

IV CONSTITUTIONAL GOVERNMENT

DECREE-LAW No. 31/2009

of

Migration Service staff regulations

Decree-law no. 31/2008 of 13 August established the Migration Service (MS) as a separate entity and placed it directly under the member of the Government overseeing migration matters. The decree-law provides for the staff regulations for the Migration Service, to be defined in specific legislation.

The implementation of the aforementioned organic law of the Migration Service requires the establishment of a special career regime that, pursuant to the laws and regulations of the Civil Service, will take into consideration the specificity of the functional content and structure of the Migration Service and will thus introduce the necessary adjustments.

Thus, pursuant to article 115(p) of the Constitution of the Republic, and to article 28 of Decree-Law no. 27/2008 of 11 August, the Government enacts the following to have the force of law:

CHAPTER 1 GENERAL PROVISIONS

Article 1 Object and scope

1. This decree-law establishes the staff regulations for the Migration Service Career (*Carreira do Serviço de Migração*) pursuant to article 41(3) of Decree-Law no. 31/2008.
2. The decree-law covers, inter alia, the legal regime for appointment, promotion, recruitment, admission and wages.
3. The laws and regulations of the Civil Service are also applicable to the Migration Service Career with the necessary adaptations.

Article 2 Categories and posts/ranks

1. The staff of the MS comprises staff who are in the Migration Service Career and staff who are in the general career regime, pursuant to article 38 of the Organic Law of the Migration Service (MS).
2. The Migration Service Career comprises the following posts/ranks in decreasing hierarchical order:
 - (a) Senior Migration Inspector (*Inspector Superior de Migração*)
 - (b) Chief Inspector for Migration (*Inspector-Chefe de Migração*)
 - (c) Migration Inspector (*Inspector de Migração*)

(d) Assistant Inspector for Migration (*Inspector Adjunto de Migração*)

(e) Migration Official (*Oficial de Migração*).

2. The post/rank is the position that the official hold in the Migration Service Career.

4. The staff of the non-migration career regimes placed with the MS shall have their status regulated by the Statute of the Civil Service.

Article 3

Staffing table (*Quadro de pessoal*)

The Government shall establish a staffing table in accordance with the structure proposed by and approved in the Organic Law of the MS and with the Statute of the Civil Service.

Article 4

Functional content

1. The Migration Service Career is a special career regime established pursuant to article 28 of the Regime for the Careers in Public Administration.

2. The functional content of posts/ranks in the career is defined in this chapter pursuant to article 14(3) of the Regime for the Careers in Public Administration.

3. The staff in the Migration Service Career has police powers under the Law on Immigration and Asylum. It shall be incumbent upon the aforementioned staff:

(a) to control the entry into and departure of individuals from the border posts;

(b) to enforce decisions regarding the prohibition to entry and depart border posts;

(c) to monitor the presence and activities of foreign nationals in the national territory;

(d) to initiate the procedures aimed at the administrative expulsion;

(e) to enforce decisions of administrative expulsion;

(f) to identify individuals and to carry out body searches, pursuant to the law;

(g) to monitor compliance with legal provisions regarding the registration and accommodation of foreigners;

(h) to investigate the immigration crimes defined in the Law on Immigration and Asylum, including aid to illegal immigration, illegal soliciting of labour as well as other related crimes, without prejudice to the powers assigned to other authorities;

(i) to escort foreign citizens who were the object of a decision of repatriation;

(j) to undertake any other tasks deemed to be indispensable for the performance of the tasks of the staff in the Migration Service Career;

4. The description of the functional content of the posts/ranks that make up the Migration Service Career is detailed in Annex I to this decree which is a part thereof.

Article 5 **Legal assistance**

1. A decision issued by a member of the staff of the Migration Service Career pursuant to Law on Immigration and Asylum while performing his/her normal duties shall be considered for legal purposes as a decision issued by the Migration Service, should legal proceedings be filed in court against an individual member of the MS.

Article 6 **Placement of staff**

1. The staff in the Migration Service Career shall be able to be placed at any location in the national territory or to be accredited with official representations abroad, in accordance with the Statute of the Civil Service.

2. The placement of staff in the structure of the SM shall take place by means of an order from the National Director of the MS.

Article 7 **Secondment (*Comissões de Serviço*)**

1. The posts/ranks of National Director and of Deputy National Director of the MS shall be filled by secondment, pursuant to the Statute of the Civil Service, in particular the Regime for the Careers in Public Administration.

2. The staff whose services have been requested (*requisição*) by the MS or that has been seconded to it shall keep the rights and privileges of their original career, pursuant to the Statute of the Civil Service, namely with regard to their progression (*progressão*) in their respective categories.

Article 8 **Mobility**

1. The notion of mobility includes the placement, rotation and transfer procedures, including the performance of different functions in a same location, or the performance of the same function in different locations.

2. The principles guiding the mobility policy of the MS shall be the object of a regulation to be approved by the member of the Government overseeing migration matters.

3. The level of the responsibility of the post/rank, the isolated nature of the workplace and the personal circumstances of the officials, *inter alia*, shall be determining factors with regard to decisions regarding mobility.

Article 9
Assistance in accommodation

1. The responsibilities of the MS pursuant to the law require its officials to perform their tasks in remote and isolated locations.
2. Adequate accommodation shall be provided in the context of the implementation of MS's mobility policy and when decisions are taken to place individual officials in remote and isolated locations.
3. The SM shall ensure that adequate budgetary appropriations are made to support the accommodation of its official and their families in locations where adequate private accommodation is not available.

Article 10
Performance evaluation procedures

1. The evaluation of staff's performance in the Migration Service Career shall be regulated by the Regime for Evaluating the Performance of Civil Servants, with the necessary adjustments.
2. For the purpose of applying the performance evaluation regime, the holder of the post of National Director shall be considered the highest official of the MS, pursuant to article 18(1) of Decree-Law no. 14/2008.

