of the profession.
- 2. No one who is not registered as such with the OATL shall be entitled to be called a lawyer, with the exception of honorary lawyers provided they do so and indicate that quality.

Article 35
Acts proper of lawyers

- 1. Acts proper of lawyers shall include:
 - a. The exercise of forensic mandate, as such considered the judicial mandate conferred to be exercised in any court or arbitral commission;
 - b. Legal consultation, as such considered to be the activity of legal counseling, which consists in the interpretation and application of legal norms at the request of a third party;
 - c. The exercise of a mandate, with powers to negotiate the establishment, alteration or termination of legal relationships;

- d. Negotiation aimed at the collection of credits;
- e. Those resulting from the exercise of the right of the citizen to be accompanied by a lawyer before any authority.

Article 36
Freedom of exercise

The exercise of forensic mandate, representation, and assistance by lawyers shall not be impeded before any jurisdiction, authority, or public or private entity, namely for the purposes of defense of rights, sponsorship of disputed legal relations, composition of interests, or in processes of mere investigation, even if administrative, ex officio, or of any other nature.

Article 37
Freedom of expression and association

Lawyers shall enjoy freedom of expression, belief, association and assembly, and shall have the right to participate in public debates on issues related to law, administration of justice, and promotion and protection of human rights, as well as the right to establish or to join local, national or international organizations and to be present in their meetings, without suffering professional restrictions as a result of their lawful performance or their membership in a lawful organization.

Article 38
Freedom of choice of representative

The forensic mandate shall not be subject, in any manner, to any measure or arrangement which prevents or restricts the personal and free choice of the representative by the principal.

Article 39
General guarantees

1. Magistrates, authority agents, and public officials shall ensure lawyers, when exercising their profession, treatment compatible with the dignity of the legal profession and adequate conditions for the full performance of the mandate.
2. In trial audiences, lawyers shall have a bench of their own and shall be allowed to intervene seated.
3. Lawyers shall not be prejudiced by virtue of the exercise of the profession, particularly in view of the identity of their clients or of the respective causes.
4. Whenever possible, facilities where courts function shall have a working room intended for lawyers.
5. Lawyers, when exercising their profession, shall have preference in the attendance in any public service.

Article 40
Professional dressing

The use of professional dressing shall be mandatory for lawyers and probationary lawyers when they plead orally.

Article 41
Searches, seizures, inventories and similar in a lawyer's office

1. Searches, apprehensions, inventories, and similar diligences in the lawyer's office or in any other place where he or she files, as well as the interception and recording of conversations or communications by telephone or electronic mail used by lawyers in the exercise of their profession and registered with the OATL, can only be decreed and presided over by the competent judge.
2. With the necessary advance notice, the judge shall convene the lawyer subject to the diligence to attend the diligence, as well as a representative of the OATL.
3. Where neither the lawyer nor the representative of OATL appear, or where the urgency is incompatible with the proceedings provided for in paragraph 1 above, the judge shall appoint any lawyer who may appear immediately, preferably from among those who have been part of the organs of OATL or, where this is not possible, the lawyer indicated by the lawyer to whom the office or file belongs.
4. Wherever they present themselves or are summoned by the judge, relatives or employees of the interested lawyers shall also be admitted to the diligence.
5. Until the appearance of the lawyer representing OATL, the indispensable measures may be taken so that no papers or objects are destroyed or mislaid.
6. The due diligence record shall make express mention of the persons present, as well as of any occurrences during the proceedings.

Section 42
Seizure of documents

1. Correspondence relating to the exercise of the profession shall not be apprehended, irrespective of the medium used, unless it is related to a criminal fact in relation to which the lawyer has been made a defendant.
2. The prohibition shall extend to correspondence exchanged between the lawyer and any person who has given or intended to give him or her a mandate and who has requested legal counseling, although not yet given or already refused, as well as to instructions and written information on the subject of the appointment or mandate or the requested legal counseling.

Article 43
Complaint

1. During the diligences provided for in the preceding articles, the lawyer concerned or, in his absence, any of the relatives or employees present, as well as the representative of OATL, may present any complaint.

2. Where the complaint is intended to ensure the preservation of professional secrecy, the judge shall immediately suspend the diligence in relation to the documents or objects at stake by making them available, without reading or examining them, in a sealed volume at the same time.
3. Complaints shall be substantiated within five days and filed with the court where the proceedings are pending, and the judge shall forward them, within the same period of time, to the President of the Supreme Court of Justice with his or her opinion and, if applicable, with the volume referred to in the preceding paragraph.
4. The President of the Supreme Court of Justice may, subject to confidentiality, desecal the same volume, returning it sealed again with his or her decision.

