

THE PROVISION OF PUBLIC SERVICE IN THE INSTITUTION SYSTEMS OF THE PUBLIC ADMINISTRATION TO THE STATE OF DEMOCRATIC REPUBLIC OF TIMOR-LESTE.

Alexandre Gentil Corte Real Araújo, Carlos Boavida Tilman, Bernardino Fernandes, Artur Natalino
C.R.Araujo, Paulo Henriques, Nelson Afonso da Maia.

**Correspondence:* Alexandre Gentil Corte Real Araújo

Received: 25 Aug 2023; *Accepted:* 28 Aug 2023; *Published:* 05 Sep 2023

Citation: Alexandre Gentil Corte Real Araújo. THE PROVISION OF PUBLIC SERVICE IN THE INSTITUTION SYSTEMS OF THE PUBLIC ADMINISTRATION TO THE STATE OF DEMOCRATIC REPUBLIC OF TIMOR-LESTE. AJMCRR 2023; 2(9): 1-12.

ABSTRACT

Introduction: The provision of public service to the peoples is essential in a State of Democratic Law, since the servants of the people must act according to the laws, norms and deontological rules established by the Public Authority. Since the restoration of Timor-Leste's independence on May 20, 2002, we have had at a stage the installation of the systems of the Public Administration of Timor-Leste such as: the recruitment of Public Employees according to the rules established in the Public Ministry RDTL.

Objectives: To finalize the legal norms related to the public function; to identify and analyze the violations or functional disobediences by public officials, the types of disciplinary sanctions and their procedural and concrete challenges in the Civil Service.

Methodology: The bibliographic reference, because it uses the analysis of the norms and legal doctrines relevant to the chosen theme. The techniques employed in the collection and analysis of data are, the documentary technique and legal interpretation.

Discussion: Public officials must perform the tasks assigned in the employment contracts, and in carrying out their tasks respect the laws, legal norms and deontological norms of the public function, that is, the civil servants are the main elements of the human resources of the State apparatus, they play a determining role in the success of government and development. In the *raison d'être* of discipline, state servants must have high discipline, good performance, good attitude and good behavior, full loyalty and

obdience to the state.

Conclusion: In the civil service, discipline is essential to support the proper execution of work and ensure good governance in all state institutions. Discipline in the Civil Service reflects the quality of responsibility, institutional integrity, the fulfillment of functional duties, good faith and the best performance of work that a person has for the tasks assigned to him cited by (Corte Real, AG., & Tilman CB, 2023).

Key words: Prestation of Public Service, System of Administration, Public Function and Civil Servants.

INTRODUCTION

Discipline is one of the essential factors of good Public Administration, this word originates from the Latin *disciplinae*, refers to the act that obdece and according to functional and deontological norms. In this case, discipline is an active legal situation resulting from disciplinary power, and also a passive legal situation that requires disciplinary subjection or responsibility. In the legal definition, the disciplinary offence refers to any act, even if merely culpable, committed by the official in breach of any of the general or special duties arising from the function he performs (art.º 75.º, n.º 1, VET). That is, the disciplinary infraction refers to the behavior of the public official who by action or omission, even if negligent or by more fault violates the inherent duties of his function. These definitions are considered as the basis of the determination of the act of public officials, that is, the disciplinary infraction may result in the commission of crimes in the exercise of the function, economic participation in business, etc. Discipline and proportionate to the guilt of the official cited by (Corte Real AG & Tilman CB., 2023). The principle of administrative legality prohibits the application of a penalty not provided for in the Law, i.e., "sine nulla poena". Therefore, the penalty must be legal, provided for and appropriate to the violating act of public officials in the exercise of their functions. In this case, the Decree of the Civil Service of Timor-Leste, provided for certain categories of disciplinary penalties, such as the following: written reprimand, suspension, inactivity, compulsory retirement, dismissal, fines, compulsory transfer, etc., (art.º 79.º, VET). These are considered as disciplinary-legal penalties that are applicable to public officials guilty in the disciplinary process and guilt is the maximum limit of the application of the penalties proper to the civil service. Therefore, the disciplinary penalty is an administrative penalty aimed at educating employees to fulfill their functional duties in an appropriate and obedient way. That is, "the disciplinary sanctioning act and the preparation of this are relevant to the public interest, to the unity and effectiveness of the administrative activity." The civil service law defines these regardless of the

criminal act of the public official suspected of committing some type of crime provided for in the Criminal Code of Timor-Leste and ordinary legislations.

