

# DEMOCRATIC REPUBLIC OF TIMOR-LESTE

## GOVERNMENT

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### **DECREE-LAW No. 2/2004 Of 4 February 2004**

#### **CIVIL IDENTIFICATION**

The Constitution of the Democratic Republic of Timor-Leste defines, under the terms of section 3, who original citizens of Timor-Leste are, and the National Parliament has defined in a law, inter alia, the modes of acquisition of citizenship.

It is now incumbent upon the Government, through its National Directorate of Registries and Notarial Services, which is the entity of the central administration vested with authority to undertake civil registration, to regulate the regime of civil identification, in such a way that supporting documents of Timorese citizenship, inter alia, may be issued, notably the national identity card.

Thus, pursuant to paragraph (b) of subsection 115.1 and subsection 115.3 of the Constitution of the Republic, the Government enacts the following that shall have the force of law:

#### **CHAPTER I Civil identification**

##### **Section 1 Purpose and general principles**

1. The purpose of civil registration is to collect, treat and store the identifying particulars of each citizen with a view to establishing his or her civil identity.
2. Civil identification observes the principles of legality, authenticity, truthfulness, univocity and security of the citizens' identifying particulars.

##### **Section 2 Civil identification services**

1. It is incumbent upon the National Directorate of Registries and Notarial Services, through the Civil and Criminal Identification Service, to issue national identity cards.
2. Civil registries, appointed to that effect by a ministerial order, may issue identity cards.

## **CHAPTER II**

### **Identity card**

#### **Section 3**

##### **Identification documents**

1. Identity cards are issued to national citizens.
2. The identification of foreigners is regulated by Law No. 9/2003, of 15 October.

#### **Part I**

##### **Holding a national identity card and its validity**

#### **Section 4**

##### **Validity of a national identity card**

1. The identity card constitutes a sufficient document to prove Timorese citizenship and the civil identity of its holder before any public or private authorities or entities.
2. The format of the identity card shall be determined by Ministerial Decree.

#### **Section 5**

##### **Production of an identity card**

Every national citizen is required to apply for an identity card, and to produce it as required by law.

#### **Part II**

##### **Contents of a national identity card**

#### **Section 6**

##### **Identifying particulars**

In addition to its number, date of issuance, date of expiry, signature of the registrar, an identity card contains the following particulars of its holder:

- (a) Name of the holder;
- (b) Parentage;
- (c) Place of birth;
- (d) Date of birth;
- (e) Gender;
- (f) Marital status;
- (g) Photograph;
- (h) Signature;
- (i) Fingerprints;
- (j) Citizenship.

**Section 7**  
**Identity card number**

1. The identity card number issued for the first time to a national citizen is retained upon renewal and shall be the same as that of the correspondent personal file.
2. The identity card shall display a sequential numeric bar, followed by control digits.

**Section 8**  
**Name of the holder**

1. The name of the holder is recorded in the identity card, using the official spelling, and shall be in harmony with:
  - (a) The particulars recorded in the birth certificate;
  - (b) Either spouse may add the other's family name;

**Section 9**  
**Parentage**

1. The parentage of the holder to be recorded in the identity card is the same as the one mentioned in the birth certificate.
2. Where parentage is not referred to in the birth certificate, mention shall be made in this respect.

**Section 10**  
**Place of birth**

1. The place of birth is recorded in the identity card by indicating the name of the "suco", sub-district and district of origin in the country, in the case of persons born on Timorese soil.
2. In respect to Timorese born overseas, the current name of the place and country of birth.
3. Where the respective place of birth is not mentioned in the birth certificate, the missing particular is omitted.

**Section 11**  
**Date of birth**

The date of birth to be recorded in the identity card is the same as the one mentioned in the birth certificate.

**Section 12**  
**Gender**

The gender is recorded by using the initials M or F, depending on whether the holder is a male or female.