Section 44

Right of communication with arrested defendants

Lawyers have the right, pursuant to the law, to communicate personally and in private with their clients even when they are imprisoned or detained in a civil or military facility, and the necessary conditions shall be ensured so that such communication takes place in total confidentiality and privacy between the lawyer and his or her client.

Article 45

Information, examination of files, and request for certificates

In the exercise of their profession, lawyers shall have the right to request, in any court or public agency, the examination of proceedings and the confidence in proceedings, books, or documents that do not have a reserved or secret nature, as well as to request, orally or in writing, that photocopies be supplied or certificates be issued, without the need to present a power of attorney.

Article 46

Application and right to protest

1. In the course of a hearing or of any other act or diligence in which he or she intervenes, the lawyer shall be allowed to request, orally or in writing, at a moment he or she considers appropriate, whatever he or she considers convenient for the duty of representation.
2. Where, for any reason whatsoever, the lawyer is not granted the floor, or the request is not recorded in the minutes, the lawyer may exercise the right to protest, indicating the subject of the request and the object he or she had in mind.
3. The protest shall be included in the minutes and shall, for all purposes, be considered as an argument of nullity, pursuant to the law.

Article 47

Special Protection

Whenever, by virtue of the exercise of the profession, weighty reasons of security so require, lawyers shall enjoy special protection by the authorities and organs of police.

SECTION II
Incompatibilities and impediments

SECTION II
Incompatibilities and Impediments

Article 48
General Principles

1. Lawyers shall exercise the defense of the rights and interests entrusted to them always 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 post, function, or activity that may affect the exemption, independence, and dignity of the profession.
3. Incompatibilities or impediments shall be declared and enforced by the OATL under the terms of its statutes.

Article 49
Incompatibilities

1. The exercise of the legal profession shall be incompatible with the performance of functions and activities that are in disagreement with the previous article, namely the following:
 - a. Holder or member of sovereign bodies and respective advisors, members and employees or agents of the respective offices;
 - b. Ombudsman of Human Rights and Justice and respective advisors, members and employees of the service
 - c. Judicial magistrates or magistrates of the Public Prosecution Service, public defender or employee of any court or of the respective services
 - d. Notaries or registrars and employees of the respective services;
 - e. Leaders, employees or agents of any public services of central or local nature, even if personalized, with the exception of teachers
 - f. Members of the defense or security forces in active service;
 - g. Movable or real estate mediator, auctioneer, and respective employees, agents or contractors of the respective service
 - h. Member of an executive or governing body of the local government, its employee or agent;
 - i. Any others that a special law considers incompatible with the exercise of the legal profession.
2. Incompatibilities shall be verified whatever the title, designation, nature, type of appointment or hiring, and type of remuneration and, in general terms, whatever the legal system of the respective office, function, or activity.

3. Incompatibilities shall not apply to those who are retired, retired, inactive, on unpaid leave or on reserve, their registration being subject to a favourable opinion of the Legal and Supervisory Board.
4. The persons referred to in subparagraphs e) and f) of paragraph 1 above shall be allowed to exercise legal profession where such legal profession is provided on a subordination and exclusive basis, in the service of any of the entities provided for in such subparagraphs.
5. The OATL may exceptionally authorize the exercise of the legal profession by notaries and registrars in localities where there are no lawyers, for renewable periods of three years.

Article 50 **Verification of incompatibilities**

1. The Management and the Legal and Tax Council may request lawyers and probationary lawyers to provide the information they deem necessary to verify the existence or not of incompatibilities.
2. If the information referred to in the preceding paragraph is not provided within 30 days, the Board of Directors may decide to suspend the member.

Article 51 **Impediments to the exercise of the legal profession**

1. Impediments shall constitute relative incompatibilities that reduce the extent of the exercise of the legal profession in view of a given relationship with the client, with the matters at stake, or by reason of irreconcilable availability for the profession.
2. For the purposes of the provisions of paragraph 1 above, lawyers shall be prevented from providing legal representation in matters involving an employer to whom they are connected by a subordinate work bond, or a public service where they provide teaching services.

CHAPTER IV **PROFESSIONAL ETHICS**

SECTION I **GENERAL PRINCIPLES**

Article 52 **Liability**

1. Lawyers shall, in the exercise of the profession and outside it, consider themselves as servers of justice and of the Law and, as such, shall show themselves to be worthy of the honor and of the responsibilities inherent to them.
2. Lawyers, in the exercise of their profession, shall always and under any circumstances maintain the highest possible independence and impartiality, not using their mandate to pursue objectives that are not merely professional.

3. Lawyers shall fulfil punctually and scrupulously the duties laid down in the present statute and all those that the law and professional practice impose upon them with regard to other lawyers, magistrates, public defenders, clients, and any public or private entities.
4. Honesty, probity, rectitude, loyalty, courtesy, and sincerity are professional obligations.

