

Law No 4/2022 of 23 March
LEGAL REGIME OF PUBLIC PROFESSIONAL ASSOCIATIONS

In recent years, due to social development and the complexity of economic activity, the need has been felt for Timor-Leste to further regulate access to and the exercise of certain professions which, being mainly liberally exercised, assume a special public interest.

This need is particularly pressing with regard to structural professions for the good administration of justice, the preservation of public health, the security of infrastructures or the reliability of financial information.

In fact, for such professions, it is necessary to introduce ethical duties and scrutinise compliance with these duties, accompanied by the consequent disciplinary power, which at present is practically non-existent.

Regulation of the professions is an exercise of public power and is therefore a prerogative of the State. This power refers both to the issuance of rules and to the control of their compliance by the addressees.

Nevertheless, the State may delegate the regulation of access to and exercise of these professions to associations that represent them (professional associations or chambers), i.e. legal persons governed by public law created for this purpose, with administrative, financial and patrimonial autonomy, whose members elect their own bodies, and whose purpose is to represent and regulate the profession, defending the interests of both the professionals concerned and the recipients of the respective services.

Thus, the present law aims to establish the legal framework applicable to the creation, functioning and organization of such public professional associations, as well as common and cross-cutting rules for access to and exercise of the professions regulated by them.

The present law aims to achieve four main objectives.

Firstly, to contribute to increasing confidence in the technical and ethical quality of Timor-Leste's professionals. Secondly, to recognize the existence of autonomous State entities that may pursue the interest of a profession and its recipients more efficiently, within the limits of the law and the Constitution. Thirdly, to standardise the way in which public professional associations will be created and organised in the future. And lastly, to systematise in a legal document the respective legal regime, simplifying the knowledge of the rules applicable to these entities.

Thus, the National Parliament decrees, under the terms of Article 95(1) of the Constitution of the Republic, to be valid as law, the following:

CHAPTER I GENERAL PROVISIONS

Article 1 Object

The present law establishes the legal framework for the creation, organisation and functioning of professional public associations.

Article 2 Definition

1. Public professional associations are public entities, of an associative nature, which represent certain professions, hereinafter referred to simply as "collegiate professions", which, for reasons of protection of the public interest that they pursue, must be subject to:
 - a) to control as to their access and exercise;
 - b) To specific technical and ethical standards;
 - c) An autonomous disciplinary regime.
2. Public associations may represent more than one profession, provided they have a common scientific and technical basis.

Article 3 Nature

Public professional associations are legal persons governed by public law, integrated in the autonomous administration of the State.

Article 4 Autonomy

1. In exercising their public powers, professional public associations shall enjoy administrative autonomy and shall approve the administrative acts and regulations necessary for the performance of their functions as provided for by law and in their bylaws, without the need for governmental approval.
2. The regulations of professional public associations with external effectiveness must be published in Series II of the Official Gazette, under penalty of becoming ineffective.
3. Professional public associations shall enjoy financial autonomy and have their own assets and finances, as well as budgetary autonomy.
4. Financial autonomy shall include the power to fix, in accordance with the law and the respective statutes, the amount of:

- a) The monthly or annual membership fee of its members;
- b) fees for services rendered in accordance with proportionality criteria.

Article 5

Legal status

1. Professional public associations, in the performance of their functions, are subject to the public law regime.
2. In all matters that are not regulated by the present statute, by the act of constitution or by the respective statutes, the following shall apply subsidiarily to professional public associations:
 - a) In the exercise of the respective attributions and public powers conferred upon them, the law of administrative procedure, with the necessary adaptations, and the general principles of administrative law;
 - b) With regard to their internal organisation, the rules and principles governing private law associations.

Article 6

Legal capacity

Without prejudice to compliance with the principle of legality in the area of public management, and unless expressly provided to the contrary, the legal capacity of the public professional associations shall encompass the practice of all legal acts, the enjoyment of all rights, and the assumption of all obligations necessary for the pursuit of the respective purposes and functions.