Article 11
Vocational training

1. The Ms shall design and implement an annual training and development programme to address the training needs identified by the service itself.
2. It is the duty of the staff of the MS to fully take part in the training activities that are essential to their professional development.
3. The MS may grant scholarships as well as a more flexible schedule with regard to professional tasks to officials who are privately taking courses that will be beneficial to the service.

Article 12
Distinctions and awards

1. The distinctions and awards provided in the Statute of the Civil Service are granted to SM officials whose merit in the performance of their professional duties has been duly acknowledged.
2. The distinctions and awards provided in paragraph 1 above are awarded by the National Director or the member of the Government overseeing migration matters, on a proposal from the National Director.

3. The procedure aimed at identifying officials whose performance and outstanding service should be acknowledged, or to whom awards should be granted, shall be the object of a regulation to be approved by the member of the Government overseeing migration matters.

Article 13
Liability to disciplinary action

1. The provisions regarding disciplinary action in the Migration Service Career encompass those provided in the Statute of the Civil Service, with the necessary adjustments.

2. The following special sanctions may additionally be applied to officials of the MS:

(a) Termination of their secondment (*comissão de serviço*);

(b) Termination of their Administrative Employment Contract (*Contrato Administrativo de Provimento*);

(c) Transfer.

3. An official may be temporarily suspended while keeping his/her pay if such measure is deemed necessary in the context of a disciplinary investigation.

Article 14
Disciplinary competence

1. The member of the Government overseeing migration matters is competent to apply any type of disciplinary sanction.

2. The National Director and the Deputy National Director are competent to apply any type of disciplinary sanctions ranging from a reprimand to suspension.

3. The Heads of Departments are competent to apply to the officials placed under them oral and written reprimands and the power to submit proposals regarding other types of disciplinary sanctions.

4. The disciplinary sanctions referred to in paragraph 3 above shall only take effect after they have been ratified by the National Director.

CHAPTER II
PROVISIONS ON APPOINTMENTS

Article 15
National Director

1. The National Director shall be selected in a competitive application (*concurso*) in accordance with the Statute of the Civil Service.

2. The competitive application procedure mentioned in paragraph 1 above shall include the following special requirements:

(a) Whenever internal competitive applications of limited access (*concurso interno de acesso limitado*) are organized, candidates shall hold the post/rank of Senior Inspector for Migration or Chief Inspector for Migration, and shall have an exemplary disciplinary record;

(b) Whenever internal competitive applications open to all civil servants (*concurso interno aberto a todos os funcionários públicos*) are organized, candidates shall hold the post/rank of Senior Technician Grade A (*Técnico Superior Grau A*) or equivalent;

(c) Whenever public competitive applications (*concurso público*) are organized, the qualifications and professional experience corresponding to those specified in subparagraphs (a) and (b) shall be required.

3. The National Director is appointed on secondment for a period of four years, that may be extended by a further four years, by means of a decision by the member of the Government overseeing migration matters.

4. The post of National Director is a senior management position as defined in article 18(2)(b) of Decree-Law no. 27/2008 and the holder of such post is entitled to the salary and to use the uniform and the badge associated to it and provided in this decree-law.

5. When the individual appointed to the post of National Director is already a official in the Migration Service Career but in an inferior post/rank, he/she is automatically promoted to the post/rank of Senior Inspector for Migration.

6. The intent to extend the secondment shall be communicated to the interested individual in writing at least sixty days before the end of the four-year period.

7. The secondment will automatically cease at the end of the time period if the member of the Government overseeing migration matters has not explicitly indicated his/her intent to extend it.

8. The secondment of a National Director may be terminated at any moment by a ministerial order from the member of the Government overseeing migration matters.

9. The provisions in this article are without prejudice to the application of the transient provisions provided in this decree-law.

Article 16 **Deputy National Director**

1. The Deputy National Director shall be selected in a competitive application (*concurso*) in accordance with the Statute of the Civil Service.

2. The competitive application procedure mentioned in paragraph 1 above shall include the following special requirements:

(a) Whenever internal competitive applications of limited access (*concurso interno de acesso limitado*) are organized, candidates shall hold the post/rank of Senior Inspector for Migration or Chief Inspector for Migration, and shall have an exemplary disciplinary record;

(b) Whenever internal competitive applications open to all civil servants (*concurso interno aberto a todos os funcionários públicos*) are organized, candidates shall hold the post/rank of Senior Technician Grade B (*Tecnico Superior Grau B*) or equivalent;

(c) Whenever public competitive applications (*concurso público*) are organized, the qualifications and professional experience corresponding to those specified in subparagraphs (a) and (b) shall be required.

3. The Deputy National Director is appointed on secondment for a period of four years, that may be extended by a further four years, by means of a decision by the member of the Government overseeing migration matters.

4. The post of Deputy National Director is a senior management position considered equivalent to that of District Director as defined in article 18(2)(b) of Decree-Law no. 27/2008 and the holder of such post is entitled to the salary and to use the uniform and the badge associated to it and provided in this decree-law.

5. When the individual appointed to the post of Deputy National Director is already a official in the Migration Service Career but in an inferior post/rank, he/she is automatically promoted to the post/rank of Senior Inspector for Migration.

6. The provisions in this article are without prejudice to the application of the transient provisions provided in this decree-law.

Article 17 **Heads of Department**

1. The National Director shall appoint to the position of Head of Department official in the Migration Service Career who hold the post/rank of Senior Inspector for Migration in accordance with article 6.

2. An official holding an inferior post/rank may be appointed Head of Department if the circumstances for such an appointment are duly substantiated and the appointed is of a temporary nature.

3. The aforementioned official shall be entitled to a supervision allowance (*suplemento de supervisão*) pursuant to article 51.

4. The provisions in this article are without prejudice to the application of the transient provisions provided in this decree-law.