Article 53

Duties of the lawyer towards the community

The following shall constitute duties of lawyers towards the community:

- a. Defend the rights, liberties, and guarantees;
- b. Strive for a good enforcement of the laws, for a swift administration of justice, and for the improvement of legal culture and institutions;
- c. Not to use illegal means or expedients;
- d. To refuse to represent clients in matters it considers to be unjust;
- e. Refuse to provide services when it has serious suspicions that the legal transaction or performance in question is aimed at obtaining illicit results and the interested party does not intend to abstain from such transaction;
- f. Refuse to receive and handle funds that do not strictly correspond to a matter entrusted to him/her;
- g. Not to use the mandate to pursue non-professional objectives;
- h. to protest against violations of human rights and to combat arbitrary acts of which he/she becomes aware in the exercise of the profession;
- i. Not to accept a mandate or the provision of professional services that, under any circumstance, do not result from the direct and free choice of the interested party or of another lawyer in his or her representation.

Article 54

Professional secrecy

1. Lawyers shall be obliged to keep professional secrecy in relation to all facts that come to their knowledge in the exercise of their functions or the provision of their services, namely as regards facts:
 - a. Relating to professional matters known exclusively through disclosure by the client or disclosed by order of the latter;
 - b. Of which he/she has become aware due to a position held in OATL;
 - c. Relating to professional matters communicated by a colleague with whom he or she is associated or to whom he or she collaborates
 - d. Communicated by a co-author, co-defendant or cointerested party of his constituent or by his representative
 - e. Of which the client's opposing party or respective representatives have come to his or her knowledge during negotiations for an agreement aimed at putting an end to the dispute or litigation
- b) (f) of which it has become aware in the course of any unsuccessful oral or written negotiations in which it intervened.

2. The obligation of professional secrecy shall exist whether or not the service requested or entrusted to the lawyer involves judicial or extra-judicial representation, whether or not it is remunerated, whether or not the lawyer has accepted and performed the representation or service, and the same shall apply to all lawyers who, directly or indirectly, have any intervention in the service.
3. Professional secrecy shall also cover documents or other things directly or indirectly connected to the facts subject to secrecy.
4. Compliance with the obligation of professional secrecy may be exceptionally waived by the OATL, namely in case of serious threat to the right to life, honour, or to the right of self-defence of the lawyer or of the client or his or her representatives.
5. Statements and acts practiced by lawyers in violation of the professional secrecy shall be null and cannot be proved in court.
6. Even where exempted under the terms of paragraph 4 above, lawyers may maintain the professional secrecy.
7. The duty to keep secrecy in relation to the facts described in paragraph 1 above shall be extended to all persons who collaborate with the lawyer in the exercise of their professional activity, with the penalty provided for in paragraph 5 above.
8. Lawyers shall demand from the persons referred to in paragraph 1 above to comply with the duty provided for therein at a moment prior to the beginning of the collaboration.

Article 55

Public discussion of professional matters

1. Lawyers shall not influence or attempt to influence, through the media, in the resolution of judicial actions or other pending matters.
2. Lawyers shall not pronounce themselves in public or in the media on matters pending or to be initiated, nor shall they contribute to such discussion.
3. Without prejudice to the provision contained in paragraph 1 above, lawyers may, exceptionally and provided they have been previously authorized by OATL, reply whenever the exercise of such right of reply is justified in order to prevent or remedy the offense to the dignity, rights, and legitimate interests of the client or the lawyer himself/herself.

Article 56

General duty of urbanity

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

Article 57

Sponsorship against lawyers, public defenders, or magistrates

Before promoting any judicial, disciplinary, or other diligence against another professional colleague, public defender, or magistrate, lawyers should communicate to him or her in writing of their intention with the explanations they deem necessary, save where they are diligences or acts of a secret or urgent nature.

SECTION II RELATIONS WITH THE CLIENT

Article 58 Duties of lawyers towards clients

1. The relationship between lawyers and clients shall be based on reciprocal trust.
2. Lawyers have a duty to act in a manner so as to defend the legitimate interests of their clients, without prejudice to the compliance with legal and deontological norms.
3. In their relations with the client, lawyers shall have the following duties
 - a. Give the client his or her conscientious opinion as to the merit of the right or claim that he or she invokes;
 - b. Study with care and treat with zeal the matter entrusted to them, using for that purpose all the resources of their experience, knowledge, and activity;
 - c. Advise on any composition that he/she deems fair and equitable
 - d. Provide the client, whenever requested, with information on the progress of the matters entrusted to him or her, on the criteria he or she uses in fixing his or her fees, indicating, whenever possible, the approximate total amount, without prejudice to the right to exercise pro bono legal representation
 - e. Account to the client for all the monies he or she has received from the client, whatever their source, and present a bill of fees and expenses when requested
 - f. Give due application to values, documents or objects entrusted to them
 - g. Not to enter into contracts for their own benefit on the object of the matters entrusted or, in any way, request or accept participation in the results of the cause
 - h. Not to abandon without justified reason the representation of the client or the follow-up of the matters entrusted to him or her.
4. Even where there is a justified reason for terminating the representation, lawyers shall not do so where such termination makes it impossible for the client to obtain, in a timely manner, the assistance of another lawyer.
5. In cases of abandonment of legal representation or follow-up of the matters at stake and where provisions have been received on account of the fees or for payment of expenses, preparations, or any other charges, such provisions shall be handed over to the client, to the extent that they exceed the respective amounts, as soon as possible.