In carrying out the direct administrative activities of the State, the civil service guarantees the impartiality and transparency of promotion of public officials. No function is performed illegally and outside the legal norms. In addition, the illegal exercise of the public function constitutes a crime and a disciplinary offense. In Public Administration, we have two special processes for the recruitment of civil servants, such as: the public and internal competition. In the first, all Timorese citizens with adequate qualifications can apply for the job vacancies required by the State. The second presupposes that only civil servants of the public administration can compete for internal vacancies for the promotion of their professional careers. In essence, these processes are regarded as the merit selection of the qualification of civil servants. In labor relations with the state power, the public function means the exercise of activities within the competence of the Administration, on behalf of the latter and in accordance with its purposes, that is, to meet the public interest. In the right sense, the administrative activities carried out within the scope of the exercise of the public function are to provide for the needs of the people. Therefore, civil servants when exercising their functions and performing the tasks assigned and determined in the work contract must be fair and enforceable of the public administration system cited by (Corte Real AG. & Tilman CB, 2023).

The civil service sets out the following fundamental

principles as the basis for the development and improvement of public service delivery. In essence, the principle of administrative legality functions as a legal-administrative basis for the situation of civil servants, because these officials are fundamental human resources for the development of the institutional framework of public administration. " The constitutional dignity of the confrmative principles of the organization and activity of the Public Administration results from a constituent decision. This decision assumes a normative model of Administration based on the tradition of the State of Right, reflecting in the subordination of administrative activity to the Law. The promotion of the human resources of the Public Administration must guarantee its responsibilities and compliance with the agendas, because the subjects of law must exercise their functions in the dictates of good faith administrative. In the principle of honesty and integrity-, it imposes on public officials to act honestly, integrally and ethically, to avoid disciplinary or criminal infraction by them intentionally or negligently, art.º 7.º, VET). Next, in the principle of equality and non-discrimination, they assume that, the process of recruitment of civil service personnel must verify the qualification, professional experience, and other complementary requirements, civil servants must receive the same salary for their work performed, art. 8.º, n.º 1, and 2, VET). For these reasons, officials may not be discriminated against in terms of compensation for work, conditions or privileges of employment (ibid., paragraph 3).

One of the most rigorous is the principles of exclusive dedication - it presupposes that, civil servants can not accumulate several paid jobs in the Public

Administration, nor assume any activity that diminishes their professional performance, but can provide consulting or advice to another public entity, teach materials of their area of knowledge, and do kinetic research with prior authorization in the respective Ministry, etc., (Art.º 9.º, n. 1 and 2 VET.) The essential in the Civil Service, enshrined the principle of conflict prevention of the interest, provides that, civil servants are forbidden to directly involve organizations that have commercial links to the public service, remove the private interest in the public good, etc.

The main objectives are: to analyze the legal norms relating to the civil service; to identify and analyze the violations or functional disobediences by public officials, the types of disciplinary sanctions and their procedural and concrete challenges in the Civil Service.

THEORETICAL ENQUADRATION

Civil servants in the exercise of their duties must respect the restrictions imposed by laws, this means no officials can perform the function outside their duties and tasks assigned in the employment contract. In the Status of the Civil Service approved by (Law n.º 8/2004, 5 May, its first amendment by Law n.º 5/2009 of 15 July), it contains the rights and functional duties of Public Officials. These legal duties and rights constitute the basis of the Exercise of Public Faith, as officials also need to enjoy or enjoy these rights and reserved by law. The fundamental duties that civil servants must fulfill and enforce throughout their professional career and work, namely, the duty of loyalty, obedience, duty of care, secrecy, exemption, assiduity and punctuality, (art.º 40, VET). These constitute general statutory rules that apply to the acts of public officials, provided that their legal-functional relationship is effective.