**Section 13**  
**Marital status**

1. The marital status is recorded in conformity with the statement made by the applicant while applying for the identity card, whenever the entry of the particulars in the civil register has been verified, or proved through the documents produced, and does not constitute proof of the marital status of that person.

**Section 14**  
**Residency**

1. The residency is indicated in the identity card in accordance with the statement made by the applicant, by recording the locality and district of residency.

**Section 15**  
**Signature**

1. Signature means the civil name, written by the respective holder, in full or in short, in a habitual and characteristic manner and with freedom of spelling.

2. A signature is always affixed in the presence of a civil registry official.

3. Where the applicant is not able or does not know how to sign, adequate reference shall be made to this fact.

**Section 16**  
**Fingerprints**

1. The prints are to be taken from the right-hand index finger or, where these prints cannot be taken, those from the left-hand index finger and, in its absence, those from any other finger.

2. Where the prints taken are not those of the right-hand index finger, the relevant finger shall be mentioned.

3. Where no fingerprints can be taken, adequate mention shall be made.

**Section 17**  
**Validity period**

1. The identity card is valid for 5 years when issued before the applicant has turned sixty years old, and the renewal thereof shall be applied for by the applicant in accordance with the present decree-law.

2. Where the identity card is issued or renewed after the applicant has turned sixty years old, the identity card is valid for life.

**Part III**  
**Application for, and issuance of, a national identity card**

**Section 18**  
**Identity card application**

1. An identity card is applied for by the holder of the corresponding identifying particulars, in a proper form, filled in with a readable writing, free from any amendments, erasures or interlineations, and bearing the signature habitually used by the applicant.
2. Where the applicant is less than 12 years old or physically or legally disabled, the application shall also be signed by either parent or by his or her legal representative.
3. The application for renewal of an identity card is made within its validity period, either because of outdated identifying particulars or, without prejudice to the provisions of section 22, due to bad condition, loss, destruction or theft.
4. In the event of loss, theft or total destruction of the identity card, the applicant shall report such circumstances to the police authorities or competent authorities, which shall issue a reporting certificate.
5. Renewal due to expiry of the validity period shall be applied for three months before expiry, without prejudice to exceptional cases based on well-grounded reasons.
6. The application for an identity card shall be filed with the services referred to in subsections 2.1 and 2.2, located in the area of residency of the applicant.

**Section 19**  
**Elements accompanying an application**

1. The application is lodged together with the following elements:
  - (a) two equal, passport-sized colour photographs of the applicant, taken less than a year ago, with single colour background, in good condition and in a size adequate for the identity card format;
  - (b) birth certificate;
  - (c) The filled-in application form referred to in section 18, to which the fingerprints are to be affixed.
2. The validity period of a birth certificate is 12 months, accrued from the date of its issuance, except for those pertaining to persons aged less than 12 years, the validity of which shall not be limited to any validity period.

3. When applying for renewal of an identity card, the filing of the document referred to in paragraph (b) of subsection 19.1 is not required, where no changes that need to be proved through it have occurred.

4. Where the previous identity card is not exhibited or it shows changes to the security elements, the production of a birth certificate is required.

5. In case of acquired citizenship, the applicant shall produce references to the citizenship acquisition process.

### **Section 20 Additional proof**

Where doubts are raised as to the accuracy or the holder of the identifying elements mentioned by an identity card applicant, the relevant services may require additional proof or a written statement from the Chief of Hamlet or Chief of ‘Suco’ of the area of residency of the applicant.

### **Section 21 Authentication**

An identity card is authenticated by the issuing authority by affixing to it its embossed seal or other security elements, and the signature of the registrar.

### **Section 22 Applying for a second copy**

1. The second copy is a replication of the original identity card.

2. A second copy of the identity card may be applied for in case of bad condition, loss, destruction or theft, where there have been no changes to the elements mentioned therein.

3. The application is filed together with a statement of the motives behind it, namely the certificate contemplated in subsection 18.4, and is accompanied by two photographs meeting the requirements set out in paragraph (a) of subsection 18.1.