**CHAPTER III
PROVISIONS ON PROMOTIONS**

**Section I
General provisions of promotions**

**Article 18
Promotion**

1. The access to each and every post/rank in the Migration Service Career is by promotion.
2. Promotion consists in the transition to a superior post/rank on the vertical scale, with the promotee taking on tasks of greater complexity and responsibility.
3. The number of vacant positions for promotion is determined in accordance with the staffing table (*Quadro de Pessoal*) of the MS, with the exception of the cases provided in article 22 and relating to the promotion under exceptional circumstances (*promoção a título excepcional*).
4. Promotions shall be published in the official gazette (*Jornal da República*).

**Article 19
Conditions for promotion**

1. The general conditions for promotion are defined in the Regime for Competitions, Recruitment, Selection and Promotion of Public Administration Personnel, which allows for the inclusion of specific requirements for special career regimes.
2. The specific requirements for promotion in the Migration Service Career are defined in Section II of this chapter, below.
3. An official who is a candidate for promotion must fulfil the general and specific requirements for promotion, with the exceptions provided under article 22 for the promotion under exceptional circumstances.
4. The provisions in this article are without prejudice to the application of the transient provisions provided in this decree-law.

**Article 20
Modalities of promotion**

The modalities of promotion are as follows:

- (a) promotion by merit-based selection (*selecção de mérito*);
- (b) promotion under exceptional circumstances (*promoção a título excepcional*).

Article 21
Promotion by merit-based selection (*selecção de mérito*)

1. The promotion by merit-based selection is based on the demonstration of skills, qualifications, experience, personal qualities and work performance standards, evaluated in an objective manner in accordance with the available evidence related to the functions of a given post/rank.
2. Whenever more than one position is available, the promotion to a higher post/rank is done in a sequential manner starting with more preferred candidate from the list produced in the merit-based selection procedure.

Article 22
Promotion under exceptional circumstances (*promoção a título excepcional*)

Promotion under exceptional circumstances consists in the access to a higher post/rank regardless of the existence of vacancies, and may occur in one of the following circumstances:

- (a) whenever the circumstances for promotion provided in articles 16 and 15 occur;
- (b) whenever an appeal results in a decision for the appellant to be promoted, and immediately after a procedure for selection by merit has taken place;
- (c) whenever an official is eligible for promotion in a merit-based selection procedure but has not been promoted because of an ongoing disciplinary or criminal investigation which is eventually closed without any indication that would prevent the promotion of said official to take place.

Article 23
General conditions for promotion

1. The general conditions for promotion are defined in the Statute of the Civil Service, in particular in the Regime for Competitions, Recruitment, Selection and Promotion of Public Administration Personnel, with the adjustments provided for in paragraph 2 of this article.
2. An official who is the object of a pending disciplinary or criminal investigation may apply for a promotion by merit-based selection and may become eligible for promotion following a merit-based selection procedure but he/she cannot be promoted while the aforementioned investigation is ongoing.

Article 24
Seniority

1. The seniority in every post/rank of the Migration Service Career is calculated by adding up the days of effective service counted from the date of the official's promotion. Those promoted more recently are considered as being less senior.

2. Whenever the promotion of more than one official takes place during a single selection procedure, the officials who get lower marks in the selection procedure shall be considered as less senior than officials who get higher marks.

3. All periods of effective service of the promoted official shall be counted for the purpose of calculating his/her seniority. The following exceptions shall apply:

(a) Any period of time during which the official is not entitled to his/her pay;

(b) Any period of time during which the payment of the official's wages is suspended in accordance with disciplinary provisions, as long as the official has been found guilty of a disciplinary offence.

Section II **Special conditions for promotion**

Article 25 **Senior Migration Inspector (*Inspector Superior de Migração*)**

The eligibility requirements for applying for promotion to the post/rank of Senior Migration Inspector shall be as follows:

(a) to have served as a Chief Inspector for Migration (*Inspector-Chefe de Migração*) for at least two years with a "Very Good" (*Muito Bom*) performance evaluation or three years with a "Good" (*Bom*) performance evaluation; and

(b) to hold a university degree (*Licenciatura*) or equivalent.

Article 26 **Chief Inspector for Migration (*Inspector-Chefe de Migração*)**

1. The post/rank of Chief Inspector for Migration is a point of entry into the Migration Service Career that is available to external candidates.

2. The eligibility requirements for applying for promotion to the post/rank of Chief-Inspector for Migration shall be as follows:

(a) For internal candidates:

(i) to have completed at least two years of service in the Migration Service Career with a "Very Good" (*Muito Bom*) performance evaluation or three years with a "Good" (*Bom*) performance evaluation; or

(ii) to hold a university degree (*Licenciatura*) or equivalent.

(b) For external candidates:

(i) to hold a university degree (*Licenciatura*) or equivalent.

3. The external candidates selected for the post/rank of Chief-Inspector for Migration shall be subject to a one-year probation period and shall successfully complete an Internship Programme in Migration Issues (*Programa de Estágio de Migração*) during said period.

Article 27

Inspector for Migration (*Inspector de Migração*)

The eligibility requirements for applying for promotion to the post/rank of Inspector for Migration shall be as follows:

(a) to have completed at least two years of service in the Migration Service Career with a “Very Good” (*Muito Bom*) performance evaluation ou three years with a “Good” (*Bom*) performance evaluation; and

(b) to hold an intermediate university degree (*Bacharelato*) or equivalent.

Article 28

Assistant Inspector for Migration (*Inspector Adjunto de Migração*)

1. The post/rank of Assistant Inspector for Migration is a point of entry into the Migration Service Career that is available to external candidates.

2. The candidates shall hold a post-secondary education diploma or equivalent to be eligible to apply for promotion to the post/rank of Assistant Inspector for Migration.

3. The external candidates selected for the post/rank of Assistant Inspector for Migration shall be subject to a one-year probation period and shall successfully complete an Internship Programme in Migration Issues (*Programa de Estágio de Migração*) during said period.