This time, the Special Duties of civil servants are: to perform the functions impartially, professionally and courteously, to use the assets of the civil service for exclusive professional purposes, to place the common interest above the personal and group interest, administratively and financially responsible for their functions, to keep professional and confidential secrets, etc. In the administrative sense, employees, when fulfilling their functional duties, also enjoy their rights enshrined in the Status of the Civil Service, such as: the right to exercise their function within the scope of appointment, the right to salary and remuneration, to benefit from adequate working conditions and protection, to have a daily break for food and rest, have weekly rest, take the leave provided for in the statute, be periodically evaluated for their work, participate in vocational training courses and increase their qualification, benefit from access to a career in accordance with regulations, be treated with correctness and respect, benefit from allowances and subsistence allowances in accordance with the law, have transport for themselves and their family members their luggage by transfer or secondment due to the need of the State, enjoy medical assistance and medicines for themselves and family members in the specific law, retire to enjoy the legal pensions, be previously heard before any punishment, go to a higher entity when there is a violation of their rights [art.º 49.º, al, a) to p), of the VET] in force cited by (Corte Real AG. & Tilman CB, 2023).

In the civil service law n.º 5/2009 of 15 July, the

first amendment of Law n.º 8/2004, of 16 June, it considers that the disciplinary offence is committed by public officials in situations of breach of their functional duties and also violate the legal prohibitions provided for in article 40.º, 42.º of the same, as soon as it justifies the fault of the offending official. The request for disciplinary responsibility of employees depends on the consideration of three circumstances of disciplinary infraction such as: i). the aggravating circumstances of the offence, (Art.º 91.º, VET); (ii) the mitigating circumstances of the infringement (Art.º 90º, VET); iii). The circumstances surrounding the infringement, (art.º 92.º, VET). Therefore, in the verification and apprehension of these legal assumptions, the disciplinary responsibility of the public official for his acts violating the duties to abuses of power in the exercise of his professional functions in the public administration, (art.º 74.º VET). In this case, we find that civil servants may discipline their special duties under Article 41.º of the Status of the civil service, such as: taking patrimonial and financial advantages from public goods for personal purposes, etc. In addition, it may violate the general duties provided for therein (art.º 41.º of the Statute of the Civil Service of Timor-Leste, hereinafter VET). In the disciplinary proceedings of the offence, civil servants who violate their duties, abuse their duties or in any way damage the reputation of the State are subject to disciplinary sanctions, without prejudice to criminal or civil proceedings (Art.º 73º, n.1, VET).

In the context of the exercise of functions, public officials must respect the Constitution of the Republic, the laws, the legitimate directives of the public administration. If there is a serious violation of the laws, the offending official must be responsible for his acts in the exercise of his administrative function, either disciplinary liability, criminal or civil, if his guilt is proven at the conclusion of the disciplinary process. The main situations where public officials violate the laws are, the practice of the crime prohibited by law, such as embezzlement of use, bribery, active and passive corruption for illicit or licit act, harmful administration, economic participation in the business, etc. This type of criminal offense is more serious in the civil service because, after the conclusion of the disciplinary process, the civil service commission responsible for ethics and discipline can forward its investigation report to the Public Prosecutor's Office, for cases where there are indications of the commission of the crime by public officials. The organs of the civil service are representative holders of the public legal person, these are eminent persons who direct and guarantee the good provision of the service, control and supervise the normal functioning of the public service and relative cases of an administrative nature. Hierarchical disobedience is one of the acts in which public officials disobey the legitimate orders and directives of their superior. This case may implicate the mismanagement and poor service provision in the Right and Indirect Public Administration cited by (Corte Real AG. & Tilman CB, 2023).

LITERATURE REVIEW

The administrative disciplinary procedure is the orderly succession of acts designed to ascertain the reality of misconduct committed by a servant [civil servant], to weigh the circumstances that contributed to it and to apply the relevant sanctions. This process is the initial phase, which aims to identify

the employee in breach of his or her functional duties. The procedure, today, a fundamental place to guarantee the legality and legitimacy of the decision. The achievement of this goal is, on the one hand, the fruit of the project of justice, truth and procedural guarantee that the legislator establishes. In the procedural sphere, identification begins with the participation of the competent services in the case, which presupposes the lifting of the disciplinary process (Art.° 94.°, VET). Essentially, the participation of the competent party in the exercise of disciplinary power and supervision aims to prevent offences and crimes. Because, the violation of functional duties and explicit prohibitions implies the disciplinary responsibility of the public official before the fact invoked, of which it can be punished with the disciplinary sanction imposed by the administrative authority. Legally, a civil servant is subject to disciplinary power (Art.° 77.°, n.° 1, VET). This aims to prevent acts that violate its functions or norms that protect the public interest. That is, the essential thing is to bind the employee to the disciplinary decision of the civil service under penalty of poor administration and breakdown of the organization cited by (Corte Real AG & Tilman CB., 2023).

