

REPUBLIC OF TIMOR-LESTE

NATIONAL PARLIAMENT

Law No. 09 / 2003

Immigration and Asylum Act

Immigration and asylum are fundamental problems in modern states.

Increasing mobility of people, social and economic problems influencing many regions around the world, conflicts, terrorism and the need to keep social peace lead States to face the issue of controlling immigration flows as a fundamental component of their policies.

The geographic location of the country, in the path of important immigration flows, creates a pressing need for a legal framework that organizes immigration and asylum.

Current border control is extremely deficient and is based on insufficient legal instruments that prevent the State from effectively carrying out the constitutional imperative of defending the Timorese people from the threats of transnational crime and terrorism.

The matter of refugees and the right to asylum also takes on a critical dimension in the current geopolitical context in which Timor-Leste is inserted, where the lack of clear legislative framework is preventing an adequate response. Without forgetting international instruments in this area nor the ever-present underlying human element, there is, nonetheless, a need to guarantee the right of the State to assess its capacity to provide shelter without jeopardizing internal security, international relations or the equilibrium among the Timorese society.

In order to address all these matters, a legislative framework has been developed which organizes all these matters in an integrated, consistent and efficient manner to provide the Democratic Republic of Timor-Leste with the necessary instruments to control its borders and immigration flows.

Pursuant to Section 95.1, of the Constitution of Timor-Leste, the National Parliament enacts the following that shall have the force of law:

Timor-Leste

CHAPTER I

General Provisions

Article 1

Purpose

1. The current document regulates conditions for entry, stay, exit and removal of foreigners from the national territory;
2. The above does not preclude special agreements set out in international treaties and conventions that the Democratic Republic of Timor-Leste is party to, adheres to, or becomes party to.

Article 2

Definition of a Foreigner

1. For the purposes of this instrument, a foreigner is deemed to be anyone who cannot prove his or her East Timorese citizenship.
2. Proof of citizenship is that which is described in the Citizenship Law.

Article 3

Definition of Resident

Foreigners are considered residents when they have been granted a residence authorization which is valid and has been issued in agreement with this legal instrument.

Article 4

International Zone

For document control and other purposes concerning the enforcement of the present instrument, international zone is deemed to be:

- a) In ports and airports, the area between the embarking and disembarking areas, as well as the area where passenger document control points are located;
- b) In land border areas, the area located between the foreign territory and the area where passenger document control points are located.

CHAPTER II

Rights and Duties of Foreigners

Article 5

Principles of Law

Foreigners who reside in the Democratic Republic of Timor-Leste enjoy the rights, and are subject to the duties enshrined in the Constitution and the Laws.

Article 6

Substantiating Documentation

1. Foreigners must, at all times, carry the document that substantiates their identification and legal status in the national territory as required by the present instrument.
2. The document referred to in the previous item must be presented by the foreigner whenever asked to by an authority or official.

Article 7

Notification Duty

Resident foreigners must notify the Immigration Department of the National Police of Timor-Leste (NPTL) within 60 days of any change in their marital status, profession, domicile or nationality.

Article 8
Right to Employment

1. Foreigners are permitted to engage in remunerated activity, whether independently or as an employee, with the restrictions established by law.
2. Engaging in remunerated activity is not permitted to foreigners who do not possess an appropriate visa or documentation as required by the present law.
3. A foreigner who is admitted into the country with a working permit to engage in remunerated activity for others, can only engage in that activity with a different organization other than that which had hired him or her with express authorization from the Timor-Leste National Police Immigration Department and with the approval from the Secretary of State for Labour and Solidarity.

Article 9
Right of Association

1. Foreigners may enter or join associations with cultural, religious, recreational, sports, charitable or assistance purposes, as well as participating in meetings to commemorate their national holidays.
2. In addition to requirements stipulated in special laws referring to associations and corporate bodies, associations organized according to the above item, which are exclusively made up of foreign members or in which the majority of members are foreigners, must register with the Ministry of the Interior (MI).
3. Registration of associations described in the previous item must be made through an application addressed to the Minister of the Interior briefly describing the purposes of the association, and submitting copies of the statutes or by-laws together with a detailed membership list of their social organs.

Article 10
Denial and Cancellation of Registration

1. The Minister of the Interior shall deny the registration of an association required under the terms of Article 9, whenever the purpose and activities of said organization are prohibited by the present instrument and other existing national legislation.