Article 59

Acceptance of sponsorship and duty of competence

1. Lawyers shall not accept sponsorship or the provision of any professional services if they have not been freely mandated by the client, or by another lawyer in representation of the client, or if they have not been appointed for such purpose by a legally competent entity.
2. Lawyers shall not accept to sponsor a matter if they know or should know that they do not have the competence or availability to promptly deal with it, unless they are acting jointly with another lawyer with competence and availability for such purpose.

Article 60

Conflict of Interests

1. Lawyers shall refuse to sponsor a matter in which they have already intervened in any other capacity or that is connected to another matter in which they represent or have represented the opposing party.
2. Lawyers shall refuse to act as counsel against any person who, in another pending matter, is being represented by them.
3. Lawyers shall not advise, represent, or act on behalf of two or more clients, in the same or related matters, where there exists a conflict between the interests of those clients.
4. Where a conflict of interests arises between two or more clients, as well as where there is a risk of violation of the professional secrecy or diminution of his or her independence, a lawyer shall cease to act on behalf of all the clients within the scope of such conflict.
5. Lawyers shall abstain from accepting a new client where the fulfilment of the duty to maintain professional secrecy in relation to the matters of a previous client will be put at risk or where the knowledge of such matters will result in illegitimate or unjustified advantages for the new client.
6. Whenever the lawyer exercises his or her activity in an association, whether in the form of a firm or not, the provisions of paragraphs above shall apply both to the association and to each of its members.

Article 61

Division of fees

Lawyers shall be prohibited from sharing fees, even where such fees are by way of commission or any other form of compensation, except with lawyers or trainee lawyers with whom they collaborate or who have collaborated with them.

Article 62

Values and documents of the client

1. Where the representation entrusted to the lawyer ceases, the latter shall return to the client any valuables, objects, or documents that have been handed over to him or her and that are necessary to prove the client's right or whose retention may cause him or her serious damages.

2. As regards the other values, documents and objects in his or her possession, lawyers shall enjoy the right of retention in order to ensure the payment of the fees and reimbursement of the expenses.

SECTION III RELATIONS WITH THE COURTS

Article 63 Duty of Loyalty

1. Lawyers shall, under any circumstance, act with diligence and loyalty in the conduct of the proceeding.
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 conversation or in writing, or through an intermediary, being considered as such as the party itself.
3. In particular, lawyers shall be prohibited to send or cause to be sent to the judges or arbitrators any memorandum or, by any means whatsoever, to resort to disloyal means in order to defend the interests of the parties.

Article 64 Relationship with witnesses

Lawyers shall be prohibited from establishing contacts with witnesses or other intervening parties to the proceeding with the purpose of instructing, influencing, or, by any other means, altering the testimony of witnesses or other intervening parties and thereby prejudicing the discovery of the truth.

Article 65 Duty of correction

1. Lawyers shall exercise their representation within the limits of the law and of urbanity, without prejudice to the duty to adequately defend the interests of their clients.
2. Lawyers shall prevent their clients from exercising any reprisals against another party and from being less correct towards lawyers of the opposing party, magistrates, arbitrators, or any other intervening parties in the proceeding.

SECTION IV RELATIONS BETWEEN LAWYERS

Article 66 Duty of solidarity

Professional solidarity imposes a relationship of trust and cooperation among lawyers for the benefit of clients and in order to avoid unnecessary litigation by reconciling, as much as possible, the interests of the profession with those of justice or of those who seek it.