Article 7

Requirements for incorporation

1. The incorporation of a public professional association may only take place when:
 - a) It aims at the protection of a public interest of special relevance;
 - b) It is suitable for protecting the legal assets to be protected;
 - c) It represents a profession or professions which fulfil the criteria provided for in Article 2.
2. The constitution of a public professional association is always preceded by the following procedures:
 - a) Presentation of a study on compliance with the requirements provided for in the preceding paragraph;
 - b) Public consultation, for a period of no less than 30 days, of the draft diploma for the creation and statutes of the public professional association to be created.

Article 8
Attributions

1. The duties of professional public associations are:
 - a) Representation and defence of the profession;
 - b) To defend the general interests of the recipients of the respective services;
 - c) Regulating access to and the exercise of the profession;
 - d) Recognition of specialties in each profession;
 - e) The awarding of professional titles or titles of professional specialty;
 - f) The awarding of prizes or honorary titles;
 - g) The exercise of disciplinary power over its members;
 - h) The provision of information and training services to its members;
 - i) Collaboration with other public entities in the pursuit of purposes of public interest related to the profession;
 - j) To collaborate with the bodies with competence in legislative matters in the preparation and monitoring of legislation to regulate the profession they represent;
 - k) Participation in the official accreditation processes and in the evaluation of courses giving access to the profession;
 - l) Participating in the official processes of recognition of professional qualifications obtained outside the national territory;
 - m) Any others required by law, by the act of incorporation or by the respective statutes.
2. Public professional associations may not participate in or exercise activities of a trade union nature or which are related to the regulation of economic or professional relations of their members.
3. Public professional associations may not pursue activities or use their powers outside their competence, nor dedicate their resources to purposes other than those legally assigned to them.
4. Public professional associations may not, by administrative act, regulate or, by other means, establish restrictions to the freedom of access to or exercise of the profession that are not foreseen in this law, in the act of constitution or in the respective statutes.

Article 9
Form of creation

1. Public professional associations shall be established by law for an indefinite period of time.
2. The law of creation or the statutes of each professional public association shall define the essential aspects of its regime, namely:
 - a) Denomination;
 - b) (b) the profession embraced;
 - c) Purposes and attributions.
3. Public professional associations may only be merged or split up, or their statutes amended with regard to the professionals covered, in compliance with the same requirements necessary for their constitution.

Article 10
Statutes

1. The statutes of public professional associations shall be approved by law and shall regulate, namely, their scope of action, purposes and attributions and the following matters concerning their organisation and functioning:
 - a) Competence of the organs;
 - b) Categorisation of members;
 - c) The existence of deconcentrated structures, if justified, and the respective organisation and competences;
 - d) Existence of professional specialty colleges, if justified;
 - e) Incompatibilities in the exercise of associative positions;
 - f) The electoral process;
 - g) Requirements of eligibility for the bodies;
 - h) The economic and financial regime, particularly with regard to the fixing, collection and distribution of fees.
2. The statutes of public professional associations shall also regulate, namely, the following matters concerning access to and exercise of the profession they represent:
 - a) Acquisition and loss of membership;
 - b) Rights and obligations of the members;
 - c) Regime of professional traineeships or equivalent training that are obligatory and that are justified by overriding reasons of public interest, for access to the profession, namely their duration, form of assessment, rights and duties of trainees and patrons;
 - d) The regimen of professional specialties;
 - e) Rules of professional ethics;
 - f) Regime of incompatibilities and impediments of the profession;
 - g) Disciplinary procedure and respective sanctions;

h) Professional insurance, should they exist.

Article 11

Disciplinary power

1. Public professional associations shall exercise disciplinary power over their members in accordance with their statutes and the law and in compliance with the rights of hearing and defence.
2. The statutes of each public professional association shall indicate the facts constituting a disciplinary infraction, as well as the applicable disciplinary sanctions and the competent bodies to apply them.
3. For the conduct of disciplinary procedures and the application of disciplinary sanctions, the rules established by the statutes and disciplinary regulations shall apply and, suppletively, the disciplinary rules applicable to State employees.
4. The disciplinary sanction of suspension shall only be applied in cases of serious breach of professional duties committed in the exercise of the profession.
5. Non-compliance with the duty to pay fees shall be an exception to the provisions of the preceding paragraph, which may lead to the application of the disciplinary sanction of suspension, where such non-compliance is found to be culpable and has lasted for a period of more than six months.
6. The statutes of the public professional association may the statutes of the public professional association may provide for the disciplinary sanction of expulsion, which may only be applied in cases of serious breaches of professional duties committed in the exercise of the profession and which endanger the life or physical integrity of persons or are seriously damaging to the honour or property of others.
7. The statutes of professional public associations that provide for the disciplinary sanction of expulsion shall always safeguard the right to rehabilitation of the professional sanctioned and the terms under which it operates.

