

The Legal Framework for the Management of Human Resources of the Public Administration in Timor-Leste (2025)

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Abstract

Introduction: In the transitional governance until the initial periods of the First Constitutional Government, the rules contained in Directive No. 200/4, of 30 June, applied. This only ceased to be in force after the approval of the Civil Service Statute, in 2004. The matter relating to the management of human resources is the responsibility of each institution, respectively. However, this paradigm underwent changes after the creation of the Civil Service Commission in 2009, with the management of human resources in the public sector, both in the Direct and Indirect State Administration of the State, becoming the competence of this personalized service.

Research Objectives: To know and ensure a politically impartial, impartial, merit-based, high-quality service purpose with high standards of professionalism and that can provide quality services to the State and the population of Timor-Leste.

Research Methodology: We use the documentary research method, that is, the deductive method in which the data were collected through bibliographic references (books, articles, internet, etc.) and internet and the ideas, opinions of our jurist.

Conclusion: The human resources management practices in the periods prior to the existence of the Civil Service Commission were carried out and decided by each institution. Such a paradigm ceased to exist after the establishment of the aforementioned Commission, which aims to guarantee a politically, impartial, impartial, merit-based public function, with high standards of professionalism and that can provide quality services to the State and the population of Timor-Leste cited by (Corte Real AG., et al, 2025).

Keywords: Legal Framework, Human Resources Management, Transitory Public Administration, Current Paradigm and New Paradigm of Public Administration.

Introduction

The word democracy originates from the Greek *demokratía*, composed of *demos* (meaning people) and *cratos* (meaning power or form of government). In this political system, citizens are protected the right to political participation. Thus, democracy is a series of principles that guide the actions of governments so that they guarantee respect for freedoms and comply with the general will of the population. Therefore, the Democratic Rule of Law is a concept that names the majority of States that recognize and guarantee respect for fundamental freedoms and the dignity of the human person through creation and legal protection. In a Democratic State of Law, the organs of sovereignty act in accordance with the Constitution and the laws, that is, they are subject to obey the rules, norms and laws established in that State. The idea of Democratic Law has existed for a long time in society through various evolutionary processes in order to achieve a full and organized coexistence of society.

subject to the Constitution and to the laws, and the laws and other acts of the State and local government are only valid if they are in conformity with the Constitution.

The State of Timor-Leste is a Constitutional State, therefore, all constitutional acts and all the rights and guarantees of its citizens are outlined in the constitution, because it, as we know, is the Supreme Law of the Country. The Constitution of the Democratic Republic of Timor-Leste, in article 120. °, on the Assessment of Unconstitutionality, states that the Courts cannot apply rules contrary to the Constitution or the principles enshrined therein. This means that all laws designed to govern the destinies of Timorese societies will have to be in accordance with the Constitution of the RDTL or the principles set out in this constitution, such as the Principle of the State. of Democratic Law, running the risk of being declared unconstitutional, if they do not comply with the constitution.

A constitution is a systematic and rational ordering of the political community, embodied in a written document, through which fundamental rights are guaranteed and political power is organized according to the principle of the division of powers. It adapts, therefore, a normative discursive structure that also places it as a founding pact of the legal system. In this context, the Constitution of the Democratic Republic of Timor-Leste, in paragraph 1, article 1. °, proclaims that the Timorese Republic is a democratic, sovereign, independent and unitary State based on the popular will and respect for the dignity of the human person. The Constitution of the Democratic Republic of Timor-Leste in. ^{article} 2 (2) and (3) determine, respectively, that the State is

Public Administration in an organizational sense in this sense, Public Administration is the system of organs, services and agents of the state, as well as other public legal persons, which ensure, in the name of connectivity, the regular and continuous satisfaction of collective needs for security, culture and well-being. In the Functional sense, it is a set of activities that the organizational scheme pursues, corresponding to the development and accomplishment of the global task. In a formal sense, it corresponds to typical forms of action by the administration. That is, the acts carried out by the administration and that assume certain typical external characteristics and a formal value proper to the acts of the administrative complex.

In real life, we know that the Public Administration is encompassed in the branch of administrative law, that is, a branch of law and that in a general way it reports to the Public Administration itself. The activity of managing can be perceived as a way of managing assets to achieve objectives. Public Administration is defined by a group of legal entities that have the interest and can be classified as bodies that also have an activity that they will manage through services. The activity of managing can be perceived as a way of managing assets to achieve objectives. From a technical-legal point of view, it is still possible to discover a third meaning - public administration in the formal sense - which has to do with the very way of acting that characterizes public administration in a certain type of administration systems in application cited by (Corte Real AG., et al, 2025).