2. The Minister of the Interior may cancel, on good grounds, the registration of an association, if said registration was obtained through false statements of purpose, or if the organization subsequently performs prohibited activities.

3. Once the registration has been denied or cancelled, the operation of the association is immediately suspended, and incumbents of its social organs who continue operations will incur the crime of disobedience.

4. The Office of the Prosecutor-General, at the request of the Minister of the Interior, shall begin special judicial proceedings to dissolve any association whose registration has been denied or cancelled by the Minister of the Interior.

Article 11

Restrictions

1. It shall be forbidden for a foreigner to:

(a) Own the majority of stock in a national generalist media company, regardless of its legal nature, unless expressly authorized by the Government. Exception to the present rule is the written press, directed exclusively at foreign resident communities or whose purpose is to disseminate national culture, literature or languages;

(b) Own the majority of shares in a domestic commercial airline unless otherwise stipulated in specific legislation;

(c) Participate in the administration or social organs of a union, corporation or professional organization, or in agencies that monitor paid activities;

(d) Provide religious assistance to the Defence and Security Forces, except in case of extreme need or emergency;

(e) Engage in activities of a political nature or interfere, directly or indirectly, in State affairs;

(f) Organize or participate in demonstrations, processions, rallies and meetings of a political nature;

(g) Organize, create or maintain an association or any entity which is political in nature, even if solely to disseminate or broadcast, exclusively among co-nationals, ideas, programmes or strategies of political parties from their country of origin;

(h) Pressurise co-nationals or third parties to adhere to ideas, programmes or strategies of political parties or factions from any country;

2. The restrictions provided for in the preceding item do not cover:

- (a) Activities of a strictly academic nature;
- (b) Foreign technical assistance hired by State institutions;
- (c) Activities by liberation movements recognised by the Government, in the fulfilment of the duty of solidarity as set forth in the Constitution;
- (d) Bilateral or multilateral assistance programmes entered into with the aim of building capacities and strengthening the democratic institutions provided for in the Constitution and regulated by law.

Article 12

National Interest

The Minister of the Interior can, as may be determined by the Prime Minister, prohibit, in a well-founded instruction, foreigners from organising conferences, congresses, artistic or cultural demonstrations, whenever these may undermine the State's relevant interests or international relations.

CHAPTER III

Entry into and Exit from the National Territory

Article 13

Border Controls

1. Entry into and exit from the national territory can only be made through the border control points that are set up during operation hours.
2. All individuals who enter or exit the national territory are subject to immigration control.

Article 14

Right to Entry and Exit

1. All citizens have the right to enter the national territory, provided they can prove their East Timorese citizenship.

2. Any citizen may leave Timor-Leste, provided no legal order has been issued to the contrary.
3. Notwithstanding the above provision, exit from the national territory shall be denied to minors, nationals or foreigners, who travel unaccompanied by whomever has parental control over them or written authorization from the latter.

Article 15

Denial of Entry

Entry to the national territory shall be denied to foreigners who do not meet cumulatively all the requirements established in the present instrument or who constitute a serious risk or threat to health, public law and order or to the international relations of the Democratic Republic of Timor-Leste.

Article 16

Travel Documents and Substituting Documents

1. For entering or exiting the national territory foreigners must carry their passport or other valid travel document recognised by Timorese authorities.
2. The validity of the travel document has to be longer than the length of stay by at least three months, except in the case of a foreigner who is a resident of the national territory.
3. Entry into or exit from the national territory is allowed to foreigners who:
 - a) are nationals of countries with which the DRTL has entered into agreements allowing their entry with an identification card or its equivalent;
 - b) are bearers of a safe-conduct or its equivalent issued by the authorities of the country they are nationals of or the country they represent;
 - c) are bearers of flight license or certificate for crewmembers described in Annexes 1 and 9 of the International Civil Aviation Organization or of other documents that may substitute them, while in the performance of their duties;
 - d) are bearers of a seafarer identity document described in the Convention 108 of the International Labour Organization, while in the performance of their service;
 - e) are bearers of a *laissez-passer* issued by the United Nations Organization (UN);

- f) are bearers of travel documents described in the Geneva Convention of 28 July 1951.
4. The safe-conduct in item b) of the previous paragraph will only be valid for transit, and when issued within the national territory, shall only allow the bearer to exit.
5. Foreigners who have been issued documents by national authorities according to this instrument, are also allowed to exit the national territory.