Article 67
Reciprocal duties of lawyers

1. The following shall constitute duties for lawyers in their reciprocal relations:
 - a) To proceed with the greatest correction, urbanity, and smoothness, abstaining from any personal attack, derogatory criticism, or depressing allusion, in substance or in form;
 - b) Not pronounce publicly on a matter they know to be entrusted to another lawyer, except in the presence of that lawyer or with his or her prior agreement;
 - c) Act with the utmost loyalty, not seeking to obtain illegitimate or undue advantages for their constituents or clients
 - d) Not contact or maintain relations, even in writing, with the opposing party represented by a lawyer, unless previously authorized by the latter or due to legal or contractual imposition
 - e) Not to publicly invoke, especially before courts, any unsuccessful transactional negotiations, either verbal or written, in which a lawyer has intervened
 - f) Not to sign opinions, procedural documents, or other professional writings that he or she has not drafted or in which he or she has not collaborated.
2. The duties referred to in paragraph 1 above shall also apply between lawyers and public defenders in their reciprocal relations.
3. Lawyers wishing to undertake a matter previously entrusted to another lawyer should not commence their functions without first endeavoring to pay the lawyer the fees and other amounts due to him or her, and should orally or in writing explain to his or her colleague the reasons for accepting the mandate and inform him or her of the efforts he or she has undertaken to that effect.

Article 68
Correspondence between lawyers

1. Whenever a lawyer wishes that his or her communication addressed to another lawyer be of a confidential nature, he or she shall clearly express such intention.
2. Confidential communications shall, under no circumstances, constitute evidence and the provision contained in paragraph 4 of article 54 shall not apply to them.
3. A lawyer receiving a confidential communication who does not have conditions to guarantee its confidentiality shall return it to the sender without disclosing to third parties the respective content.
4. The provision contained in paragraphs above shall also apply to correspondence between lawyers and public defenders.

CHAPTER V
DISCIPLINE

Article 69
Disciplinary infraction

Lawyers who, by action or omission, violate maliciously or culpably any of the duties established in the present statute and in any other applicable legislation, shall be considered as having committed a disciplinary infraction.

Article 70

Disciplinary procedure

1. Disciplinary proceedings shall be initiated by decision of the Jurisdictional and Supervisory Board based on the knowledge of facts that may constitute a disciplinary infraction.
2. The accused lawyer may be assisted by a lawyer of his or her choice.
3. The terms of the disciplinary procedure shall be defined in internal regulations prepared by the Jurisdictional and Fiscal Council in compliance with the norms and principles of the present statutes and approved by the General Assembly.

Section 71

Independence of Disciplinary Responsibility

1. Disciplinary liability shall be independent from civil and criminal liability arising from the commission of the same fact.
2. Disciplinary proceedings shall be initiated independently from any other proceedings and shall resolve all matters of interest to the decision of the case.
3. Where criminal proceedings have been initiated against a lawyer on the basis of the same facts, the disciplinary proceeding may be suspended and shall be communicated by the Bar Association to the competent judicial authority, which shall order that a copy of the indictment be sent to the Bar Association.
4. After 18 months have elapsed without the issuance of the indictment, the facts shall be assessed in the disciplinary procedure.
5. The disciplinary liability of lawyers towards the Bar Association shall be independent from the liability towards their employers for the infringement of the duties arising out of the employment relationship.

Article 72

Secret nature of the disciplinary procedure

1. The proceeding shall be secret until the respective indictment.
2. Without prejudice to the provisions of the preceding number, the person in charge of the disciplinary procedure may authorise the consultation thereof by the interested party or by the accused person, where there is no inconvenience for the instruction.
3. The person in charge of the disciplinary process may also, in the interest of the investigation, make copies of the documents in the process known to the interested party or to the accused person so that they may express their opinion on them.

4. Upon request indicating the purpose for which they are intended, the production of certificates may be authorised at any stage of the proceedings for the defence of the legitimate interests of the applicants.
5. 5. In the cases provided for in the preceding paragraph, the use of certificates may be conditioned, under penalty of the offender incurring the crime of disobedience.
6. The accused and the interested party, when lawyers, who do not respect the confidential nature of the proceedings, incur in disciplinary responsibility.

Article 73
Right to presentation of defence

1. Regardless of the nature of the procedure, the accused shall be guaranteed the right to, if he or she so wishes, present a written defence in which he or she clearly and concisely exposes the facts and the reasons therefor.
2. With the defence, the accused person may present any evidence and request any proof, including testimonial evidence, he or she deems appropriate.
3. Evidence requested by the accused person may be refused, by means of a reasoned order by the person in charge of the proceedings, when considered manifestly impertinent, dilatory or unnecessary for ascertaining the facts and the responsibility of the accused person.

Article 74
Determination of penalties

1. Lawyers shall be subject to the following penalties:
 - a) Warning;
 - b) Fine, up to 180 days;
 - c) Suspension, which may be of suspension up to two years or of suspension for more than two years up to fifteen years.
2. The penalties applied shall always be registered.
3. Amnesties shall not prejudice the effects produced by the enforcement of penalties and they shall be recorded in the respective individual proceeding.

Article 75
Article 75 Warning penalty

The warning penalty shall apply to minor offenses and shall consist of a mere reprimand for the irregularity committed, aimed at warning the lawyer that the action or omission committed is likely to prejudice the exercise of functions or to affect it in a manner incompatible with the dignity that is required of him or her.