Article 29

Migration Official (*Oficial de Migração*)

1. The post/rank of Migration Official is the point of entry at the base of the Migration Service Career.

2. The candidates shall hold a secondary education diploma or equivalent to be eligible to apply for promotion to the post/rank of Migration Official.

3. The external candidates selected for the post/rank of Migration Official shall be subject to a one-year probation period and shall successfully complete an Internship Programme in Migration Issues (*Programa de Estágio de Migração*) during said period.

CHAPTER IV
PROVISIONS REGARDING RECRUITMENT AND ADMINISTRATIVE
EMPLOYMENT (*PROVIMENTO*)

Section I
Provisions regarding recruitment

Article 30
Mandatory recruitment requirements

1. There are three available entrance levels into the Migration Service Career, namely those of Migration Official, Assistant Inspector for Migration and Chief Inspector for Migration.

2. The specific requirements for entry into the Migration Service Career listed below shall be added to the requirements provided in the Statute of the Civil Service:

(a) For Migration Officials:

(i) To hold at least a diploma of secondary education, corresponding to Degree E in Annex II of the Regime for the Careers in Public Administration or equivalent;

(ii) To have very good knowledge of one of the official languages, as well as a good knowledge of English, in particular listening and speaking skills.

(b) For Assistant Inspector for Migration:

(i) To hold at least a diploma of post-secondary education, corresponding to Degree D in Annex II of the Regime for the Careers in Public Administration or equivalent;

(ii) To have very good knowledge of one of the official languages, as well as a good knowledge of English, in particular listening and speaking skills.

(c) For Chief Inspector for Migration

(i) To hold at least a university diploma (*Licenciatura*), corresponding to Degree B in Annex II of the Regime for the Careers in Public Administration or equivalent;

(ii) To have very good knowledge of one of the official languages, as well as a good knowledge of English, in particular listening and speaking skills.

3. In case two or more candidates get identical marks in recruitment procedures, candidates with the highest academic qualifications, female candidates and candidates with better language skills in English will be preferred in this order.

Article 31
Selection Methods

1. The selection procedures are provided in the Statute of the Civil Service. To these shall be added the necessary procedures and specific requirements of the Migration Service Career.
2. Language skills in English will be required, and the selection procedure shall include a formal exam to test candidates' proficiency in this language.
3. The aforementioned exam shall focus, in particular on listening and oral skills, as well as reading and writing skills.
4. The knowledge about other peoples and societies, as well as geographical knowledge, shall be valued in the general knowledge exams because of the nature of the tasks to be formed by officials in the Migration Service Career.
5. As the failure in any one of the selection procedures referred to in paragraphs 1, 2 and 3 above will exclude candidates from the selection process, the outcome of the various selection procedures shall be grouped and the final decision regarding selection and the disclosure of the exam results shall only take place once all the selection procedures have been completed.

Article 32
Medical and physical examination

1. Candidates are required to be in good physical condition and resistance to conditions in which the transmission of transmissible diseases might occur. Possible threats such as TB should be identified and treated.
2. Candidates who obtain adequate marks (*classificação suficiente*) in the selection process for recruitment into the Migration Service Career may be subject to physical and medical examinations to ascertain their ability to perform the tasks required in the Migration Service, as well as to identify any possible condition that warrants medical treatment.
3. A candidate that fails the medical and physical examinations referred to in this article may be excluded from the recruitment process.
4. The medical and physical examinations shall be designed, focus on and define physical unfitness in accordance with a regulation to be adopted by the member of the Government overseeing migration matters.

Article 33
Intern (*Estagiário*) status in the Migration Service Career

1. During the probation period in the Migration Service Career, recruits shall have the status of interns.
2. Recruits who are civil servants at the time of their recruitment shall be transferred with the status of Interns in the Migration Service Career (*Estagiário na Carreira de Migração*), in the

framework of an extraordinary temporary appointment (*comissão extraordinária de serviço*), pursuant to the Statute of the Civil Service.

3. Recruits who are civil servants shall also be subject to a probationary period to enter the Migration Service Career, pursuant to the Statute of the Civil Service.

4. Recruits who are not civil servants shall sign an administrative employment contract (*contrato administrativo de provimento*) whereby they will acquire the status of administrative agent (*Agente Administrativo*).

5. The probationary period in the Migration Service career shall be of 12 months.

6. The probationary period may be terminated before the end of the time-period mentioned in para. 5 above, whenever the supervisor considers that there is no real expectation that the Intern will demonstrate before the end of such 12-month period that he/she has the necessary skills to fulfil the requirements of the position for which he/she is applying.

7. The Intern with regard to whom it has been decided that he/she does not fulfil the necessary requirements of the probationary period shall not enter the Migration Service Career and his/her administrative employment contract shall be terminated. In the cases where the intern is a civil servant, the extraordinary temporary appointment shall be terminated and he/she shall return to his/her original agency albeit without the loss of any rights or privileges.

Article 34

Provisions regarding internships (*Estágio*)

1. The Migration Internship (*Estágio de Migração*) comprises a stage of theoretical training followed by a stage of practical training, with a total duration of 12 months.

2. The theoretical part referred to in para. 1 above may be taught by the Centre for Research on and Planning of Migratory Issues (*Centro de Pesquisas e Planeamento Migratório*) or by an accredited academic institution.

3. The completion of the Migration Internship is a pre-requisite for promotion to one of the posts/ranks in the Migration Service Career.

4. The syllabus and the programme for the Migration Internship shall be defined by means of a Rule of Operational Procedure (*Norma de Procedimento*) to be issued by the National Director.

Section II **Admission**

Article 35 **Admission and promotion**

1. At the end of the Migration Internship, the National Director shall make an overall assessment of the Interns' performances and issue a decision on whether they have fulfilled or not the requirements set out for the probationary period.