Article 17
Entry Visa

- 1) In order to enter the national territory foreigners must present the proper valid visa for their travels, according to the present instrument.
- 2) Entry into the national territory without a visa shall be allowed to foreigners who:
- a) have a valid residence authorization or identification document issued to diplomatic personnel, or other with an equivalent status, in accordance with the terms of this instrument;
 - b) prove they are working for the UN or one of its agencies within the national territory;
 - c) are exempt from the entry visa obligation because of bilateral or multilateral agreements entered into by the DRTL and the country which they are nationals of.
- 3) Foreigners who enter the national territory exempt from a visa can only remain for a 90-day maximum length of stay, without prejudice to the cases in which they get an extension according to the terms of this instrument.
- 4) Foreigners working for the UN or its agencies are granted a special stay authorization which is valid until the end of their contract or mission with the UN, whenever such contract or mission is longer than 90 days.
- 5) Concession of the privilege described in the previous item is under the jurisdiction of the Minister of the Interior and must be requested by representatives of the UN or of its agencies duly accredited to the DRTL.
- 6) The provisions of items 4 and 5 of this Article apply similarly to foreigners working for cooperation programs entered into by the State from which they are nationals of and the DRTL.

Article 18
Means of Subsistence

1. Entry into the national territory shall be denied to foreigners who do not have the means to support themselves for the length of their stay, who do not have a return ticket to a country that guarantees their re-entry or whose status does not allow them to legally provide for themselves.
2. In order to enter and remain in the national territory, foreigners must have the means to pay *per capita* an amount equivalent to:
 - a) One hundred US dollars for each entry into the national territory;
 - b) Fifty US dollars for each day expected to remain in the national territory.
3. The amounts mentioned in the previous paragraph may be exempted in case a means of subsistence statement is presented by a national or a legal foreign resident guaranteeing the subsistence and lodging of the foreigner during his or her stay.
4. The subsistence statement implies that the subscriber assumes the responsibility to pay for all expenses the Government may incur to remove the foreigner from the national territory without prejudice to the criminal liability he/she may face by making false statements or giving false information.
5. For the purpose of the above item and after payment of debt with an attached note, the subsistence statement becomes an enforceable instrument.
6. The model for the subsistence statement shall be approved by an order of the Minister of the Interior.
7. The amounts mentioned in this article will be updated annually by a joint order from the Minister of the Interior and the Minister of Planning and Finance.

Article 19
Purpose and Conditions for Staying

1. Entry into the national territory shall be denied to foreigners whose purpose for staying is clearly contrary to the documents presented or statements made.
2. Foreigners, upon request, must submit for the record the statements and documents justifying the purpose and conditions for their stay in, entry into or transit through the national territory.

Article 20
Entry Authorization in Special Cases

1. In situations of relevant national interest or for urgent humanitarian reasons, the entry into the national territory may be authorized to foreigners who do not fulfil legal entry requirements.
2. Power to authorize such entry as described in the previous paragraph falls upon the Minister of the Interior on good grounds.
3. Maximum validity of the entry authorization is 30 days, and it can be extended once for an equal period of time.

Article 21
Entry of Minors

1. Entry into the national territory shall be denied to foreign minors when unaccompanied by the person who has parental custody or when there is no one in the national territory duly authorized by the custodial parent to be responsible for the minor during his or her stay.
2. Except for duly justified cases, entry of a foreign minor into the national territory will not be authorized when the custodial parent or the person whom the minor is entrusted to is not admitted into the national territory.
3. If the foreign minor is not admitted into the national territory, entry shall be denied to the person whom the minor is entrusted to.

Article 22
Power to Deny Entry and Exit

The power to deny entry into or exit from the national territory rests on the Commissioner of the National Police of Timor-Leste, who may delegate said power to the Head of the Immigration Department of the National Police, who may, in turn, sub-delegate it to the officers responsible at the border control points.

Article 23
Confiscation of Travel Documents

When the denial of entry is based on the presentation of counterfeit, false, someone else's, or fraudulently obtained documents, the same shall be confiscated and sent to the Department of Immigration of the National Police.

Article 24
Verification of Document Validity

The Department of Immigration of the National Police may, in case of doubt about the authenticity of the documents issued by national authorities, access the information on the records that allowed the issuance of said document.