In the area of Public Administration, it has several principles, such as the principle of equality, the principle of proportionality, the principle of impartiality, the principle of justice, the principle of good faith and the principle of respect for the legitimate rights and interests protected by citizens. But the most important principle in Public Administration, according to the point of view, is the principle of impartiality. The principle of impartiality is the need to weigh all the legally protected interests that may be directly affected by the administrative action and only these and to make the consequent choice based on the criteria in law or unitary. Pursuant to article 137. ° of the CRDTL, the principle of impartiality is a more important pillar and assumes as the main machine of the Public Administration.

It can be said that the principle of impartiality has an objective and a prohibition, since on the one

hand it aims at the protection of the people against the decision of the Administration, however it is also intended to protect the Public Administration that struggles with the subjective purposes of its organs and agents and that in order to obtain an optimal pursuit of the collective interest, a good public administration must have this most fundamental objective cited by (Corte Real AG et al., 2025).

Research Objectives: To know and ensure a politically impartial, impartial, merit-based purpose of the civil service, with high standards of professionalism and that we can provide quality services to the State and the population of Timor-Leste.

Theoretical Framework

Human resources management, even in a local authority with a reduced staff, obeys certain parameters of action and minimum knowledge about the organization of services so that the functions are carried out effectively and efficiently and the institution enjoys a good image abroad. And this is even more decisive in the case of a political institution that is not immune to the permanent observation and analysis of users. The practice of organizational management obeys three fundamental components: motivation, leadership and communication. The effectiveness and efficiency of an organization depend on the way these components are worked.

In every group and in every organization, there are bosses, coordinators or leaders. Leadership is the process of exerting influence on an individual or a group of individuals in efforts to achieve goals in a given situation. Man is an eminently social being and needs to communicate and establish relationships with others. It is good that communication in organizations is effective, useful, valid, understand-

able and efficient. The concept of the civil service is the body constituted by the set of individuals who, in a subordinate and hierarchical way, provide their work, such as professionals and legal persons that are part of the Public Administration in progress cited by (Corte Real et al., 2025).

The function is a circle of state affairs that a person, bound by the public law obligation to serve the state, must manage. In this work, we have said,

we give the name of public function to all the activity practiced by an agent, whether an employee or not, for the achievement of an end of interest to the collectivity. The Civil Service Commission is an independent entity that aims to ensure that the civil service is impartial, impartial based on merit, highly professional and provides quality service to the State and the population. It must make an efficient, effective and economical management of the performance of the Public Sector, where all employees, agents and other workers of the Public Administration are treated fairly and appropriately.

Taking into account the need to promote an effective governance and administration of Timor-Leste within the framework of the transition period, the Office of the Transitional Government of UNTAET was established, through Regulation No.

2000/23, of 14 July, whose members were appointed by the Transitional Administrator, under the terms of articles 2 and 3 of the aforementioned regulation. The above legislation was the first legal instrument approved and applied in the Public Administration of Timor-Leste, which defined the principles of organization, structure and functioning of the bodies and services integrated in the Public Administration. The Direct Administration of the State, that is, the Direct State Administration, is the public legal person of the State, which

was constituted by the organs and services, with hierarchical dependence on the Government, organized in Ministries based in the center or peripherally spread. The Indirect State Administration, on the other hand, is made up of public institutes that perform specific state tasks, under the tutelage and superintendence of the Government, that is, the competent institution of the Direct State Administration of the State.

Decree-Law No. 17/2006, of 26 July, which approved the organic structure of the Government of Timor-Leste, attributed to the Ministries competences in the field of human resources management. Mention is made of the provisions of article 13 (1) (c) to manage human resources and to apply the rules relating to the selection, recruitment and discipline of personnel, where such a clause has been explicitly defined, in accordance with article 31 (2) and respectively in subparagraphs (e), (f) and (I), which are the responsibility of the Ministers, appoint and dismiss the head of the Cabinet, as well as their advisors, appoint the management staff, after recruitment and selection in accordance with the law, decide on disciplinary proceedings and apply disciplinary sanctions to officials and agents integrated in the Ministry.