2. An Intern who fulfils all the probationary requirements may be appointed to enter the Migration Service Career with the post/rank of Migration Official, Deputy Inspector for Migration or Chief-Inspector for Migration, depending on the selection procedure in which he/she has taken part and limited to the number of available vacancies.

3. Whenever the number of interns who have successfully completed the probationary period exceeds the number of available vacancies, preference shall be given to the interns who obtained the highest marks during the Migration Internship.

4. The remaining interns to who no positions were offered in accordance with paragraphs 2 and 3 above, shall be placed on a reserve list (*lista de espera*) in descending order of the final mark that they obtained during their internship. They shall remain on that list for a period of 12 months from the date of completion of their internship.

5. The validity of the internship for the purpose of being admitted into the Migration Service Career shall end when the aforementioned 12-month period expires.

Section III

Secondment (*Destacamento*) of Migration Attachés (*Adidos de Migração*)

Article 36

Migration Attachés

1. The Minister of Foreign Affairs may appoint and provide credentials to Migration Attachés with foreign countries and international organisations that authorise the presence of such officials on a request from the member of the Government overseeing migration matters. These attachés shall be posted with Timor-Leste's embassies, diplomatic missions and consulates.

2. The appointment of Migration Attachés is by secondment of the individual in question for a period of two years that may renewed if this is deemed urgent or convenient for the service.

3. The instruction appointing the attaché shall include a Job Description for the individual appointed as Migration Attaché. The functions referred to therein shall be considered, for all legal purposes, as Migration functions.

4. Working conditions for Migration Attachés, including medical assistance for the attaché and his/her family, subsistence allowances and other subsidies and benefits, shall be the same as those provided to officials at a similar level in the Diplomatic Service Career of the Ministry of Foreign Affairs.

5. The Minister of Foreign Affairs and the member of the Government overseeing migration matters shall authorise the performance of such duties in international organisations by designated MS staff or individuals who may have applied to such organisations, pursuant to the Statutes of the Civil Service.

CHAPTER V WAGES REGIME

Section I General provisions

Article 37 Object and scope

1. The wages regime in the Migration Service Career establishes the base-salary for every post/rank in the Migration Service career.
2. The regime shall apply as well to the managerial positions within the MS and to Interns during their Migration Internship.
3. Other staff in the MS, whether in the general regime (*regime geral*) or on temporary appointments (*regime de comissão de serviço*) are not covered by these rules.

Article 38 Right to pay

1. Official in the Migration Service Career shall be entitled to their wages and allowances in accordance with the law, as from the date when they are promoted to their respective post/rank.
2. Interns in the Migration Internship shall be entitled to their wages and allowances as from the date when they start their internship.
3. Interns whose names are on the reserve list (*lista de espera*) provided in article 35(4) and (5) are not entitled to wages or allowances while they await their appointment to the Migration Service Career.
4. Wages shall be paid on a monthly basis.
5. Officials are entitled to wages and allowances when this has been duly justified by a disciplinary decision or any other applicable law.
6. The right to pay ceases whenever any of the causes provided in the relevant legislation for the termination of the legal bond that exists with the MS.

Section II On wages

Article 39 Wages for senior management positions (*Cargos de Direcção*)

1. Within the MS, , the senior management positions are those of National Director and Deputy National Director.

2. The wages paid to the National Director and the Deputy National Director shall be accordance with the provisions in the Career Regime for the Civil Service, and will correspond to those of National Director and District Director.

Article 40 **Wage system**

The wage system in force in the MS consist of a base-salary to which are added allowances and supplements.

Article 41 **Base-Salary**

1. The monthly base-salary is calculated using the following formula:

$$V = In \times Va$$

Where: V = *Pay*, In = *Index* and Va = *Variable*.

2. The variable (Va) is determined in a joint decree by the member of the Government overseeing migration matters and the Minister of Finance.

Article 42 **Pay scale**

1. For the purpose of determining an individual's pay in accordance with the provisions in article 2, each post/rank in the Migration Service Career shall have its own pay scale as indicated in Annex II to this decree-law of which it is an integral part.

2. The posts/ranks in the Migration Service Career correspond to the following degrees and wage indices in the pay scale of the Career Regime for the Civil Service (*Regime de Carreiras da Função Pública*):

a) Senior Migration Inspector (*Inspector Superior de Migração*): there is a scale with 5 wage indices corresponding to the wage indices between 6 and 10 in Grade B of the Career Regime for the Civil Service;

b) Chief Inspector for Migration (*Inspector-Chefe de Migração*): there is a scale with 5 wage indices corresponding to the wage indices between 1 and 5 in Grade B of the Career Regime for the Civil Service;

c) Migration Inspector (*Inspector de Migração*): there is a scale with 7 wage indices corresponding to the wage indices in Grade C of the Career Regime for the Civil Service;

d) Assistant Inspector for Migration (*Inspector Adjunto de Migração*): there is a scale with 7 wage indices corresponding to the wage indices in Grade D of the Career Regime for the Civil Service;

e) Migration Official (*Oficial de Migração*): there is a scale with 7 wage indices corresponding to the wage indices in Grade D of the Career Regime for the Civil Service.

3. The updating of the wage indices in the pay scales of the career Regime for the Civil Service will automatically lead to corresponding increases in the table in Annex II to this decree.

Article 43 **Interns' pay**

Interns who have been admitted to the Migration Service shall be entitled to 75% of the wage corresponding to the 1st echelon of the position for which they have applied during the probationary period.

Article 44 **Effects of promotions on pay**

A Migration Official who is promoted to a higher post/rank shall be paid in accordance with the first echelon of the post/rank to which he/she has been promoted.