Article 25
Carriers Responsibility

1. Carriers that transport into the national territory by air, sea or land foreigners who have been denied access to said territory, must provide those foreigners their return trip in the shortest time possible to the port where they first boarded the carrier or, if this is impossible, to the country where their travel document was issued or to any other location where their admission is guaranteed.
2. Until a foreigner who has been denied entry is sent back, he or she shall be under the responsibility of the carrier.
3. Whenever it is justified, foreigners who have been denied entry will be removed from the national territory escorted by elements of the National Police.
4. The carrier is responsible for all expenses incurred by the use of the police escort, including payment of any applicable fees.
5. In the case of denial of entry at a land border point, the return will proceed immediately after the formalities related to the denial of entry are completed.

Article 26
Decision and Notification

1. The decision to deny entry can only be made after a hearing with the foreign national.
2. The decision to deny entry shall be notified to the interested party, indicating the basis of the denial, the right to appeal and the deadline to exercise that right.
3. The carrier shall also be notified of the denial of entry for the purposes stipulated in the previous article.

Article 27
Appeal

1. The decision to deny entry can be administratively appealed against to the Minister of the Interior and must be filed within eight days.
2. The appeal referred to in the previous item does not have suspensive effect.

Article 28
Rights of Foreigners who are not admitted

1. During the time spent in the international area of the border control post, a foreign national who has been denied entry has the right to contact the diplomatic or consular representation of his or her country or representing the interests of his or her country, as well as any person of his or her choosing, and shall also benefit from interpreting and medical assistance, as required.
2. A foreign national who has been denied entry has also the right to freely choose a lawyer to provide him or her with legal assistance, and shall be liable for the payment of any costs arising therefrom;

Article 29
Refusal of Entry

1. Entry into the national territory shall be refused, and a record shall be kept of foreigners who:

- a) Have been expelled from the national territory;
- b) Have left the national territory as a consequence of notification issued under the terms of this instrument;
- c) Have been sentenced to incarceration for duration of more than one year;
- d) About whom there are strong indications that they pose a threat to the health, public order or security, or to the international relations of the DRTL;
- e) About whom there are strong indications that they have committed or intend to commit what qualifies as a war crime, or an act of terrorism or an act contrary to the principles of a democratic State based on the rule of law.

2. Entry refusal measures not subject to definite deadlines as per the terms of the present instrument shall be periodically revisited to decide about their continuity or dismissal.

3. It is the responsibility of the Minister of the Interior, following a request by the National Commissioner of the NPTL, to register the names of people in the list referred to in item 1 above.

4. The courts and law enforcement authorities may, within the scope of their authority, request the National Commissioner of the NPTL, who is the officer in charge of drawing up a specific list to that effect, to intercept persons at the border.

CHAPTER IV

Visas

SECTION I

GENERAL PROVISIONS

Article 30

Places of Issue

The visas referred to in this instrument shall be issued at the border control posts and in the consulates of the DRTL overseas.

Article 31
Valid Documents

1. Valid documents whereto affix visas are travel documents such as those described in this instrument, except those which, due to their nature, do not have a place to affix a visa.
2. In the cases mentioned in the last part of the previous item, visas shall be affixed to an independent page.

Article 32
Visas on Family Passports

When a visa is issued on a family passport, the names of the members covered by the visa must be mentioned.

Article 33
Visa Formats

The different formats of visas appear in Annex 1, which is part of this instrument.

SECTION II
TYPES OF VISAS

Article 34
Types of visas

The following types of visas shall be issued:

- a) Ordinary visa;
- b) Work permit;
- c) Permanent residence visa.

Article 35
Ordinary Visa

1. Ordinary visas are divided into four different categories and are meant to allow entry into the national territory for lengths of stay that do not qualify for work permits or permanent residence visas.
2. Ordinary Visa Class I is designed for foreigners who travel to the national territory for tourism or business, it allows a maximum length of stay of 90 days and is valid for up to one year with one or multiple entries.
3. Ordinary Visa Class II is designed for transit through the national territory en route to another country, or between two international flights in a domestic airport, it allows a single entry and is valid for a maximum of 72 hours.
4. Ordinary Visa Class III is designed for foreigners who intend to study in the national territory, it allows a length of stay of up to one year and multiple entries, and it is renewable for the same duration upon proof of academic performance, registration and availability of means of subsistence and lodging.
5. Ordinary Visa Class IV is designed for foreigners who travel to Timor-Leste on a cultural trip or for scientific research, as an artist or athlete, or as a foreign media correspondent. This type of visa allows a foreigner to stay for the duration of his or her contract or mission up to 180 days, extendable for equal periods of time. This visa can be issued for one or multiple entries and is valid for one year.
6. Ordinary visa applications shall be accompanied by all required substantiating documents, namely the travel ticket or the means available for the return trip to the country of origin or transit, documents proving the purpose and conditions of stay, and substantiating documents regarding the means of subsistence within the national territory of the DRTL.