The management of human resources in institutions of the Direct and Indirect Public Administration of the State after the creation of the Civil Service Commission is carried out based on a set of legislative diplomas, such as the Civil Service Statute, the Performance Evaluation Regime for Public Administration Employees, the Regime of Careers and Management and Leadership Positions of the Public Administration, the Regime of Leaves and Absences of Public Administration Workers, (Regime of Competitions, Recruitment, Selection

and Promotion of Personnel for the Public Administration), the Regime of Careers and Positions of Management and Leadership of the Public Administration, which ceased to be in force after the approval of Decree-Law No. 24/2016, of 29 June (General Regime of Public Administration Careers) and Decree-Law No. 25/2016, of 29 June (Regime of Management and Leadership Positions in Public Administration), statutes of the respective special regimes of health careers, teachers, bailiffs, prison guards, personal statute of the Presidency of the Republic, etc.

The Direct Administration of the State of Timor-Leste accumulates all central and peripheral bodies and services, which depend directly on the Ministries or Secretariats of State. Within the institutions that are part of the direct state administration, human resources management practices, especially appointments, hiring, leaves (unpaid, with salaries for study purposes, special leaves), transfers, secondments and requisition of personnel, as well as authorization of the payment of salaries, supplements and allowances under the terms of the law, are the responsibility of the RDTL Civil Service Commission, so it was clear whether any doubts were clarified by law cited by (Corte Real AG., et al, 2025).

Methodology

We use the literature review method or deductive methodology, the references reading of the authors of the books in the library, journals, international scientific articles, research in the field, through artificial internet and the ideas, opinions of our jurists.

Discussion

The procedure for authorizing a staff member's

contract is carried out in accordance with the general terms set out in the Civil Service Statute. Other issues are also considered, such as the institutional workforce plan, the availability of budget funds in the category of salaries and wages, and the reasoned justification for the need to resort to hiring for the determined purposes. These conditions must be considered by the institutions in the application for authorization, failing which the application will be returned in order to make the necessary changes. It is observed that currently, in the Public Administration, there is still no detailed legal framework regarding the hiring of personnel. This allows an institution to prepare the temporary staff plan according to the transitional requirements of the services, the procedures for evaluating the contractors, as well as the evaluation of the results achieved, etc., without contributing to an increase in expenditure on the Civil Service.

Throughout the existence of the Civil Service Commission, there have been a number of advances, both for the institutions and for civil servants and agents of the Public Administration. The progress that the public has also observed, among others, is the demand for accountability for disciplinary infractions committed, both by civil servants and by agents of the Public Administration, the guarantee of meritocracy in the recruitment processes for entry, selection by merit for management and leadership positions and the competition for the promotion of personnel, the implementation of the electronic written test system, the enhancement of the extraordinary performance of employees, the implementation of the senior professional regime, the establishment of inter-institutional cooperation to support the necessary improvements in the management of human resources and awareness of information on legal procedures, the control of the

use of State vehicles and the respective liability for damages or losses caused.

The concept of Indirect Administration of the State, which can be extracted from paragraph 1 of article 10 of Decree-Law no. 17/2006, of 26 July, the initial diploma that approved the Organic Structure of Public Administration, is the set of public legal persons, endowed with administrative, financial and patrimonial autonomy, which exercise functions with the purpose of satisfying collective needs, under the supervision of the competent member of the Government, in accordance with the area of competence of the respective legal person. The above concept is contained in a diploma revoked, in 2020, by Decree-Law No. 30/2020, of 29 July (Organization of the Direct and Indirect Public Administration of the State), but the repeal did not determine the loss of the elements of such concept from the legal system. In the context of Timor-Leste's Public Administration, there is an increasing number of institutions of Indirect State Administration. However, there are some inconsistencies regarding the structure, the remuneration pattern, the denomination of its holders, the key competences in the field of human resources management, the status of its personal staff, etc., which occurred due to the lack of a framework law that establishes all these conditions. Previously, Decree-Law No. 12/2006, of 9 August (Structure of the State Public Administration) was in force, however, these standards are not fixed.

From the above situations, it is necessary to approach the statutes of some institutions that have been created, which are part of the Indirect State Administration, especially in the form of a public institute, in order to know the name of the holders of the bodies, the legal regime applicable to the

respective staff, the administrative structure, as well as other aspects. article 3(3) of Decree-Law No. 30/2020 establishes that the State bodies and public legal person integrated in the Indirect Public Administration of the State must be created, under the terms of article 115 (3) of the Constitution of the RDTL, through the Decree-Law, and that it is up to this to define the legal regime, competence of the bodies and their activities. The same imposition arises from Article 43 of the same law.