Article 76
Article 76 Fine penalty

1. The penalty of fine shall be applicable in cases of negligence or lack of interest in fulfilling the duties of the function and which cannot be punished only by the penalty of warning.

2. The fine penalty shall vary between 5 and 50 US dollars per day.

Article 77 **Suspension penalty**

1. The suspension penalty shall consist of suspension of registration as a lawyer with the OATL for a determinate period of time with the consequent prohibition to exercise the profession.
2. The suspension penalty of up to two years shall apply to cases of serious negligence or serious disinterest in complying with the professional duties.
3. The penalty of suspension for more than two years up to fifteen years shall be applicable, namely, where the lawyer, in the exercise of his or her functions;
 - a) Reveals a lack of honesty that seriously prejudices the good administration of justice or the interests of the assisted person;
 - b) Deliberately prejudices, by any means whatsoever, the person he or she is assisting for his or her own benefit or for the benefit of a third party;
 - c) Has committed acts that are part of intentional crimes;
 - d) Has manifestly and seriously violated the duties of a lawyer.

Article **Appeal**

1. The final decisions of the organs in charge of registration and certification for exercising the legal profession and for exercising disciplinary power over lawyers shall be subject to judicial appeal, pursuant to the general terms of law.
2. Without prejudice to the provisions of paragraph 2, article 18, the appeal provided for in paragraph 1 above shall have suspensive effect.

CHAPTER VI **PATRIMONIAL REGIME**

Article 79 **Income and expenditure**

1. The following shall constitute OATL revenue:
 - a) Contributions from its members, under the terms of the following paragraphs;
 - b) Offers and donations;
 - c) Fines imposed on its members;
 - d) Other revenues provided by law or approved by the General Assembly.
2. Lawyers with a valid registration shall be obliged to contribute to OATL with the monthly fee to be fixed by the General Assembly.

3. Where there is a delay of more than six consecutive months in the payment of the fees, the Board of Directors shall notify the lawyer in writing to pay them, as well as those that are due within 60 days.
4. Once the period referred to in the previous paragraph has expired and such payment has not been shown to have been made, the respective registration shall be suspended.

Section 80 Closure of Accounts

The accounts of OATL shall be closed on 31 December of each year.

CHAPTER VII INTERNATIONAL COOPERATION

Article 81 General Principles

1. The OATL shall act independently in its international relations.
2. OATL shall maintain relations of friendship and cooperation with homologous institutions of other countries in order to pursue its attributions, maintaining privileged ties with homologous institutions of Portuguese-speaking countries, with the Union of Portuguese-speaking Lawyers, and with those of neighbouring countries and of the region.
3. OATL shall endeavour with the countries belonging to the Community of Portuguese-speaking Countries, as well as with ASEAN, so that, in view of the geographic and linguistic proximity and of the sharing of the legal framework, protocols may be established in order to facilitate the exercise of the legal profession by foreign lawyers coming from those countries in the DRTL and by Timorese lawyers in those same countries, with respect for a principle of reciprocity.

CHAPTER VIII LAWYERS AND PROBATIONARY LAWYERS

SECTION I REGISTRATION WITH THE OATL

Article 82 Prohibition of discrimination in registration

1. OATL shall ensure that the registration of lawyers and trainee lawyers is not subject to any form of discrimination, without prejudice to the establishment of objective criteria relevant for the full compliance with the duties of the profession, namely as regards language, education, and mental condition.
2. For the purposes of the provisions of the preceding paragraph, the establishment of special criteria for the registration of foreign lawyers shall not be considered discriminatory.

Article 83
Professional card

1. In the exercise of their functions, lawyers and probationary lawyers shall prove their registration by means of a valid professional license, to be exhibited or attached by photocopy, as the case may be.
2. Courts may always require lawyers and probationary lawyers who appear before them in the exercise of their functions to present their registration booklet as proof of their registration.

Article 84
Restrictions to the right of registration

No one shall be able to register as a lawyer or as a probationary lawyer who:

- a) Has been convicted, by a final and unappealable decision, of any seriously dishonorable crime;
- b) Is not in full possession of his or her civil rights;
- c) Has been declared incapable of managing his or her own person and goods by a final sentence;
- d) Is in a situation of incompatibility or inhibited from exercising the legal profession;
- e) Is a magistrate, public defender, or public functionary who, by means of a disciplinary procedure, has been dismissed, retired, or placed in inactive status for lack of moral identity;

Article 85
Exercise of legal profession by non-registered persons

1. Without prejudice to applicable penal provisions and the requirement of proof of registration as a lawyer, any person who violates the provisions of paragraph 1 above shall be excluded from the proceedings by order of the judge, issued ex officio, upon complaint filed by OATL, or at the request of the interested parties.
2. The judge shall, at his discretion, safeguard in his order the irreparable damage to the legitimate interests of the parties.
3. Where the hypothesis provided for in paragraph 1 above occurs during the course of an action, the transgressor shall be inhibited to continue to intervene in the dispute and the judge shall immediately grant a time limit to the interested party to appoint a new lawyer, failing which the appointment shall automatically cease, the instance shall be suspended, or the case shall be pursued in default, depending upon the case and the initiative of the action.

