

**DECREE-LAW Nr. 21/2009**

**of 6<sup>th</sup> May**

**FUNERAL TRANSPORT SERVICE**

The private funeral transport services in Timor-Leste cover a very limited percentage of national territory and are clearly insufficient to meet current needs.

Besides the poor coverage which the private funeral services represent and the limited number of vehicles available, they practise prices incompatible with the average income of Timorese families.

This situation led to the formation of a public funeral transport service, under the responsibility of the then Ministry of Labour and Community Reintegration.

Up to the present, the above mentioned service has also covered a limited part of the country and has not been provided within a legislative framework which would allow it to clearly identify the criteria according to which it should be used.

The 4<sup>th</sup> Constitutional Government, recognising the importance of this service for the Timorese population, considers it vital that it be reorganised in order to secure the needs of the families residing in all national territory, in a fair and equal manner.

This legal diploma hereby establishes the Funeral Transport Service by defining the corresponding criteria and means to fund its use.

Therefore,

Under the terms set out in sub-paragraph o) of article 15 and sub-paragraph d) of article 116 of the Constitution of the Republic and sub-paragraph f) of nr. 2, article 10 of Decree-Law no 10/2008 of 30<sup>th</sup> April, the Government hereby decrees that the following becomes law:

**CHAPTER 1**

**GENERAL PROVISIONS**

**Article 1**

**Object**

This legal diploma establishes the funeral transport service and defines and regulates the conditions under which it shall be used.

**Article 2**

**Scope**

The funeral transport service incorporates the staff, premises and vehicles from the State

allocated to providing this service from the government body responsible for social protection.

### **Article 3**

#### **General Principles**

1. The provision of the funeral transport service shall be governed by the principles of regularity and continuity.
2. For the purposes of this diploma:
  - a) “Regular” means the service provided in a permanent manner, throughout the whole year and in accordance with the timetable established for such service; and
  - b) “Continuous” means the service that once begun shall not be interrupted.

## **CHAPTER II**

### **FUNERAL TRANSPORT**

#### **Article 4**

##### **Funeral Transport**

1. For the purposes of this legal diploma funeral transport shall be understood as the displacement of a corpse in a funeral hearse, along the following routes:
  - a) between the hospital and the residence of the deceased or his relatives;
  - b) between residences of the deceased or his relatives;
  - c) from the hospital or residence of the deceased or his relatives to a place of worship;
  - d) from the hospital, the residence of the deceased or his relatives or place of worship to a cemetery or crematorium;
  - e) from the location where the corpse is found to the hospital, with the purpose of carrying out an autopsy.
2. For the purposes of this legal diploma, funeral transport shall also be understood as the removal of the remains from one grave or tomb to another.
3. Place of worship shall be understood as the location where the funeral rites of a religious or traditional nature take place.

## **Article 5**

### **Funeral Hearse**

1. For the purposes of this legal diploma, a funeral hearse shall be understood as the State vehicle allocated to the funeral transport service.
2. No vehicles considered inappropriate for funeral transport shall be allowed to carry out this activity, such as vehicles used specifically for other purposes or which do not fulfil the conditions set out by traffic legislation or applicable sanitary rules and regulations.
3. Funeral hearses shall only undertake activities to which they have been assigned and no other.

## **Article 6**

### **Funeral Escorts**

1. The funeral transport may be used by funeral escorts up to the maximum number defined in the Procedures Manual to which article 18 of this legal diploma refers.
2. The funeral escorts may use the funeral transport in all the routes referred to in article 4, as well as from the location where the use of the service is requested to the location where the corpse is found, in order to collect such corpse.
3. For the purposes of this legal diploma funeral escorts shall be considered:
  - a) the relatives of the deceased person;
  - b) the Timor-Leste National Police agent responsible for issuing the declaration to which sub-paragraph d) of number 6, article 11 refers, when there is no State vehicle available for the purpose and the purpose of the displacement is to conduct the autopsy.
  - c) the doctor who declared the death, when there is no State vehicle available for the purpose, and the purpose of the displacement is to conduct the autopsy.
  - d) the person requesting the service, even when this person is not among those escorts listed in the sub-paragraphs above.
4. The funeral escorts to which sub-paragraphs b) and c) of paragraph 3 above refer, widow or widower, relatives in ascending line, the children of the deceased person and the person requesting the service shall, in this order, have priority in escorting the corpse.

## **Article 7**

### **Authority responsible and Representation**

1. The Government body responsible for social protection, through its specific services, is the authority responsible for the management of the funeral transport service.

2. In order to guarantee access to the services, the authority responsible shall be represented in every district.

3. In the event there is such a demand for the use of the funeral transport service, the representation of the authority responsible may be extended to sub-district level.

### **Article 8**

#### **Cooperation**

The government authorities and community leaders shall cooperate in the enforcement of this legal diploma with the authority responsible, referred to in article 7 above.

### **Article 9**

#### **Financing the Funeral Transport Service**

The Funeral Transport Service shall be financed through the State Budget.

## **CHAPTER III**

### **THE PROCESS**

#### **Article 10**

##### **Onset of the Process**

1. The use of the funeral service shall depend on the submission of a request addressed to the authority responsible.

2. The process shall be considered as having formally begun upon submission of all the necessary documents.

3. The authority responsible shall explain to the person making the request of the need to obtain documents or declarations, as well as their purpose and for this may issue the appropriate models.

#### **Article 11**

##### **Application**

1. The application for the funeral transport service shall be submitted by way of a specific model, filled in and signed by the applicant.