Article 45 **Progression**

1. Wage progression in every pay scale is conditional upon the performance of one's duties at a particular pay level during a certain period of time and the assessment of one's performance.
2. Progression takes place after the performance of work at a particular pay level with a "Good" (*Bom*) performance evaluation or higher.
3. A "Very Good" (*Muito Bom*) performance evaluation during two consecutive years shall reduce by one year the time period referred to in para. 2 above.
4. Once the requirements in paragraphs 1 and 2 of this article have been fulfilled, the relevant services shall change the member of staff's echelon and record it in the member of staff's individual file.
5. The member of staff is entitled to pay at the higher echelon on the first day of the month following the time when the requirements put forward in paragraphs 2 or 3 are fulfilled.

Section III **Salary supplements**

Article 46 **Migration Service Career supplements**

1. Officials in the Migration Service career are entitled to the supplements provided in the Statutes of the Civil Service and are also entitled to the supplements provided in this decree.

2. Supplements in the Migration Service Career are paid in acknowledgment of the specific working conditions that prevail in the Migration Service Career, namely the mandatory and permanent availability of its staff; the risks associated with their profession; the inadequate hygiene and health conditions of their working conditions and accommodation; and the performance of their duties in remote and isolated locations.

3. The special supplements that pertain to the Migration Service Career are as follows:

- a) Meal allowance (*Subsídio de Alimentação*);
- b) Transportation allowance (*Subsídio de Transporte*);
- c) Isolation allowance (*Suplemento por Isolamento*);
- d) Shift work allowance (*Suplemento por Trabalho em Regime de Turnos*); and
- d) Supervision allowance (*Suplemento de Supervisão*)

4. Interns on the Migration Internship are not entitled to the supplements that are paid in the Migration Service Career. However, they shall be paid the supplements provided in the Statutes of the Civil Service.

5. The cost of establishing himself/herself following his/her first appointment to a Migration Service facility in the context of his/her Migration Internship shall be at the Intern's own expense.

Article 47 **Meal allowance**

1. Officials in the Migration Service Career with migratory functions are entitled to a meal allowance, except when the service they work for provides for such meals.

2. The meal allowance is paid for the days of actual provision of services on the job.

3. The official shall not be entitled to a food allowance whenever he/she is ill or serving a disciplinary sentence of suspension or if he/she has been preventively suspended for the time that such suspension lasts.

4. The meal allowance shall be paid together with the monthly pay.

5. The value of the monthly allowance shall be established by a Government decree.

Article 48 **Transport allowance**

1. Officials working in the Migration Service and effectively performing their duties are entitled to a transport allowance.

2. The transport allowance is paid on a monthly basis and corresponds to fifteen US dollars.

Article 49
Isolation allowance

1. Officials in the Migration Service Career that are performing their duties in border posts outside Dili district are entitled to an isolation allowance.

2. The isolation allowance is calculated on the basis of 25% of the base-pay of the 1st echelon of the Deputy Inspector's post/rank.

3. The isolation allowance shall be paid on a monthly basis for as long as the individual performs his/her duties in the aforementioned border posts.

4. The isolation allowance provided in the paragraphs above may be reduced when the Government provides housing for the official and his/her family.

Article 50
Shift work allowance

1. Official in the Migration Service Career may be required to perform shift work.

2. The positions that are acknowledged as requiring shift work shall be determined by a ministerial instruction issued by the member of Government overseeing migration matters.

3. Under duly justified and temporary circumstances, the member of the Government overseeing migration matters may designate other positions for the purpose of shift work, to be added to the positions referred to in para. 2 above.

4. The allowance to be paid for shift work shall be determined by a decision by the member of Government overseeing migration matters, and such decision shall be valid until such time when a Government decree is published pursuant to the Statutes of the Civil Service.

Article 51 [*wrongly numbered as 50 in the Portuguese version*]
Supervision allowance

1. The positions in the Migration Service that are eligible for a supervision allowance are those of Head of Sector (*Chefe de Sector*), Head of Division (*Chefe de Divisão*) or of an equivalent unit, and senior officials in charge of shift work or border posts.

2. The supervision allowance is a pay supplement associated to the responsibility that goes with performing a supervisory role in the Migration Service, for which the member of staff in question will have to have been duly appointed and the post/rank will have to be foreseen in the structure of the Migration Service.

3. The allowance is paid on a monthly basis and depends on the effective performance of a supervisory function.

4. Whenever the official of the Migration Service is on leave, sick leave or any other type of leave, he/she shall not be entitled to the payment of the supervision allowance.
5. The supervision allowance is calculated on the basis on 15% of the base-pay of the 1st echelon of the official's position.
6. The payment of the supervision allowance takes effect after the implementation of the structure of the Migration Service.

CHAPTER VI TRANSITIONAL PROVISIONS

Article 52 Transitional regime

1. When the Migration Service is established, all PNTL staff serving in PNTL's Migration Department shall become staff assigned to the Migration Service pursuant to these transitional provisions.
2. The staff that is transferred from PNTL to the Migration Service, they will continue to occupy their current positions, subject to any decision made pursuant to this decree.
3. Officials referred to in para. 1 above are appointed to the Migration Service on an exceptional temporary appointment (*comissão de serviço excepcional*).
4. The transitional period will be in force for a maximum of five years.
5. The system of posts and regulations related to PNTL shall no longer have any effect on the Migration System once the transitional period proposed by this decree expires.
6. The provisions in this chapter will no longer have any effect after the transitional period has expired.

Article 53 Transitional provisions regarding staff

1. The current holders of a PNTL position that perform a function in the Migration Service are given the opportunity to opt between returning to PNTL or moving to the Migration Service Career.
2. The transition from a career in PNTL to a career in the Migration Service takes places via a Professional Reconversion (*Reconversão Profissional*) procedure in accordance with article 13 of Decree-Law no. 27/2008.
3. An official applying for Professional Reconversion in a position of the Migration Service Career is considered as having opted for the Migration Service Career in accordance with para. 1 above.

4. An official who does not apply, or is unsuccessful in the professional reconversion process, shall be transferred to the PNTL during the transitional period pursuant to article 52(2).