Pursuant to paragraph 1 of article 8, the Direct and Indirect Administration of the State is organized according to the typical forms provided for in the diploma above. It follows that the bodies and institutions of the Indirect State Administration, which were created previously and continue to exist to this day, and which do not assume the typical nature and form provided for by law, must be adjusted according to the aforementioned legal provision. We refer to article 42 of the aforementioned diploma, which contains the typology, namely public institute, public company and public legal person, as well as personalized services with administrative and financial autonomy, which operate under the supervision of the relevant member of the government. On this assumption, the existing institutions will undergo some changes to conform to the provisions of the previous clause, as can be seen, among others, in the typology, structure and attributions. It is also in this context that it can be seen that some legal conditions set out in Article 10 of the same law have already been fulfilled, such as

the obligation to create institutions of the Indirect State Administration by decree-law, the capacity to have legal personality, the exercise of the power of authority under the law, representation by an administrative body, the ability to establish public legal relations in contractual matters, the ability to

enjoy administrative, financial and patrimonial autonomy, as well as the possibility of benefiting from tax exemptions cited by (Corte Real AG., et al, 2025).

The ongoing Public Administration Reform, in addition to introducing the standards identified above, also aims to establish a functional segregation in the structure of the institutions of the Direct and Indirect Administration of the State, in accordance with the provisions of paragraph 2 of article 8, within the scope of which the separation of procurement services from financial and asset management services is guaranteed. Regarding the management of human resources in the Direct State Administration, the law on the Organization of Direct and Indirect State Administration grants the power of direction to the Ministers, which covers

practices that are currently the responsibility of the Civil Service Commission, as referred to in paragraph 3 of Article 14. For, the power of direction, in this context, also implies the power of discipline. Some aspects are established in article 38 (1), namely the competence of the Ministers to manage human resources and apply the selection, recruitment and disciplinary regime to the Ministry's staff; to promote the training and technical and professional development of staff; and to exercise disciplinary power over public officials, workers and other agents under the terms of the law.

Within the scope of institutions of the Direct State Administration, the institutions are respectively responsible for the management practices of human resources, which they exercise under the tutelage and superintendence of the relevant member of the Government. This demonstrates that institutions of the Indirect State Administration have the power of decision in matters of human resources, since under

the terms of article 44 (1) (b) of the above law, there is no power of direction of the Government in institutions that assume the modality in question, especially in the performance of their duties, with the exception of the matters determined in article 55 of the same law. However, the decision-making power of these institutions may change, through the tutelage and superintendence of the relevant member of the Government. In the context of the intersubjective relationship, guardianship presupposes the power of interference of a guardianship body in the performance of a supervised body, in order to guarantee the merit and legality of said action. In this case, on the basis of article 11 (2) of the above Decree-Law, the supervisory body may modify, replace, repeal and annul an act adopted by the supervised legal person.

The reform program approved by the above resolution is classified into four components, however, the present work is limited to simply analyzing those that have a direct relationship with the Civil Service Commission. Otherwise, the necessary adjustments must be made to ensure its compliance with the typology, structural organization and operation, performances, as well as other essential aspects, under the terms of the new paradigm of human resources management. This component identifies ways to create incentives and ensure employee accountability, which consists of allocating budget for allowances, resources, results-based payments, as well as performance bonuses. With regard to incentives, in addition to developing new legislative initiatives, it will be necessary to review the existing legislation in the context of determining the subsidy and remuneration payments in the Public Administration.

Also seen in this part is the plan to strengthen the

inspection and audit process, as an essential instrument that ensures the accountability of result-oriented services in Public Administration institutions. This will ensure compliance with the legal procedures in force in the Civil Service. The reinforcement of inspection and auditing can also be confirmed through the 2021 Annual Legislative Plan, which includes the priority in the establishment of the Internal Inspection and Audit Service of the Public Administration, as well as in the approval of the State General Inspection Organic Structure. To ensure the implementation of the objectives of this component, some diplomas need to be revised, in order to introduce changes to achieve the defined goals.

The functional content of the categories of the general regime of the Public Administration career is currently defined in Decree-Law No. 24/2016, of 29 June. Although such a reform focuses more on

the functions of public organizations, i.e., institutional functions, the functional characteristics of

individual staff are central elements in the implementation of institutional functions, which will contribute to their coherence. In addition to the above-mentioned legal regime, it can be seen that, within the scope of the implementation of institutional attributions, the responsibility is not only personnel without positions, but also of the employees and agents who exercise the positions in the organizational structure of the institutions. In this case, the regime of management and leadership positions in the Public Administration, which was approved by Decree-Law No. 25/2016, of 29 June, should also be subject to review.