SECTION II
REGISTRATION AS A LAWYER

Article 86
Requirements for registration

1. Registration as a lawyer shall depend upon the fulfilment of the internship obligations with a positive classification.

2. The following shall be exempted from completing the probationary period:
 - a. Foreign lawyers whose registration with OATL is admitted pursuant to the provisions of article 88;
 - b. Nationals registered in foreign bar associations or equivalent associations with which OATL has entered into a protocol of international cooperation pursuant to article 81.

Article 87

Registration of foreign-trained nationals

National trainee lawyers who have obtained a degree in Law or its equivalent in a foreign higher education institution shall be subject to the same criteria established for trainee lawyers trained in the RDTL, without prejudice to the provisions contained in subparagraph b) of paragraph 2 of article 86.

Article 88

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

Foreign lawyers may register with OATL provided that they prove that they cumulatively meet the following requirements:

- a. To be nationals of a State that recognizes an identical faculty to Timorese lawyers, under conditions of reciprocity
- b. To hold a bachelor's degree in law or its equivalent, pursuant to paragraph 2 of article 91
- c. To have at least five years of registration with the Bar Association or an equivalent institution of the country in question
- d. To attend an adaptation and learning period of at least six months, under the coordination of a lawyer registered at the OATL, with a subsequent recommendation by the referred lawyer certifying his or her knowledge of the Timorese legal system in force
- e. To have a written and spoken command of at least one of the official languages.

Article 89

Exercise of isolated acts by lawyers with the professional title of origin

- 1) Without prejudice to the provisions contained in the previous articles, isolated acts of legal practice in the DRTL shall be occasionally rendered by foreign lawyers exercising their activity based on their professional title of origin provided that, for such purpose, they request the necessary authorization from the President of the OATL.
- 2) The authorization referred to in the previous item shall be considered tacitly granted if, within 15 days, there is no pronouncement by the President of the OATL.
- 3) Without prejudice to the provisions of paragraph 1 above, judicial representation and representation before Timorese courts may only be exercised by a foreign lawyer practicing under the conditions referred to in paragraph 1 above and under the supervision of a lawyer registered with the OATL.

- 4) Foreign lawyers authorized to exercise isolated acts of legal profession in the RDTL based upon their professional title of origin shall be subjected to the professional and deontological rules provided for in the present statute.

SECTION III

PROBATIONARY PERIOD AND REGISTRATION AS A PROBATIONARY LAWYER

Article 90

Probationary period

- 1) It is incumbent upon the Board of Directors of OATL to ensure the instruction of the registration processes of probationary lawyers, the general orientation of the probationary period, the access to the probationary period in the judicial districts, the teaching of knowledge of a technical-professional and deontological nature, and the inherent evaluation system.
- 2) It shall be incumbent upon the Management of the OATL to regulate the specific model of initial and complementary training during the probationary period, the organizational structure of the probation services and their attributions, the continuous evaluation system, the system for receiving and integrating external training provided by other institutions into the probationary period, and the organization and holding of the final evaluation and aggregation exams.

Article 91

Registration as a probationary lawyer

1. Persons holding a degree in Law from any officially accredited Timorese university may apply for registration as probationary lawyers.
2. Registration as probationary lawyers may also be requested by those holding degrees in Law from officially recognized or equivalent foreign universities, such recognition and equivalence to be carried out by the governmental department responsible for higher education, in consultation with the OATL.
3. In order to be registered as a probationary lawyer, the interested party shall present
 - a. Identity card
 - b. Birth registration certificate
 - c. Graduation diploma
 - d. Criminal record certificate
 - e. Declaration of acceptance of the supervision of the internship by a patron freely appointed by the candidate, with at least five years of effective exercise of the profession, excluding any probationary period.

Article 92

Duration of the traineeship, objective and its phases

1. The maximum duration of the traineeship is two years.
2. The internship courses shall begin at least once every calendar year on dates to be set by the Board of Directors of the OATL.

3. The purpose of the probationary period shall be to familiarize the probationary lawyer with the most usual acts and terms of forensic practice, as well as to provide him or her with knowledge of the rights and duties of lawyers.
4. The probationary course shall be divided into two distinct periods, the first one lasting 15 months and the second one lasting nine months.
5. The first stage of the internship is intended to deepen the fundamental technical-professional and deontological knowledge and to obtain a mastery of the matters directly linked to the practice of the legal profession.
6. The second stage of probation is designed for a grasp of the experience of the legal practice, through personal contact with the normal functioning of a law office, of the courts and of other services related to the application of justice, as well as the deepening of the technical knowledge previously acquired.