Article 54 **Professional reconversion programme**

1. The Professional Reconversion programme is open to all PNTL members who have been working for the Department of Migration or the Migration Service for more than 12 months, in the two years prior to the start of the Professional Reconversion programme.

2. The professional Reconversion programme consists in an internal competition based on merit and using the following assessment methods:

- a) Performance evaluation, in accordance with Decree-Law no. 14/2008;
- b) Curriculum evaluation, in accordance with Decree-Law no. 34/2008;
- c) Interview, in accordance with Decree-Law no. 34/2008.

Article 55 **Impact of disciplinary procedures**

During the transition period, all staff performing migratory functions shall be subject to a disciplinary assessment with a view to determining their eligibility to Professional Reconversion is a corresponding or higher positions, in accordance with the following general rules:

- a) The PNTL Immigration Official may not have been sentenced to a disciplinary sanction involving a fine or a more serious sanction in the last 12 months prior to the Professional Reconversion;
- b) The PNTL Immigration Official may not have been sentenced to prison in criminal proceedings;
- c) The PNTL Immigration Official has to be provisionally certified or has to have obtained final certification from UNMIT;

Article 56 **Pending disciplinary or criminal proceedings**

1. An official with a pending disciplinary or criminal investigation may apply to a Professional Reconversion procedure and get an position based on merit, but he/she may not be promoted to a post/rank in the Migration Service Career while the aforementioned investigation is pending.

2. In case the pending investigation has not been concluded by the end of the transitional period. The rule provided for in article 52(4) shall apply.

Article 57
Promotion to Migration Official (*Oficial de Migração*) or Assistant Inspector for Migration (*Inspector Adjunto de Migração*)

1. The staff of PNTL's Migration unit with the rank of Agent (*Agente*) who have served at least 4 years in the former Department of Migration of PNTL and who have not been excluded by force of article 55 shall be eligible to apply to the Professional Reconversion programme for the ranks of Migration Official (*Oficial de Migração*) or Assistant Inspector for Migration (*Inspector Adjunto de Migração*) as long as:

- a) They hold a valid diploma of completed Secondary Education;
- b) They have successfully completed a basic course on Migration issues;
- c) They have successfully completed an intermediate course on Migration issues or other relevant training initiatives.

2. Staff who do not fulfil the conditions set out in subparagraph 1(a) above may serve in the Migration Service for the duration of the 5-year transition period and may use such period of time to obtain the required academic qualifications.

3. Should staff members referred to in paragraph 2 above be unable to obtain the necessary academic qualifications by the end of the transition period, the rule provided for in article 52(4) shall apply.

Article 58
Promotion to higher ranks

1. The current Director (*Director do Departamento de Migração*) and Deputy Director (*Sub-Director do Departamento de Migração*) of the Department of Migration may be considered, upon a formal request, for the Professional Reconversion programme with a view to being promoted to the rank of Senior Migration Inspector (*Inspector Superior de Migração*).

2. Staff who have served at least for 12 months as Head of Sector (*Chefe de sector*) over the last two years may apply for promotion to the ranks of Chief Inspector for Migration (*Inspector-Chefe de Migração*) and Senior Migration Inspector (*Inspector Superior de Migração*) after having been promoted to Migration Official (*Oficial de Migração*) or Assistant Inspector for Migration (*Inspector Adjunto de Migração*) pursuant to the provisions of the previous article.

3. The remaining staff who have successfully achieved Professional Reconversion to the ranks of Migration Official (*Oficial de Migração*) or Assistant Inspector for Migration (*Inspector Adjunto de Migração*) may apply for promotion to the posts/ranks of Migration Inspector (*Inspector de Migração*) and Chief Inspector for Migration (*Inspector-Chefe de Migração*).

4. The promotions shall be based on merit, pursuant to the provisions laid down in Chapter III.

Article 59
Staffing levels

The number of vacancies available in each rank during the transition period shall be determined on the basis of the staffing table provided for in article 3 of this decree.

Article 60 [*wrongly numbered as 59 in the Portuguese version*]
Impact of the Professional Reconversion

The candidates who successfully complete the Professional Reconversion programme:

- a) Shall be paid a salary and assigned to an echelon (*escalão*) that is identical or higher than the one they were paid and had before;
- b) Shall have their seniority in the Migration Career determined pursuant to the provisions in article 24;
- c) Shall be exempted from the 12-month probation period provided in the Statute of the Civil Service;
- d) Shall have their completion of the Migration Internship (*Estágio de Migração*) provided in this decree duly acknowledged;
- e) Shall be considered as having transitioned from the PNTL career to the Migration career;
- f) Shall have their time of effective service with PNTL considered as time of effective service in the Civil Service.

Article 61
PNTL's responsibilities

1. For the duration of the Professional Reconversion process, PNTL's Department of Human Resources, together with the Division of Human Resources of the Migration Service, shall be responsible:

- a) For providing an updated list of staff with their current ranks;
- b) For providing a list of PNTL immigration officials who fulfil the criteria set out in article 57;
- c) For making available the individual files of all PNTL members considered eligible for Professional Reconversion and promotion within the Migration Service career;
- d) For providing an updated list of staff with the current status of their certification process.

2. For the duration of the Professional reconversion process, PNTL's Office for Professional Standards and Ethics (*Gabinete de Ética e Deontologia Profissional*) shall be responsible:

- a) For providing an updated list of staff who were punished, including the dates and details of the punishments served;
- b) For providing an updated list of duly identified staff members who have pending criminal investigations or court sentences at the time when this decree comes into force;
- c) For providing an updated list of duly identified staff members who have pending disciplinary investigations at the time when this decree comes into force;

Article 62
Selection Panel

1. For the purposes of the Professional Reconversion process, the member of the Government overseeing migration matters shall appoint a panel comprised of three individuals, pursuant to article 12 of Decree-Law no. 34/2008.
2. The panel shall include a member of an international organisation that plays a relevant role in migration-related activities.