Article 12

Designation

1. Public professional associations whose purpose is to ensure the representation of professions, as well as the regulation of the respective access and exercise, shall be designated as:
 - a) "Professional association", when the exercise of the profession is conditional on obtaining an academic qualification of licentiate degree or higher;
 - b) "Professional Chamber", when the exercise of the profession is not conditional on obtaining a bachelor's degree or higher.

2. The use of the designation "professional association" or "professional chamber" shall be restricted to public professional associations.

Article 13 **Cooperation with other entities**

Professional public associations may create or participate in private law associations and cooperate with similar national or foreign entities, especially within the scope of the Community of Portuguese Speaking Countries and the Association of Southeast Asian Nations.

In order to better fulfil their functions, professional public associations may establish cooperation agreements with other national public or private entities or international organisations, with the exception of those of a political or trade union nature.

CHAPTER II **ORGANISATION AND INTERNAL FUNCTIONING**

Article 14 **Territorial scope**

1. Public associations shall have a national scope.
2. Subject to the provisions of the previous paragraph, public professional associations may include de-concentrated structures, which shall be responsible for carrying out the duties established for them by statute.
3. The statutes of public professional associations shall establish mechanisms for the control of central bodies over devolved structures.

Article 15 **Bodies**

1. Public professional associations have their own bodies and their internal organisation is subject to the principle of separation of powers.
2. The statutes of professional public associations must obligatorily provide for the following bodies:
 - a) A representative assembly, with general deliberative powers, in particular on matters of approval of the strategic plan, budget, plan of activities, proposals to amend the statutes, regulations with external effectiveness, dues and fees;
 - b) A collegiate executive body, on a selective basis, which exercises direction and management powers, namely in administrative and financial matters, as well as in the external representation of the association's interests;

- c) A supervisory body, on an elective basis, independent in the exercise of its functions, which watches over the legality of the activity performed by the bodies of the association and exercises powers of control, namely in disciplinary matters.
- 3. The statutes of the association may also provide for the existence:
 - a) A President or Treasurer, as Chairman of the collegiate executive body or as an autonomous body, endowed with its own powers;
 - b) An autonomous body to supervise asset and financial management;
 - c) Technical or advisory bodies.
 - 4. The term of office of the members of the bodies of professional public associations, on an elective basis, may not exceed three years.
 - 5. The collegiate executive body and the supervisory body shall be chosen by free, direct, secret and universal vote of the members of the professional public associations.
 - 6. The statutes may allow for the remuneration of the holders of permanent executive positions.
 - 7. The exercise of executive functions and control and supervisory functions by organs of professional public associations shall be incompatible with one another.
 - 8. The supervisory body may combine the respective functions with the exercise of supervisory functions of asset and financial management, should there be no autonomous body for this purpose.
 - 9. 9. Membership of the bodies of the public professional associations is incompatible with the performance of senior or managerial functions in the direct and indirect administration of the State, as well as in local or regional administration.

Article 16

Eligibility

- 1. Any full member of the public professional association with a valid registration and in full exercise of his or her rights may vote and be elected for the organs of the respective association.
- 2. Only members who have a minimum period of exercise of the profession, which may vary between 3 and 10 years, may be appointed to the elective organs of the association, to be fixed in accordance with the criterion of responsibility and relevance of the functions of each position in the statutes.
- 3. The appointment of the members of the bodies of the public professional associations shall not be subject to governmental approval.

Article 17
Rights of Members

The rights of the members of professional public associations shall be:

- a) To elect the bodies of the association and to stand for election, without prejudice to the eligibility requirements defined in the statutes;
- b) To participate in the activities of the association
- c) Benefit from the services provided by the association;
- d) Others foreseen in the law or in the respective statutes.