Article 93

Competence of probationary lawyers

1. During the first stage of the probationary period, a probationary lawyer shall not practice acts proper of the legal profession.
2. During the second stage of the probationary period and after obtaining the professional license, a probationary lawyer may, under the direction of his or her patron:
 - a. Exercise the legal profession in criminal proceedings relating to crimes whose criminal procedure depends upon a complaint;
 - b. Exercise legal advocacy in non-criminal proceedings the value of which does not exceed 5.000 US dollars;
 - c. To exercise legal consultation.
3. Probationary lawyers may also practice acts proper of the legal profession in all other proceedings, regardless of their nature and value, provided they are effectively accompanied by their legal counsel.
4. Probationary lawyers shall always indicate their capacity when intervening in any act of a professional nature.

Article 94

First stage of the probationary period

1. During the first stage of the probation period, probationary lawyers shall attend a course of a theoretical and practical nature focusing the main subjects directly linked to the exercise of the legal profession, under the programmatic guidance of the OATL.
2. During the first phase of the probation period, OATL may also promote the organization of seminars of an essentially practical nature.
3. For the purposes of the provisions of the previous paragraphs, OATL may request the collaboration of the Legal and Judicial Training Centre of the Ministry of Justice, as well as

the participation of representatives of other legal professions and national or foreign entities connected to legal training.

4. The first phase of the probation period shall end with the completion of a test to evaluate the knowledge acquired and with the presentation, by the probationary lawyer, of a specific report, to the Management of OATL, on one of the subjects developed during the first phase of the probation period.
5. The access of the probationary lawyer to the second stage of the probation period depends:
 - a) Approval of the test measuring the acquired knowledge;
 - b) A positive appreciation of the report referred to in the previous paragraph.

Article 95

Second stage of the probationary period

1. Trainee lawyers admitted to the second stage of the probationary period shall be issued with their respective professional license, which shall mention their qualification as "trainee lawyers".
2. During the second stage of the probationary period, the general orientation of the probationary period shall continue to be the responsibility of OATL and the probationary lawyer shall exercise the activity corresponding to his or her specific competence under the supervision of a patron.
3. The second stage of the probation period shall end with:
 - a. The presentation, to the Management of OATL, of a report on the activities developed during the internship and of four copies of pleadings of the trainee lawyer's authorship;
 - b. Presentation, to the Management of OATL, of a dissertation on professional deontology;
 - c. A positive assessment of the respective training process, determined on the basis of the individualized evaluation of the elements referred to in the previous subparagraphs;
 - d. Passing the national evaluation and aggregation exam.

Article 96

Continuous training of lawyers

Continuous training constitutes a duty for all lawyers and it is the responsibility of OATL to organize training services intended to guarantee a constant updating of their technical/juridical knowledge, of the deontological principles and of the assumptions of the exercise of the activity.

CHAPTER IX FINAL DISPOSITIONS

SECTION I CRIMINAL AND CIVIL LIABILITY

Article 97
Crime of unlawful procurement

- 1) Shall be punished with a penalty of imprisonment of up to one year or with a fine whoever, in violation of article 34:
 - a) Performs acts proper of the legal profession
 - b) Aids or collaborates in the practice of such acts;
- 2). The criminal procedure shall depend upon a complaint.
- 3) In addition to the injured parties, the OATL shall be the titular of the right to lodge a complaint.

Article 98
Civil Liability

1. Acts performed in violation of the provisions of Article 34 shall be presumed as culpable for the purposes of civil liability.
2. The OATL has legal standing to file civil liability suits with a view to obtaining compensation for damages resulting from the injury of public interests that it is incumbent upon it to ensure and defend.

Article 99
Office of attorney or legal consultation

1. The functioning of an office or representation, constituted under any legal form, which provides services to third parties that include, even if only as an accessory, the practice of acts proper of lawyers by those who are not qualified to do so, shall be prohibited.
2. Violation of the provisions of the preceding paragraph shall entitle OATL to request the competent judicial authorities to close down the office or office.

SECTION II
OTHER PROVISIONS

Article 100
Law firms

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

Article 101
Compulsory publication

The statute of OATL and the regulations issued by the respective bodies, as well as the administrative decisions susceptible of contentious appeal relating to the exercise of the legal profession shall be mandatorily published in the Official Gazette and shall be disseminated on the official website of OATL.

Approved by the Council of Ministers on 21 October 2020. The Prime Minister,

Unofficial translation

Taur Matan Ruak
The Minister of Justice,

Manuel Cárceres da Costa

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