2. The model to which paragraph 1 above refers includes information on the identification of the deceased person, the identification of the applicant, the relationship between them, the route to be taken by the funeral transport and the date and time of the displacements.

3. The date and time of the displacements shall be defined in accordance with the terms set out in article 14.

4. The information provided in the application shall correspond to real facts.

5. The model used to apply for the funeral services shall be included in the Procedures Manual to which article 18

of this legal diploma refers.

6. The application for the funeral transport service shall be accompanied by:

a) a photocopy of an identification document pertaining to the deceased;

b) a photocopy of an identification document pertaining to the applicant;

c) a medical certificate authorising the removal of the corpse from the health establishment, where the corpse is

found or when it passes it by on its route;

d) a declaration from the Timor-Leste National Police Force or medical certificate authorising the transport of the corpse, whenever death has occurred outside a medical establishment

7. The applicant shall receive a receipt from the authority responsible proving that the application and the documents required have been submitted.

## **Article 12**

### **Decision**

1. The Funeral Transport Service employee shall immediately proceed to the appraisal of the application, assessing the possibility of providing the service.

2. The service shall be refused whenever:

a) it has been reserved for other displacements;

b) the form referred to by article 11 above has not been duly filled in when submitted;

c) the documents listed in article 11 above have not been submitted;

d) the documents submitted contain deletions, inconsistencies or other shortcomings which raise doubts as to their veracity or contents;

e) the corpse to be transported is not properly placed in a coffin;

f) the route chosen may result in damage for persons or goods resulting from bad road conditions or bad weather conditions.

3. In the cases set out in sub-paragraph a) of paragraph 2 above, the Funeral Transport Service employee should, whenever possible, put the application on a waiting list.

4. In the cases set out in sub-paragraphs b) to e) of paragraph 2 above, the Funeral Transport Service employee should endeavour to unofficially resolve the problems caused by these simple irregularities or invite the applicant to resolve the existing problems.

5. In the case of sub-paragraph f) the Funeral Transport Service employee should, whenever possible, propose the use of alternative roads, offering better conditions.

6. The grounds for the decision to refuse the use of the funeral transport service shall be duly documented in writing.

### **Article 13**

#### **Funeral Transport**

1. The funeral transport service shall be provided in accordance with the routes and working hours defined in the application to be approved by the employee of the responsible authority.

2. The service shall be considered as having begun at the time when the funeral hearse leaves the first location indicated on the application.

3. The service shall be considered as having been completed at the time when the funeral hearse leaves the last location indicated on the application.

### **Article 14**

#### **Working Hours**

1. The working hours of the Funeral Transport Service shall be defined in the Procedures Manual to which article 18 refers.

2. Funeral transport shall not be permitted outside the working hours pursuant to paragraph 1 above.

3. The routes begun within the working hours should carry on until the funeral service has been concluded.

4. For the purposes of the terms set out in article 71 of Law nr. 8/2004 of 16<sup>th</sup> June, it shall be assumed that there is good reason to pay for overtime, whenever, in the cases set out in paragraph 3 above, the employee provides the service outside his normal working hours.

## **CHAPTER IV**

### **SPECIAL PROCESSES**

#### **Article 15**

##### **Funeral Transport of the corpse of a person unknown**

1. For the purposes of the terms set out in this legal diploma, the corpse shall be considered as of a person unknown whenever:

a) the person's identity is unknown;

b) the person has no relatives or their domicile or whereabouts are unknown.

2. In the situations set out in paragraph 1 above, the special services of the Ministry responsible for health shall immediately inform the Timor-Leste National Police Force of the situation and they, within the subsequent 72 hours, shall take all the necessary measures to identify the corpse and discover the domicile or whereabouts of any relatives.

The funeral transport of the corpse of the person unknown shall follow the process set out in Chapter III, with the necessary adjustments.

#### **Article 16**

##### **Funeral Transport requested by the Timor-Leste National Police Force**

1. The Timor-Leste National Police Force may request the transport of a corpse with the purpose of conducting an

autopsy.

2. The funeral transport of a corpse with the purpose of conducting an autopsy at the request of the Timor-Leste

National Police Force shall follow the process set out in Chapter III, with the necessary adjustments.

## **Article 17**

### **Civil Protection Actions**

1. The Funeral Transport Service shall collaborate in civil protection actions whenever it is requested to do so by the legally competent authority.
2. The collaboration in civil protection actions shall follow the special process to be governed by specific legislation.

## **CHAPTER V**

### **FINAL AND TRANSITIONAL PROVISIONS**

## **Article 18**

### **Procedures Manual**

This legal diploma shall be complemented by a Procedures Manual, to be approved by order of the member of the Government responsible for social solidarity, within 30 days from the date of its publication.

## **Article 19**

### **Additional Conditions of Use**

When the economic and administrative situation so allows additional conditions of use of the funeral transport service, namely the payment of fees, should be approved by appropriate legal diploma.

## **Article 20**

### **Private Initiative**

This legal diploma shall not preclude this funeral activity to be undertaken by private companies.

## **Article 21**

### **Termination**

The funeral transport service may be terminated by the appropriate legal diploma, whenever private services allow for this service to be used by a significant percentage of the Timorese population and that it be available in every district in the country.



**Article 22**

**Entry into force**

This legal diploma shall enter into force on the day immediately following its publication.

Approved by Council of Ministers on 25<sup>th</sup> February, 2009

The Prime Minister

**Kay Rala Xanana Gusmão**

Minister of Social Solidarity

**Maria Domingas Alves**

Promulgated on 24/4/09

To be published.

The President of the Republic

**José Ramos-Horta**