Article 36
Work permit

1. A work permit is intended to authorize the bearer thereof to enter the national territory, on a temporary basis, to carry out a professional activity as an employee or independent worker.
2. A work permit exclusively allows the bearer thereof to carry out the professional activity which he or she claimed for the granting of the visa and have the limitations described in Article 8, paragraph 3, of this instrument.

3. A work permit allows a length of stay of up to one year and is valid for one or multiple entries.

Article 37

Visa to Establish Permanent Residence

1. A visa to establish permanent residence is designed to allow the bearer thereof entry into national territory in order to request authorization for permanent residence.

2. A visa to establish permanent residence is granted to the applicant who expresses his or her intention to remain permanently in the national territory, who proves to have means of subsistence, and lodging ensured, and who does not have a criminal or police record.

3. Visas to establish permanent residence are valid for a single entry into the national territory and allow the bearer thereof to remain in the country for six months.

4. If the foreigner who requests a visa under the terms of this Article intends to perform a professional activity as an employee or as an independent worker, consideration will be given to granting the visa based on the goal of providing specialized labour to the various sectors of the economy to increase productivity, and assimilating technology.

5. The number of foreigners to be admitted under the terms of the previous item, as well as the sectors of the economy in which they will carry out their activity, shall be set annually by resolution from the Council of Ministers.

6. Granting a visa to establish permanent residence may be conditional upon residence in a specific region within the national territory for a period of no longer than five years.

SECTION III

POWER TO AUTHORIZE AND GRANT VISAS

Article 38

Authorizing Visas

1. Visas to establish permanent residence, ordinary visas Class III and IV, and work permits shall be authorized by the Department of Consular Affairs of the Ministry of Foreign Affairs and Cooperation.

2. A binding consultation with the Immigration Department of the NPTL is mandatory with regard to the authorization of the visas referred to in the previous item.
3. A consultation with the government department that oversees labour and employment is mandatory with regard to the authorization of work permits or visas to establish permanent residence with the purpose of performing a professional activity.
4. Ordinary visas Class I and II shall be authorized by consulates of the DRTL abroad, and by the National Commissioner of the NPTL when applied for at the border control points.
5. The authority of the National Commissioner of the NPTL, as referred to in the above item, may be delegated to the Head of the Immigration Department who may, in turn, sub-delegate it to the officers in charge at the border control points.

Article 39

Granting Visas

1. Work permits, visas to establish permanent residence and ordinary visas Class III and IV shall be issued and granted, after being duly authorized, by the consular offices of the DRTL abroad.
2. In cases where the applicant resides in countries or territories where there are no DRTL consular offices, the request must be made directly to the Department of Consular Affairs of the Ministry of Foreign Affairs and Cooperation.
3. The visa authorization, in the case of the previous item, is relayed to the visa applicant and to the border control point through which the applicant is expected to enter the national territory, and border control officers shall have the authority to issue said visa.
4. Ordinary visas Class I and II, after being duly authorized, shall be issued and granted at the consulates of the DRTL abroad, and at the border control points.

Article 40

Processing Documentation for Work permits and for Establishing Permanent Residence

1. The requests for work permits and for establishing permanent residence must be accompanied by the following documents:
 - a) Full identification of the applicant through an authenticated copy of their passport;

- b) Passport-sized colour photograph, with single colour background;
- c) Certificate of criminal record and medical certificate attesting to the physical and psychological suitability of the applicant, issued by competent authority in the country of the applicant's nationality, or from his/her country of residence for more than one year;
- d) Proof of means of subsistence and lodging;
- e) Visa application specifying the reasons for requesting residence and the length of time of stay, as well as a commitment statement by the applicant to honour all the legal requirements for the requested visa.

2. In the case of application for a work permit, or a visa to establish permanent residence with the purpose of performing professional activities, the applicant must also attach proof of employment offer, of interests in a corporation, of professional competence for performing an independent profession, or any other probatory document relating to the activity intended.

CHAPTER V

Extension of Permanent Residence

Article 41

Travel Document Requirement

Foreigners admitted into the national territory, with or without a visa requirement, must have valid and recognized travel documents if they intend to remain longer than the time granted at the entry point at the border.