Article 18
Obligations of members

The duties of the members of the public professional associations are:

- a) to participate in the activities of the association;
- b) Pay membership fees
- c) Contribute to the prestige of the association;
- d) Others foreseen in the law or in the respective statutes.

CHAPTER III
ACCESS AND EXERCISE OF THE PROFESSION

Article 19
Access to the profession

1. Access to the collegiate professions depends upon prior registration of the professional as a member of the association and without prejudice to compliance with the corresponding registration requirements.
2. The law establishing the public professional association, the respective statutes or the special legislation governing the profession in question shall specify the respective registration requirements and whether the limits to access to the profession consist of a reservation of activity, a reservation of professional title or both.
3. The law establishing the public professional association, the respective statute or the special legislation regulating the profession may require that foreign professionals who are established in Timor-Leste or who provide services in the national territory be subject to the same obligation of registration.
4. No numerus clausus shall be established for access to the profession or to any professional specialty.

5. The requirement to complete a professional traineeship or equivalent training may only be introduced by law and shall only depend on the possession of the qualification legally required and shall be based upon a strict need for such traineeships for the exercise of the profession and on overriding reasons of public interest. The professional traineeship aims at training and assessing:
 - a) Of professional capacities;
 - b) Of knowledge and skills necessary for the practice of acts of public trust;
 - c) Knowledge of the deontological code of the profession.
6. No territorial restrictions, imposition of services to be rendered or prices to be charged for access to the profession may be established.
7. All restrictions on access to and the exercise of regulated professions, including those relating to professional qualifications, shall be based on overriding reasons of public interest, namely having regard to the specific mission of public interest involved, in the light of the public authority entailed by the exercise of the profession or on grounds inherent in the individual's own capacity.
8. Without prejudice to the provisions of Article 11, the registration of a professional with the respective public association shall have an indefinite duration and may only be terminated when any of the legal assumptions or requirements on which it depends cease to be fulfilled.

Article 20

Pursuit of the profession

1. The exercise of collegiate professions shall be governed by the act of constitution of the respective public professional association, by the corresponding statutes or by special legislation.
2. The pursuit of collegiate professions shall observe the principle of free competition.
3. Collegiate professions may be exercised on an individual or partnership basis, on a liberal or subordinate basis.
4. The exercise of collegiate professions must respect compliance with:
 - a) The respective deontological principles and standards;
 - b) The respective regime of incompatibilities and impediments.
5. The deontological principles and norms and the regime of incompatibilities and impediments of each profession regulated by the present diploma shall be defined by law, and they shall be proportional according to the independence, impartiality and professional integrity that is intended to be guaranteed.

Article 21
Professional insurance

In cases where the exercise of the profession poses a direct and specific risk to the health, physical integrity or property integrity of the service recipient or of third parties, including financial security, subscription of a compulsory professional civil liability insurance policy or an equivalent policy for the exercise of the profession may be required by the act of incorporation of a public professional association, by the respective statutes or by special legislation.

Article 22
Recognition of professional qualifications

1. The statutes of public professional associations may provide for special registration requirements for East Timorese citizens who acquire the respective professional qualifications outside the national territory.
2. The statutes of public professional associations may also provide that foreign professionals may register, under conditions of reciprocity, to exercise their profession within national territory, provided that they obtain recognition of the necessary qualifications under the terms of the law.
3. In the cases referred to in the previous number, provision may be made for the requirement for professionals to have a written and spoken command of at least one of the official languages of Timor-Leste and to be subject to a period of practical training, training or assessment of the knowledge acquired, for the following reasons
 - a) Strictly necessary for the exercise of the profession;
 - b) For imperious reasons of public interest.
4. Foreign professionals legally established in another State where they exercise a profession analogous to a profession regulated under the terms of this law may exercise the respective activity, on an occasional and sporadic basis, on national territory, with the limitations provided for in the statutes of the public professional association in question.

CHAPTER IV
LABOUR, FINANCIAL AND TAX REGIME

Article 23
Staff

1. The employees of professional public associations shall be subject to the regime provided for in the Labour Law.

2. The conclusion of any employment contract must be preceded by a selection process that complies with the principles of equality, transparency, publicity and justification based on objective selection criteria.
3. The rules to which the personnel selection process must obey are mandatorily included in the statutes or in the internal regulations of the association.