4. In case of doubt about the applicant’s identity, the issuance of the second copy may be refused or granted upon production of additional proof.

## **CHAPTER III Protection of particulars**

### **Part I Database**

#### **Section 23 Purpose of the database**

The purpose of the civil identification database is to organize the information required for the establishment of the identity of the holders of the corresponding identity card, and to keep it updated.

#### **Section 24 Collected particulars**

In addition to the identifying elements contained in the identity card, the following particulars of the respective holder are to be collected:

- (a) number and year of the birth record and the civil registry where it was done;
- (b) if married, name of the spouse;
- (c) loss of citizenship;
- (d) date of death.

#### **Section 25 Manner of collecting and updating data**

The particulars stored in the database are collected and updated on the basis of statements made by their holders or of proper forms filled in by the latter themselves or at their request, or of attached documents, excepting the identity card number, which is automatically assigned at the time the identity card is first issued.

- (a) the fingerprints are taken at the time when the application is filed;
- (b) the date of death is collected from the notification issued by the civil registry holding the death record;
- (c) the loss of citizenship is collected from the notification issued by the Central Civil Registry;
- (d) particulars are recorded and viewed by officials and agents of the civil identification services and of the civil registries, who have been credentialed to that effect.
- (e) the forms designed to collect particulars or the accompanying instructions for filling in such forms shall contain the information held by the National Directorate of Registries and Notarial Services.

### **PART II Transmission of, consultation of, and access to, information**

#### **Section 26 Transmission of information**

1. For the purposes of criminal investigation by police or judicial authorities, the particulars entered in the database, as well as those in the respective application form, may be transmitted to such authorities, whenever particulars may not or should not be obtained through the persons concerned and the interested entities have no access to the database or the latter does not have the said information.

2. A transmission undertaken in accordance with subsection (1) above depends on a well-founded request from the judicial magistrate himself or herself or from a criminal police authority, made in a proper form.
3. A transmission shall be denied where the request is not based on well-founded reasons.
4. Information may be provided by production of the electronic record or records or of the document required or, if deemed indispensable, and following authorization from the National Director of Registries and Notarial Services, by consultation of the respective identity card file.

### **Section 27** **On-line consultation**

1. Consultation through a data transmission line may be authorized to the entities referred to in the section above through an agreement to be entered into with the National Directorate of Registries and Notarial Services, provided that respect for the rules on security of information and technical availability are ensured.
2. Any form of interconnection of the data existing in the civil identification database is not permitted, except under the terms provided for in special legislation.

### **Section 28** **Direct access to civil information**

1. Entities authorized to directly access the database shall adopt the administrative and technical measures required to ensure that the information cannot be improperly obtained or used for a purpose other than that permitted.
2. Direct searches or attempted searches of information on civil identification remain electronically recorded for a period of not less than one year, and its recording may be subject to adequate control by the identification services that may, to this effect, request from the respective entities the clarifications deemed convenient.

### **Section 29** **Access by third parties**

1. Descendants, ascendants, and the spouse, tutor or guardian of the holder of the information or, in case of death of the latter, his or her presumable heirs, provided that they show a legitimate interest and there is no risk of interfering in the private life of the holder of such information, may also have access to civil identification information.
2. The Minister of Justice may, upon a well-founded request, and after consultation with the National Director of Registries and Notarial Services, authorise access to civil identification information by other entities, for purposes of scientific research or of statistics, provided that the persons concerned are unidentifiable, there is no risk of interfering in the holder's private life and the information is not used for purposes inconsistent with those which have determined its collection.



**Section 30**  
**Right to information and access to data**

1. Any person has the right to know the contents of the record or records relating to him or her.
2. The exact reproduction of the records referred to in subsection (1) above, with the indication of the meaning of any codes or abbreviations contained therein, is provided at the request of the respective holders:
  - (a) gratuitously, at the time the identity card is issued or changes are made to the original record;
  - (b) through the payment of an amount corresponding to a half of the cost due per certificate, in other cases.