So that the disciplinary penalty is applicable to the civil servant for the subsumption of the legal-administrative fact in the civil service. The process must be fair and impartial, both in the weighting of the criteria of disciplinary infraction, and in the facts imputed to the public official. In the legal-administrative consideration of the choice of penalties and disciplinary decision, the essential criteria of the decision are: the nature of the service, the category of the official, the degree of fault, the responsibility and the circumstances in which the offence was committed, (Art.° 89.°, VET). Therefore, the gradation and conditions of the application of disciplinary punishment must be based on these legal nomenclatures, that is, within the scope of the disciplinary process, the sanction enforcer, the Ethics and Disciplinary Commission under the Law that creates the civil service commission and the Statute of this, exercises its "disciplinary and sanctioning power" proceeds to the necessary and appropriate consideration of the choice of penalties by virtue of the aforementioned article. So. In order to impose an appropriate disciplinary penalty on the guilty civil servant, the specialized civil service commission for the application of the sanction may only apply the penalty listed in Article 79.°, of the Civil Service Statute as follows: a) oral reprimand; b) written reprimand; (c) fine; (d) suspension; e) inactivity; F) compulsory retirement; g) resignation, etc., (ibid., Law n.° 05/2009 of 15 June first amendment of Law n.° 8/2004 of June, approves the Statute of the Public Faith).

Other criteria of the disciplinary decision are the circumstances that condition the disciplinary infraction of the civil servant in the context of the exercise of the public function. These criteria are intended to ensure the appropriateness and proportionality of the imposition of a disciplinary sanction on the offending official. In the mitigating circumstances of the disciplinary offense by the public official, it is necessary to meet the following requirements: a) to have provided relevant services to society; b) have five more years of service based on good behavior; c) confess spontaneously to the offence, the penalty may be mitigated, when there are mitigating circum-

stances that substantially reduce the guilt of the accused, (art. °90.°, n. 1 and 2, VET). In the aggravating circumstances of the disciplinary offence committed by the public official, the following nomenclatures must be established and examined in order to proceed with the imposition of a disciplinary sanction, namely: a) the determined will to produce results detrimental to the public service; b) the effective production of results detrimental to the public service; c) Premeditation, which consists of the intention formed at least twenty-four hours before the commission of the offense; d) conspiracy with persons to commit the offense; e) The fact that it is committed during the execution of a disciplinary sentence or during the period of suspension of the sentence; f) Recidivism, which consists of committing an offense before one year on the day on which the execution of a sentence imposed for a previous offense ended; g) Accumulation, which consists of committing two or more offences at the same time or when one is committed before the previous one has been punished, [art. °91.°, al. a), even, g), VET], which are the fundamental basis of the law cited by (Corte Real AG. & Tilman CB, 2023).

DISCUSSION

In the context of the application of the disciplinary penalty to the offending official for his functional duties or abusing the functions, the penalties must follow the specific characterization and its application to each case as follows: a) The penalty of written reprimand consists of the call of attention, made in writing, to the irregularity practiced; b) The penalty of fine is fixed at a certain amount and may not exceed the amount corresponding to one month of the total of the certain and permanent remuneration; c) The penalties of suspension and inactivity consist of the complete removal of the official of the Public Administration from the service during the period of the penalty, implying in the loss of the corresponding remuneration, this penalty can be from 20 to 120 days, from 121 to 240 days; (d) the penalty of inactivity shall not be less than one year nor more than two years; e) the penalty of compulsory retirement consists in the imposition of the transition of the employee to the situation of retirement, with termination of the functional bond; f) The penalty of dismissal consists in the definitive removal of the official of the Public Administration, ceasing the functional bond, (art. °80.°, VET).