Article 42

Limits for Lengths of Stay

1. Foreigners who are bearers of visas can extend their stay in the national territory, under exceptional and well-founded circumstances, with the following restrictions:

- a) Up to ninety days if the applicant holds an ordinary Class I visa;
- b) Up to three years if the applicant holds a work permit, which can be extended for subsequent 1-year periods;

- c) Up to 180 days if the applicant holds an ordinary visa Class IV, except journalists of foreign mass media who can extend their stay to the maximum time allowed, which is three years and for periods of 180 days;
- d) Until completing his/her studies if the applicant holds an ordinary visa Class III, the limit being the number of years anticipated for the course curriculum.

2. Foreigners admitted into the national territory without the visa requirement can extend their stay for up to ninety days, under exceptional and well-founded circumstances.

3. Extensions to work permits shall be contingent upon maintaining the working situation that allowed for the said visa authorization and granting, as well as the mandatory opinion of the government department that oversees labour and employment.

4. Extensions to lengths of stay granted under the terms of the present Article may be cancelled by the Head of the Immigration Department of the NPTL if the conditions that were the basis for granting the visa or the extension thereof are altered or if the presence of the foreigner in the national territory constitutes a threat to public order, public security or international relations of the DRTL.

5. Extension denial sets in motion procedures for expelling the foreigner from the national territory as provided by this instrument.

Article 43 **Qualification**

1. The authority to extend visas as per this Chapter falls on the National Commissioner of the NPTL, who can delegate it to the Head of the Immigration Department.

2. Extensions are granted by means of a stamp affixed to the applicant's travel document, whose model shall be approved by decree from the Minister of the Interior.

CHAPTER VI **Family Reunification**

Article 44 **Right to Family Reunification**

1. In the national territory the right to family reunification is recognized to foreigners who are family members of a foreign resident with whom they lived in another country or of whom they are dependants.

2. The applicant for a family reunification request must have a valid residence authorization.

Article 45 **Beneficiaries**

1. For the purposes of the previous Article, members of the resident's family are:

- a) The spouse;
- b) Dependent or disabled children, and children under the age of 18 years, of the couple, or of one of the spouses.

2. In the case of a child under the age of 18 years or a disabled child of only one of the spouses, the child shall qualify for family reunification only if he or she is in legal custody of the applicant.

Article 46 **Processing**

1. Foreigners residing in the national territory, who would like to benefit from the right to family reunification, must forward the proper application to the Immigration Department of the NPTL, attaching proper identification of the applicant and of the family members included in the request.

2. The application must be accompanied by the following documents:

- a) Proof of family relationship;
- b) Authenticated copies of identification documents of the applicant's family members for whom reunification is requested;
- c) Proof of adequate lodging facilities and sufficient means of subsistence to fulfil the needs of the family members.

3. The Immigration Department of the NPTL can request from the applicant all documents deemed necessary to process the request, as well as obtain from all government agencies the necessary information for the same purpose.

4. The decision about the request for family reunification belongs to the National Commissioner of the NPTL, who may delegate it to the Head of the Immigration Department.

CHAPTER VII

Special Travel Documents

Article 47

Safe conduct

1. The National Commissioner of the NPTL may issue a safe conduct to foreigners who are in the following situations:

- a) Not being residents of the national territory, have difficulties or are prevented from leaving the national territory because they lack a travel document;
- b) Are subject to expulsion from the national territory and do not have a travel document.

2. The safe conduct is issued with the exclusive aim of allowing the exit from the national territory and it is valid for a single trip.

3. The model for the safe conduct shall be approved by decree from the Minister of the Interior.

Article 48

Bearer's Proof of Citizenship

A safe conduct issued to a foreigner is not proof of citizenship of the bearer.

CHAPTER VIII

Residence Authorization

Article 49
Request for and Granting of Residence Authorization

1. Applications for authorization of residence shall be submitted to the Immigration Department of the NPTL.
2. To be granted residence the applicant must meet the following requirements:
 - a) Possess a valid visa for establishing residence;
 - b) No hidden impediments that would constitute basis for visa denial if they were known by the competent authorities;
 - c) Actual presence in the national territory.

Article 50
Types of Residence Authorizations

1. There are two types of residence authorization:
 - a) Temporary residence authorization;
 - b) Permanent residence authorization.
2. Foreigners authorized to reside in the national territory are issued a residence document whose model shall be approved by decree from the Minister of the Interior.