**Section 31**  
**Correction of any inaccuracies**

1. Any person has the right to require the correction of any inaccuracies, the deletion of unduly recorded particulars and the filling of omissions.
2. It is incumbent upon the National Directorate of Registries and Notarial Services to regulate the corrective procedures.

**PART III**  
**Storage of data and documents**

**Section 32**  
**Storage of particulars**

1. Particulars are stored in the database up to five years after the date of death of their holder.
2. Particulars may be stored in a historical file for 20 years from the date of passing of their holder.

**Section 33**  
**Storage of documents**

1. Identity card applications and certificates not issued by the Timorese civil registry are stored, whenever available, in an electronic format offering conditions of security, and then destroyed.
2. Any other documents and records relating to the functioning of the services, about which no decision regarding their permanent validity has been made, may be destroyed after a year has elapsed over the respective date.

**PART IV**  
**Security of the database**

**Section 34**  
**Guarantees of security**

1. The database shall be given the guarantees of security required to prevent the consultation, modification, deletion, addition, destruction or transmission of data in a form not permitted by the present decree-law.
2. Taking into account the security of information, the following elements are subject to monitoring:
  - (a) the data formats and the respective transmission, so as to prevent them from being read, copied, changed or deleted by any person or in an unauthorised manner;
  - (b) the entry of data, so as to prevent any unauthorised person from entering, as well as from getting to know, changing or deleting, data;
  - (c) the automated data treatment systems, so as to prevent them from being used by unauthorised persons, through data transmission facilities;
  - (d) the access to data, that the authorised persons may only have access to those data that are of interest to the fulfilment of their legal duties;
  - (e) the transmission of data, so as to ensure that their use is restricted to the authorised authorities;
  - (f) The entry of data into the automated treatment systems in order to check what data have been entered, when and by whom.

**Section 35**  
**Entity in charge of the database**

1. The National Directorate of Registries and Notarial Services is in charge of the civil identification database, of the categories of personal data to be recorded and of the operations that may be applicable.
2. It incumbent upon the National Director of Registries and Notarial Services to ensure the right to information and access to the data by the respective holders, the correction of inaccuracies, the filling of omissions, the deletion of unduly recorded data, as well as to make sure that the consultation or transmission of information is in compliance with the conditions set out in the present decree-law.
3. It is incumbent upon the National Director of Registries and Notarial Services to decide claims relating to access to civil identification information, and his or her decision may be administratively appealed against to a superior instance.

**Section 36**  
**Secrecy**

1. The transmission or disclosure of personal data recorded in the database may only be done under the terms provided for in the present decree-law.
2. Civil registry and notarial officials, as well as persons who, in the exercise of their functions, become acquainted with personal data recorded in the civil identification database are bound by professional secrecy.

## **CHAPTER IV General provisions**

### **Section 37 Hours of attendance to the public**

The hours of attendance to the public in the civil identification services, under the Civil and Criminal Identification Service, are determined by instruction of the National Director of Registries and Notarial Services.

### **Section 38 Claims**

1. The granting of a claim filed by the person concerned, on grounds of mistake, implies rectifying the identity card.
2. The loss of an identity card before its delivery gives rise to the issuance of a second copy thereof.
3. Issuance is gratuitous in case of a mistake committed by the civil identification services, provided that the claim has been filed within 30 days from the date of issuance of the original identity card, and is also gratuitous in case of loss of either the application or the identity card before its delivery to the person concerned.

### **Section 39 Loss or theft of an identity card**

1. The loss or theft of an identity card shall be reported by the person concerned to the civil identification service that has issued it, without prejudice to the provision of subsection 18.4.
2. Any entity to whom a lost or stolen identity card is handed shall forward it to the National Directorate of Registries and Notarial Services.

### **Section 40 Identity check**

1. An identity check deemed necessary by any entity, public or private, is done at the time the identity card is displayed, and this shall be forthwith returned upon check.

2. Any public or private entity is forbidden to retain or hold an identity card, except in cases expressly provided for by law or following a decision made by a judicial authority.