The penalty of suspension is applied to the public official of the Public Administration who acts with negligence, violates professional duties, in the situations: a) Give wrong information to the hierarchical superior; (b) purchase from the service in a state of drunkenness or under the influence of intoxicating drugs; c) Demonstrate lack of knowledge of essential standards regulating the service that harm the public administration; (d) favour a particular person, organisation or undertaking; e) do not comply with the required obligations within the legislative deadlines; f) commit inconfidence, revealing facts or documents of the services, mainly confidential of the Public Administration; g) Scandalously and publicly disobey the orders of superiors. For, the penalty applicable to these cases of subparagraph A to E of this article applies, the penalty of suspension 20 to 120 days, also, the situations of paragraph F and G, applies, the same penalty of 121 to 240 days, (art. °86.°, n. 1, al. a to g) and n. °2, VET).

In this case, we find that inactivity is an almost serious penalty among all other penalties from a legal-administrative point of view, because it does not allow the official to exercise his function during the period of serving the sentence. However, there is another penalty more serious of all and compulsory retirement and dismissal, both of which may be applied to any official according to the circumstances or conditions laid down in Article 88.° of the Statute of the Civil Service as follows: 1) applies the disciplinary infraction that by its gravity, make impossible and impede, the maintenance of the functional relationship. Still these penalties apply to public officials who, namely: a) Return to attack, revile or seriously disrespect hierarchical superior, colleague, subordinate or citizen, in public service; b) to practice acts of serious insubordination or offensive acts of the institutions and principles of the State; c) Missing twenty-one times in a row to the service without justification; d) Commit thirty absences interspersed without justification in the period of twelve months of service; e) Violate professional secrecy or commit inconfidence that results in material or moral damage to the Administration; f) By virtue of the position he occupies, receive, directly or indirectly, gifts, gratuities or shares in profit or other patrimonial advantages, in order to accelerate or delay any service; g) participate in an offer or negotiation of public employment; h) practice acts of corruption, favoritism or nepotism; i) To benefit economically and illicitly from the duties of the office by the destruction, obstruction, tampering or loss of documents or by manipulation of data for computer processing, which harms the State; (h) consuming or trafficking in narcotic drugs or psychotropic substances, etc., [art.° 88. n.°, 1 and n.° 2, point a) at is j)), VET)].

The determination and the measure of the disciplinary sanction postulate a relationship of balance between the gravity of the subjective imputation of the conduct and the intensity of the disciplinary reaction, summoning to the analysis the principles of guilt and proportionality. Therefore, in order to apply a concrete and appropriate disciplinary penalty to the offending public official, it is necessary that the Civil Service as a competent entity exercises its disciplinary power. This aims to punish the conducts qualified in statutes or other, laws, as functional infractions, has the purpose of preserving, immediately, the intrna order of the service, so that the activities of the organ can be carried out without disturbance and without distortions, within the legality and fairness. Essentially, the determination of the concrete disciplinary penalty is issued by order of conviction by a competent body of the civil service, designated by decision, this decision bases the facts identified in the disciplinary process, thus, the subjects with disciplinary legitimacy. In this decision-making phase, we will analyze the decisions made by the Ethics and Disciplinary Commission of the civil service, depending on the case and final report of the investigation in the scope of the Administrative Disciplinary Process, so when analyzing Decision No.° 1990 / 2016 / CFP, we identify that a public official of the Ministry of Interior, was imputed the facts in the disciplinary investigation records and the Disciplinary Commission makes the decision pursuant to article 1.°, n.° 1, subparagraph h of Law n.° 7/2009 establishing the Civil Service Commission: i) Consider that the Employee was guilty of irregular conduct; (ii) Consider that it has

infringed Article 40.º, number 2-point f of Law n.º employee, that is, in the process of applying the 8/2004, of 16 June, (statute of the civil service). In penalty, it can still identify certain situations in this case under this disciplinary decision, the penalty which there can be no disciplinary offense, when the employee acts in accordance with his functional duties, (see, Decision No 2033/2016 CFP).

of dismissal shall apply to the official provided the employee acts in accordance with his functional duties, (see, Decision No 2033/2016 CFP).

of service, when he failed to fulfill the duty of attendance cited by (Corte Real AG & Tilman CB., 2023).