Article 51
Temporary Residence Authorization

1. A temporary residence authorization is valid for a 2-year period from the date of issuance of the respective residence document and is renewable for equal periods of time.
2. The residence document must be renewed every time there is a change in the identification elements contained therein.

Article 52
Permanent Residence Authorization

1. There is no time limit as to the validity of a permanent residence authorization.
2. The residence document must be renewed every five years or under the circumstances described in item 2 of the previous Article.

Article 53
Granting Permanent Residence Authorization

A permanent residence authorization may benefit foreigners who:

- a) Have been legal residents of the national territory for at least 12 consecutive years;
- b) Have not been sentenced for criminal offences to a prison term(s) that, separately or cumulatively, exceed(s) one year, during the residence period described in the above paragraph.

Article 54
Special Cases

1. In special cases and in cases of recognised national interest, residence authorization may be granted to foreigners who do not meet the requirements under this instrument.
2. The authority to grant residence authorization under the previous item falls on the Prime Minister and the Minister of the Interior by joint order.
3. The application shall be submitted by the interested party to the Immigration Department of the NPTL who will start the process, gathering all pertinent elements and documents thereto, namely those related to the exceptionality and national interest invoked.
4. Once the process is concluded, a report shall be prepared describing the grounds for a decision proposal, which, together with the corresponding file, shall be submitted for a final decision.

Article 55

Foreign minors born in the National Territory

1. Foreign minors born in the national territory enjoy the same resident status granted to either of the parents.
2. In order to issue the resident document, either of the parents must submit a petition to that effect within six months following the minor's birth registration.

Article 56

Granting Residence Authorization

1. Applications for residence authorization shall be submitted in the printed form available, duly completed and signed by the applicant or, in the case of minors or disabled persons, by their legal representative.
2. The application must be accompanied by the following documents:
 - a) Valid passport;
 - b) Valid visa to establish permanent residence, when necessary;
 - c) Two identical passport-sized photographs, with single colour background;
 - d) Proof of means of subsistence and of accommodation;
 - e) Any other document serving as proof of expressed allegations.

Article 57

Renewal of Residence Authorization

1. Renewal of the temporary residence authorization must be requested by the interested party at least 30 days prior to its expiration.
2. In examining a request submitted to the Immigration Department of the NPTL, consideration shall be given, inter alia, to the following criteria:

- a) Means of subsistence and of accommodation of the applicant;
- b) The applicant's history of abiding by the legislation in force, namely that referring to foreigners.

3. A request for renewal must be accompanied by the documents described in paragraph c), and in the subsequent ones, of item 2 of the previous Article.

Article 58

Revocation of Authorization of Residence

An authorization of residence shall be revoked whenever the foreign resident:

- a) Is the subject of an order of expulsion from the national territory;
- b) Has been finally sentenced, by a court of law, to an actual prison term in excess of three years;
- c) Has made false statements or presented false documentation while applying for residence authorization;
- d) When holding a temporary residence authorization, the foreign resident is absent from the national territory for six consecutive months or ten interspersed months during the valid term of the authorization, without good and cogent reasons;
- e) When as a holder of permanent residence authorization, is absent from the national territory for 24 consecutive months or, in a 3- year period, 30 months interspersed.

Article 59

Foreigners Exempted from Residence Authorization

1. The residence authorization is not a requirement for diplomats, or consular officers accredited to the DRTL, or for the administrative and domestic personnel or other staff with an equivalent status coming to work for the diplomatic missions or consular offices, or their family members.

2. The above-mentioned personnel will be given an identity card issued by the Ministry of Foreign Affairs and Cooperation, and certified by the Immigration Department of the NPTL.

3. The individuals referred to in item 1 of the present Article are also exempted from a visa for their first entry into the national territory, as long as they hold a diplomatic or official passport and their arrival is communicated in advance to the Immigration Department of the NPTL by the diplomatic mission or consular office.

Article 60
Identification Document

The individual identification document constitutes enough proof of civil identity of the bearer and is the only identification document apt to prove resident status in the national territory.

Article 61
Legal Authority

It is under the authority of the National Commissioner of the NPTL, except as otherwise provided in this instrument, the renewal and revocation of residence authorizations, and such authority can be delegated to the Head of the Immigration Department.

CHAPTER IX
Lodging Registration

Article 62
Lodging Registration

1. Lodging registration is intended to facilitate the control of foreigners in the national territory.
2. For the purpose of registration described in the previous item, all individuals or corporate persons, who provide lodging to foreigners in any manner, must keep a record of that information.
3. The record must include the name, date of birth, number and expiration date of the identification document, nationality, and the date of entry and departure from the lodging.