CHAPTER VII
FINAL PROVISIONS

Article 63
Supplementary norms and instructions

The member of the Government overseeing migration matters may, on his/her own initiative or upon a proposal from the National Director (*Director Nacional*), issue supplementary norms or instructions deemed necessary for the implementation of this decree by means of an administrative order (*despacho*).

Article 64
Badges

The badges of the members of the Migration career are included in Annex III to the present decree which is a part thereof. Their technical features shall be defined by an administrative order (*despacho*) to be approved by the member of the Government overseeing migration matters.

Article 65
Entry into force

This decree will come into force on the day following its publication in the Official Gazette.

Approved by the Council of ministers on 23 September 2009.

The Prime Minister,

[signed]

Kay Rala Xanana Gusmão

The Minister of Defence and Security,

[signed]

Kay Rala Xanana Gusmão

The Minister of Finance,

[signed]

Emília Pires

Promulgated on 27 October 2009.

To be published.

The President of the Republic,

[signed]

José Ramos-Horta

Annex I
(see article 4(4))

Posts/Ranks, Job Descriptions and Equivalent Degrees in the Civil Service

Post/Rank	Job Description	Equivalent grade in the Civil Service and academic qualifications required
Senior Migration Inspector (<i>Inspector Superior de Migração</i>)	The Senior Migration Inspector (<i>Inspector Superior de Migração</i>) is a senior official who provides a significant contribution to the Migration Service's strategic outcomes. The official is a senior leader/manager of highly complex units. Such officials have to exercise their judgment at the highest level when performing their migration-related duties and can represent the Migration Service at high-level meetings or working groups. They work autonomously and take responsibility for their own decisions, and this requires professional skills and knowledge associated to a diploma in higher education.	<p style="text-align: center;">B</p> <p>Access to career with university diploma (<i>licenciatura</i>)</p> <p style="text-align: center;">Or</p> <p>With Professional Reconversion together with promotion as a PNTL official with 5 years of service in the Migration Service/Migration Department.</p>
Chief Inspector for Migration (<i>Inspector-Chefe de Migração</i>)	The Chief Inspector for Migration (<i>Inspector-Chefe de Migração</i>) is a senior official who contributes to the Migration Service's high-level outcomes. The official is a senior leader/manager of highly complex units. Such officials have to exercise their judgment when performing their migration-related duties and have to make decisions regarding the areas under their responsibility. They work autonomously and take responsibility for their own decisions, and this requires professional skills and knowledge associated to a diploma in higher education.	<p style="text-align: center;">B</p> <p>Access to career with an undergraduate diploma (<i>licenciatura</i>)</p> <p style="text-align: center;">Or</p> <p>With Professional Reconversion together with promotion as a PNTL official with 5 years of service in the Migration Service/Migration Department.</p>
Migration Inspector (<i>Inspector de Migração</i>)	The Migration Inspector (<i>Inspector de Migração</i>) performs his/her duties with limited guidance from a higher-ranking official and contributes to the outcomes of the Migration Service. Such officials play a supervisory role in the divisions or border posts to which they have been assigned, and they have to make routine decisions while performing their migration-related duties. They are required to have theoretical and practical knowledge congruous with academic and professional qualifications or equivalent professional experience.	<p style="text-align: center;">C</p> <p>Access to career with an intermediate university diploma (<i>bacharelato</i>)</p> <p style="text-align: center;">Or</p> <p>With Professional Reconversion together with promotion as a PNTL official with 3 years of service in the Migration Service/Migration</p>

		Department.
Assistant Inspector for Migration (<i>Inspector Adjunto de Migração</i>)	The Assistant Inspector for Migration (<i>Inspector Adjunto de Migração</i>) contributes to the outcomes of the Migration Service and performs his/her duties under the guidance of a higher-ranking official. He/she issues basic decisions on migration-related matters and may perform operational, logistics and administrative functions.	<p style="text-align: center;">D</p> <p>Access to career with a post-secondary education diploma Or</p> <p>With Professional Reconversion together with promotion as a PNTL official with 3 years of service in the Migration Service/Migration Department.</p>
Migration Official (<i>Oficial de Migração</i>)	The Migration Official (<i>Oficial de Migração</i>) contributes to the outcomes of the Migration Service and performs his/her duties under the guidance of a higher-ranking official. He/she issues basic decisions on migration-related matters and may perform operational, logistics and administrative functions.	<p style="text-align: center;">E</p> <p>Access to career with 12 years of schooling or equivalent.</p>

Annex II
(see article 42(3))
Salaries for leadership positions in the Migration Service

Leadership positions	Equivalent position in the Civil Service	Initial salary	Final salary
National Director (<i>Director Nacional</i>)	National Director	640	725
Deputy National Director	District Director	520	600

Salary scale in the Migration Service career

	Grade	Echelons and Salary Indices									
		1	2	3	4	5	6	7	8	9	10
Senior Migration Inspector (<i>Inspector Superior de Migração</i>)	B						438	451	463	476	489
Chief Inspector for Migration (<i>Inspector-Chefe de Migração</i>)	B	374	387	400	412	425					
Migration Inspector (<i>Inspector de Migração</i>)	C	298	310	323	336	349	361	374			
Assistant Inspector for Migration (<i>Inspector Adjunto de Migração</i>)	D	221	230	238	247	255	264	272			
Migration Official (<i>Oficial de Migração</i>)	E	166	174	183	191	200	208	217			

Annex II
(see article 64)
Badges of the Migration Service career

Migration Official Assistant Inspector for Migration
(*Oficial de Migração*)(*Inspector Adjunto de Migração*)

Migration Inspector
(*Inspector de Migração*)

Chief Inspector for Migration
(*Inspector-Chefe de Migração*)

Senior Migration Inspector
(*Inspector Superior de Migração*)

Deputy National Director for Migration
(*Director Nacional Adjunto de Migração*)

National Director for Migration
(*Director Nacional de Migração*)