Throughout this analysis, in particular, it focuses on the penalties applied by the Disciplinary Commission of the Civil Service during the year 2016, but only to some cases as a sample of analysis and application of penalties to public officials who committed disciplinary offenses. In most cases, if any, non-compliance with the duty of attendance, since the penalty most applied to these is the dismissal of the official under the provisions of paragraph 8 of Article 80º of the Civil Service Statute. Throughout this analysis, in particular, it focuses on the penalties applied by the Disciplinary Commission of the Civil Service during the year 2016, but only to some cases as a sample of analysis and application of penalties to public officials who committed disciplinary offenses. In most cases, if any, non-compliance with the duty of attendance, since the penalty most applied to these is the dismissal of the official under the provisions of paragraph 8 of Article 80º of the Civil Service Statute. During the disciplinary process, the public official investigated in the process has the right to defense and appeal for the facts charged, in order to be able to appeal to a decision more appropriate to the disciplinary infraction. For example, in Decision No.º 20072016/CFP, it granted the appeal because it changes the penalty of dismissal to the penalty of inactivity to the guilty

At the stage of the application of disciplinary penalty, the penalties have different disciplinary effects, namely: i) The penalty of suspension determines the non-exercise of the position or function and the loss of remuneration during the suspension; ii) The penalty of fine or suspension may determine the transfer of the public official with the reasoned decision; iii) The penalty of suspension from 121 to 240 days implies the impossibility of promotion for one year; iv) the penalty of inactivity implies the promotional impossibilities, still affects the effects of numbers 1 and 2, the employee is placed in service different from the previous organic unit; v) penalty of compulsory retirement implies to the employee the retirement; vi) The penalty of dismissal supposes that the subject loses all his rights as an official, impossible to be appointed or hired in a different place in the civil service, except after rehabilitation under Article 105.º. Even in serious cases, the dismissed official may lose his right to a retirement pension and the amount corresponding to the double dues will be reimbursed (Art.º 1.º, n.º 1 to 9, VET). While, the other disciplinary penalties such as written reprimand, suspension and inactivity for a certain period, does not cease the employment relationship, because it suspends only the remuneration of the employee during the period of the sentence, and that allows his reinstatement after the fulfillment of the disciplinary penalty cited by (Corte Real AG & Tilman CB., 2023).

In the context of Public Administration, civil servants cannot be dismissed, suspended without reasons and justification of guilt. In the general regime of the procedure of the Public Administration regarding the appeal, it is important that the appellant has the legitimacy to appeal against the legally protected rights, (art. 10.º, 1, of the DL, n.º 32/2008 of 27 August, on the Administrative Procedure). In order to guarantee impartiality and administrative efficiency, civil servants are guaranteed the right to a hierarchical remedy (Art.º 102.º, paragraph 2, VET). To fulfill the material requirements of the appeal, it is essential that, the object of appeal, it is essential that, the object of hierarchical appeal and the administrative act practiced by the organ subject to hierarchical powers of another body, (art.º 75., Administrative procedure, hereinafter, PA). This appeal is submitted to the hierarchical superior within the legal period of 15 days, (art.º 76.º, PA). In this sense, the hierarchical appeal of the official, aims to absorb or reduce the disciplinary penalty applied, because the appeal of the participant or complainant aims to aggravate or replace a more serious penalty to the public official who commit a disciplinary offense. (Art.º 102.º, n.º, VET). Finally, in the context of the contentious appeal, both the official affected by the disciplinary penalty and the participant in the proceedings may appeal to the competent courts to assess and obtain a fairer decision the parties that come into conflict, especially in the legal-administrative employment relationship, (Art.º 103.º, VET) cited by (Corte Real AG. & Tilman CB, 2023).

CONCLUSION

It is concluded that civil servants are the citizens

recruited by the Civil Service to provide essential services to the Public Administration under the principle of the pursuit of public interest and satisfaction of the public needs of citizens. In this case, public officials in the exercise of their professional functions must respect the norms of their duties of zeal, secrecy, obedience, impartiality, integrity, loyalty, assiduity, etc. Although they are bound by the special duties inherent to the function such as, perform the functions with impartiality, professionalism, courtesy, non-use of the State patrimony for personal and group purposes, place the private interest in the scope above the public interest, etc. On the basis of responsibility, civil servants must act in accordance with the guiding principles of the civil service, namely: the description and reservation of confidentiality, the guarantee of impartiality, honesty and safeguarding of institutional integrity, promotion of equality and non-discrimination, because within the limits of good administration must respect exclusive dedication. Therefore, it is still essential to prevent private interests within the framework of the principle of prevention of conflict of interest.