As for the structure and respective services, some common characteristics can be identified in the instruments for implementing the reform program-

mer, namely the structure of the Ministries and Secretariats of State is hierarchically organized into directorate-general, national directorate, departments and sections, in accordance with paragraph 1 of article 39 of Decree-Law no. 30/2020, of 29 July, while paragraph 2 of the same article of the aforementioned diploma, The services of the ministries include the existence of services in the areas such as planning, statistics, finance, accounting, internal audit, procurement, legal advice, human resources, training and technical-scientific development, information technology and archiving. In these situations, although the aforementioned diploma establishes these characteristics, it is also necessary to have a legal framework, in which it aims to enshrine criteria or indicators regarding the functional and structural complexity, the quantity and quality of the workforce, as required by the institutional mandate cited by (Corte Real AG., et al, 2025).

Conclusion

The Public Administration of Timor-Leste, from the beginning to the present day, has functioned with the various paradigms of human resources management, where in the transitional governance of UNTAET the practices integrated in it were administered by the Public Service Commission and decided by the Administrator of the Transitional Government. The human resources management practices in the periods prior to the existence of the Civil Service Commission were carried out and decided by each institution. This paradigm ceased to exist after the establishment of the aforementioned Commission, which aims to guarantee a politically, impartial, impartial, merit-based public function, with high standards of professionalism and that can provide quality services to the State and the population of Timor-Leste.

Throughout the existence of the aforementioned Commission, all practices, namely appointment, recruitment, authorization of contracts of Public Administration agents, functional mobilities, payment of salaries and supplements, disciplinary proceedings and decision on the respective penalties and other practices in the field of human resources management are the responsibility of the CFP, which have progressed a lot in the field of human resources management in the Public Administration. After a decade of human resources management under the paradigm described above, the Government is committed to a reform of this paradigm by returning to the previous system, on which all practices become the competence of the respective institutions. In this sense, a positive aspect is recognized in the approval of the legal framework for the creation of the institutions of the Indirect State Administration, an autonomous and independent body, as well as some aspects of the Indirect State Administration. However, the adoption of the above practices increases the risk of tendencies of partisanship, nepotism, favoritisms and other practices tending to contradict the principles and values of good governance of Timor-Leste cited by (Corte Real AG., et al, 2025).

References

1. ALMEIDA, M. A. (2020/2021). Summaries of Administrative Law (6th ed.). Coimbra: Almedina.
2. ALMEIDA, M. A. (2017). General Theory of Administrative Law (4th ed.). Coimbra: Almedina.
3. AMARAL, D. F. (2018). Administrative Law (Vol. IV). Lisbon.
4. AMARAL, D. F. (2019). Administrative Law Course (5th ed., Vol. II). Coimbra: Almedina.
5. AMARAL, D. F. (2016). Administrative Law Course (4th ed., Vol. I). Coimbra: Almedina.
6. AMARAL, D. F. (2017). Administrative Law Course (3rd ed., Vol. II). Coimbra: Almedina.
7. CANOTILHO, J. J. (2014). Constitutional Law and Theory of the Constitution (7th ed.). Coimbra: Almedina.
8. Corte Real AG & Tilman CB., (2024). Reasons for Organization and Management the Institutional Administration, in Timor-Leste Current and Future. Doi.org/10.58372/2835-6276-1239.
9. CAUPERS, J. (2013). Introduction to Administrative Law (11th ed.). Lisbon: Ancora.
10. CAUPERS, J. (2016). Introduction to Administrative Law (12th ed.). Lisbon: Ancora.
11. FERNANDA Paula Oliveira, José Eduardo Figueiredo Dias. (2015). Fundamental Notions of Administrative Law (8th ed.). Coimbra: Almedina.
12. GUILHERMI da Fonseca, João Martins Claro, Luís Sá, José Fontes. (2012). Basic Administrative Legislation (6th ed.). Coimbra.
13. MAGALHÃES, R. F. (2019). Manual of Administrative Procedure for Parishes. Coimbra: Almedina.
14. MIRANDA, J. (2018). Manual de Direito Constitucional (Vol. VIII). Coimbra.
15. MOURA, P. V. (2019). Legal Regime of Law and Duties of Officials and Agents (Vol. III). Coimbra.
16. OTERO, P. (2016). Manual of Administrative Law (2nd ed., Vol. 1).
17. Civil Service Commission, General Legislation of the Civil Service of Timor-Leste: An Explanatory Guide, 3rd edition, 2017.
18. Law no. 5/2009, of 15 July (first amendment of Law no. 8/2004, of 16 June) Approves the Civil Service Statute, updated of 2024.