Section 24

Budget, Financial Management and Contracts

1. Public professional associations shall have their own budget, approved by the deliberating body, under proposal of the executive body.
2. Professional public associations are subjected:
 - a) The treasury and accounting rules that are applicable to them by law;
 - b) The rules of provisioning and public contracts.
3. The State does not guarantee the obligations of professional public associations nor is it responsible for their debts.

Article 25

Income

1. The income of public professional associations shall consist of:
 - a) The fees of their members;
 - b) Fees charged for the provision of services
 - c) Income from its patrimony;
 - d) The product of inheritances, legacies or donations;
 - e) Other revenues provided by law or the statutes.
2. The State may finance the public professional associations when provided for in the law creating them or in the respective statutes, which may establish the terms of financing.
3. The amount of dues and fees shall be set by the deliberative body of the public professional association, on the proposal of the executive body.

Article 26

Services

Professional public associations shall establish the operational and technical services necessary for the performance of their duties, without prejudice to the possibility of outsourcing tasks.

The creation and functioning of the services provided for in the previous point shall be carried out by internal regulations, approved by the deliberating body of the professional public association, on the proposal of the executive body.

**CHAPTER V
TUTELAGE, CONTROL AND RESPONSIBILITY**

**Article 27
Administrative Supervision**

1. The law creating the professional public association or the respective statutes must provide for which member of the Government exercises supervision over it.
2. Public professional associations shall not be subject to the powers of direction or superintendence of the Government nor to the supervision of merit, but they shall be subject to a legality supervision regime of an inspective nature.

**Article 28
Judicial review**

1. The decisions of professional public associations in the exercise of their public functions shall be subject to judicial review.
2. The following shall have legal standing to challenge the acts and regulations of professional public associations:
 - a) the interested parties, as identified as such by the applicable law;
 - b) The Public Prosecution Service;
 - c) The member of the Government that exercises supervisory powers over the respective public professional association;
 - d) The Ombudsman for Human Rights and Justice.

**Article 29
Supervision by the Chamber of Auditors**

Public professional associations shall be subject to the jurisdiction of the Chamber of Auditors of the High Administrative, Tax and Audit Court, in accordance with the law.

**Article 30
Annual report and reporting duties**

Professional public associations must prepare an annual report on the performance of their activities, by 31st March of the year subsequent to the year to which it relates, which shall be published in Series II of the Official Gazette and on the Internet site of the professional public association.

**Article 31
Transparency**

1. Professional public associations shall make at least the following information available to the general public via their website:

- a) Regime of access to and exercise of the profession;
 - b) Principles and rules of professional ethics and technical rules applicable to the profession;
 - c) Up-to-date register of the respective professionals registered and in force
 - d) An up-to-date register of registered professional societies or other forms of associative organization containing, in particular, the name, registered office and registration number;
 - e) The procedure for the lodging of complaints or claims by the recipients of the services provided by the professional within the scope of his activities;
 - f) Offers of employment in the professional public association.
2. The law creating the professional public association or its statutes may provide for the duty to send to the National Parliament and to the Government the report referred to in the preceding paragraph.
 3. Professional public associations shall provide the National Parliament and the Government with all information requested in relation to the pursuit of their respective tasks.

Article 32

General Obligation of Collaboration

1. Public associations, the National Parliament and the Government shall collaborate reciprocally in the pursuit of their respective duties.
2. The Government may provide, in its own regulations, specific mechanisms for collaboration with professional public associations, namely in the matter of exchange of information.

CHAPTER VI

FINAL PROVISIONS

Article 33

Installing Committees

1. Until the bodies of the professional public associations take office, the legislative act of creation may foresee the existence of installation commissions, for a maximum period of one year, which will be responsible for the practice of acts necessary for the election of the bodies of those associations.
2. The composition and the form of appointment of the members of the commissions of the professional public associations shall be fixed in the law of creation or, alternatively, by resolution of the Government.

Article 34
Entry into Force

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

Approved on 14 February 2022.

The Speaker of the National Parliament,
Aniceto Longuinhos Guterres Lopes

Promulgated on 17 March 2022. To be published.

The President of the Republic,
Francisco Guterres Lú Olo

----- end -----