As for the imposition of disciplinary penalty to the public official who violates the functional duties, appropriately, the disciplinary offense, must conform to the aggravated, mitigating and resolving circumstances, thus being able to invoke the disciplinary responsibility of the guilty official in the process. In these legal criteria, the Ethics and Disciplinary Commission, applies a concrete penalty, that is, penalty of suspension, written reprimand, inactivity or dismissal of the employee while, in the choice of the penalty is appropriate and proportional

to the guilt of the public official. Finally, at the conclusion of the process that does not verify the guilt of the public official, the process that does not verify the guilt of the public official is filed, the process is filed, that is, on the presumption of the fact, the fact is filed. Therefore, the effects of disciplinary penalties are suspended and are not applicable to the public official of the State of Timor-Leste in force of administration the state cited by (Corte Real AG. & Tilman CB, 2023).

REFERENCES

1. CAUPERS, João (2013) Introduction to Administrative Law, 11th edition, Infante Santo: Âncora Editora.
2. CAUPERS, João, EIRÓ Vera (2016) Introduction to Administrative Law, 12th edition, Infante Santo: Âncora Editora.
3. HENRIQUES, LEAL M. (2009) O Procedimento Disciplinara, Lisboa, Portugal: Rei dos Livros Editora.
4. FREITAS DO AMARAL, Diego (2008) Administrative Law Course, Vol. I, 2^a II, edition Coimbra, Portugal: Âncora Editora.
5. FREITAS DO AMARAL, Diego (2017) Administrative Law Course, Vol. II, Coimbra, Portugal: Âncora Editora.
6. FONTES, José (2017) Codes of Administrative Procedure, Coimbra, Portugal: Almedina Editora.
7. MEDAUAR, Odete (2018) Modern Administrative Law, 21st edition. Belo Horizonte: FORUM publisher.
8. Ministry of State Reform and Public Administration (2012) General Regime of the Civil Service: collection of Legislation, 4,^a revised and updated edition, Lisbon, Portugal: General Directorate of Public Administration Publisher.
9. MONIZ LOPES, Pedro (2011) Principle of Good Faith and Administrative Decision, Coimbra, Portugal: Almedina Editora.
10. NEVES, Fernandes Ana (2017) O Direito Disciplinar da Função Pública, Vol. I, Faculdade de Direito da Universidade de Lisboa, (PhD thesis). Available in: <https://repositorio.ul.pt/bitstream/10451/164/1/ulsd054620tdvol1.pdf>
11. OTERO, Paulo (2016) Manual of Administrative Law, Coimbra: Almeida Editora.
12. PAULA OLIVEIRA, Fernanda & FIGUEIREDO DIAS, José Eduardo (2018) Administrative Law Lessons, Coimbra, Portugal: Almeida Editora.
13. PIMENTEL, Francisco (2020) Novo Estatuto da Função Pública, Coimbra, Portugal: Almeida Editora.
14. VASCONCELOS, Pedro Carlos Bacelar, et., al (2011) Annotated Constitution of the Democratic Republic of Timor-Leste, ed. Interdisciplinary research centre, School of Law of the University of Minho da Coimbra Editora.
15. VIEIRA DE ANDRADE, José Carlos (2017) Lições de Direito Administrativo, 5^a Edition Coimbra Portugal: Universidade da Coimbra Editora.
16. VIEIRA DE ANDRADE, José Carlos (2020) Lições de Direito Administrativo, 6^a Edition Coimbra Portugal: Universidade da Coimbra Editora.

-
17. LAW, n. 5/2009 of 15 July First Amendment of Law n.º 8/2004, of 16 June (approves the Statute of the Civil Service.
 18. DECREE-LAW n.º 40/2008 of 29 October Regime of Licenses and Absences of Public Administration Workers.
 19. DECREE-LAW n.º 27/2008 of 11 August Regime of Careers and Positions of Management and Head of Public Administration.
 20. DECREE-LAW n.º 12/2009 of 18 February Training regime for Human Resources of the Civil Service.
 21. DECREE-LAW n.º 32/2008 of August, on the Administrative Procedure.
 22. Corte Real AG et al (2023). A efetividade dos direitos fundamentais do ponto de vista Constituição da República Democrática de Timor-Leste em 2002: A dimensão como Estado de Direito Democrático <https://ajmcrr.com/index.php/pub/issue/view/8>.