#### **Section 41** **External service**

1. The collection of the elements required for an identity card application may be conducted at the place where the person concerned is, if the latter shows justifiable difficulty going to the reception services.

2. The payment of an added fee is due for the rendering of external service, the transport cost required for the trip being supported by the person concerned.

3. The amount referred to in subsection (2) above is not charged where such external service is requested by a prison officer under circumstances of recognized urgency or where inmates cannot move.

#### **Section 42** **Fees**

Fees due for the issuance of an identity card, for the rendering of an external service and for certificates and information on civil identification are determined by a joint order of the Ministry of Planning and Finance and of the Ministry of Justice, in which the beneficiaries of fee exemption will be determined.

#### **Section 43** **Forms**

1. The formats and prices of the identity card application form and of the identity card issuance form, as well as of the information application form, are approved by an order of the Minister of Justice, following a proposal of the National Directorate of Registries and Notarial Services, such forms being exclusive to the latter.

2. Under no circumstance may identity card application forms be made available to the public before issuance, nor shall their distribution among the different reception services, for whatever purpose, be permitted.

3. Identity card application forms may be sold to the public in establishments authorised by the National Director of Registries and Notarial Services.

### **CHAPTER V** **Penalising provisions**

#### **Section 44** **Breach of rules relating to files**

Whoever obtains, provides to another person, or makes use, in an illicit manner, of data or information contained in civil identification files, diverting such data or information from its legal purpose, is punished under the terms of the penal law.

**Section 45**  
**Falsification of official models**

The falsification of the official identity card form, the use of such falsified forms and the falsification of other official forms pertaining to the civil identification service shall constitute a crime punishable under the terms provided for the crime of falsification.

**Section 46**  
**Retention or holding of an identity card**

Whoever illegitimately retains or holds someone else's identity card is punished under the terms of the criminal law.

**Section 47**  
**Unauthorised sale of exclusive forms**

1. The sale of official forms exclusive to the civil identification services, without prior authorization, constitutes an offense punishable under the terms of the criminal law.

**CHAPTER VI**  
**Transitional and final provisions**

**Section 48**  
**Identity cards issued under UNTAET transitional provisions**

1. An identity card application shall be accompanied by the elements required by section 19 of the present decree-law and also by a photocopy of the residency card issued under the terms of UNTAET Regulation No. 2001/3, where applicable.
2. Upon delivery of an identity card issued under the terms of the present decree-law, the person concerned shall return the original identity card obtained under the UNTAET Regulation referred to in subsection (1) above.

**Section 49**  
**Existing supporting documents**

1. An identity card is not granted automatically upon presentation of the previous card issued under UNTAET legislation.
2. The National Directorate of Registries and Notarial Services is the entity holding the existing supporting documents relating to the residency card regulated by UNTAET Regulation No. 2001/3, which shall be checked in their entirety, and used to the extent

that they are consistent with the documents required by the present decree-law, forming a part of the background information necessary to the issuance of an identity card.

**Section 50**  
**Revocation**

1. All legislation contrary to the provisions of the present decree-law and especially the relevant legal provisions contained in UNTAET Regulation No. 2001/3 are hereby revoked.

2. The long-term residency card expires immediately after the present decree-law comes into force.

3. The issuance of the new identity card model begins on a date to be established by an order of the Minister of Justice, according to a special timeframe, and the transitional validity of the habitual residency card as established by UNTAET Regulation No. 2001/3 shall last until such a date as set out in the timeframe.

**Section 51**  
**Data of entry into force of the present decree-law**

The present decree-law comes into force ten days after its publication.

Seen and approved by the Council of Ministers on 9 December 2003. -

The Prime Minister

[Signed]  
(Mari Bim Amude Alkatiri)

The Minister of Justice

[Signed]  
(Domingos Maria Sarmento)

Promulgated on 22 January 2004.

To be published.

The President of the Republic

[Signed]  
(Kay Rala Xanana Gusmão)