4. Registration may be done electronically or in paper, but must necessarily contain the information mentioned in the previous item.

CHAPTER X

Expulsion From the National Territory

Section I

General Provisions

Article 63

Basis for Expulsion

1. Without prejudice to provisions in international treaties or conventions that the DRTL is a party to, foreigners will be deported from national territory if they:

- a) Enter or remain illegally in the national territory;
- b) Commit acts against national security, public order or good morals;
- c) Because of their presence or activities in the national territory, constitute a threat to the interests and dignity of the DRTL or its citizens;
- d) Interfere in an abusive manner in the exercise of the right of political participation reserved for the citizens of DRTL or are responsible, by commission or omission, for acts prohibited to foreigners under this law;
- e) Have committed acts that, if known to the authorities of the DRTL, would have prevented their entry into the national territory.

2. The provisions of the previous item do not preclude criminal responsibility on the part of the foreigner.

Article 64

Exclusion from the National Territory

1. Before expulsion proceedings are initiated, foreigners who are in one of the situations described in item 1 of the previous Article, can be ordered to leave the national territory within a certain time frame.

2. Non-compliance with the above order sets in motion immediate expulsion proceedings, together with detention and other coercive measures provided for in this instrument.
3. The authority to notify the foreigner under item 1 rests on the National Commissioner of the NPTL, who may delegate it to the Head of the Immigration Department.
4. The time frame described in item 1 can vary from 24 hours to ten days.

Article 65

Expulsion as a Supplementary Penalty

1. Without prejudice to the provisions of the criminal laws, expulsion as a supplementary penalty may be imposed on:
 - a) Foreigners who are not residents of the national territory who were convicted of a crime that carries a prison sentence of more than 6 months;
 - b) Foreigners who have been residents of the national territory for less than four years and were convicted of a crime that carries a prison sentence of more than one year;
 - c) Foreigners who have been residents of the national territory for over four years who were convicted of a crime that carries a prison sentence of more than 3 years.
2. Expulsion as a supplementary penalty may be imposed even if the person subject to expulsion is free on probation.
3. The court that rendered the sentence has jurisdiction to decide on the expulsion.

Article 66

Authority over the Expulsion Process

1. The Head of the Immigration Department of the NPTL has authority to start expulsion proceedings.
2. The National Commissioner of the NPTL has authority to decide for the dismissal of the expulsion case.

Article 67

Authority to Enforce an Expulsion Order

The Immigration Department of the NPTL has the authority to enforce the expulsion order.

Article 68

Country of Destination

1. A foreigner cannot be deported to a country where he or she may suffer life-threatening persecution for ethnic or religious reasons, nationality, social group or political ideas.
2. In order to be protected by the guarantee mentioned in the previous item, the foreigner must invoke fear of persecution and provide proof of it within the timeframe as may be accorded to him or her.

Article 69

Length of Re-entry Prohibition

Re-entry into the national territory shall be denied to expelled foreigners for a period between three and ten years.

Article 70

Coercive Measures

1. In addition to the provisions of the procedural criminal law, the Courts may further impose the following measures on foreigners subject to expulsion proceedings:
 - a) Regular reporting in person to the Immigration Department of the NPTL;
 - b) Placement of such persons under pre-trial detention, separated from the rest of the inmates.
2. The District Courts in the area where the foreigner resides have jurisdiction to impose these coercive measures. In cases where the foreigner is not a resident, the Court in the location where the foreigner was found has jurisdiction over the case.

Section II

Expulsion Procedure

Article 71
Due Process

1. Expulsion proceedings shall be initiated against foreigners who incur in one of the causes for expulsion from the national territory described in this instrument.
2. No decision to deport a foreigner may be executed without a final deportation decision after due process.

Article 72
Illegal Entry and Stay

1. Foreigners who enter or remain illegally in the national territory shall be detained by any police officer and taken before a competent Court within 48 hours from their detention, as per Article 70, item 2, to validate their detention and impose coercive measures.
2. Should the Court decide pre-trial detention, the Immigration Department of the NPTL shall be notified, in order to start due process for deporting the foreigner from the national territory.
3. Pre-trial detention provided for in the previous item may not exceed the time needed to execute the expulsion order, and may not be longer than 90 days.
4. If pre-trial detention is not decided, the Immigration Department of the NPTL shall nonetheless be notified for the purposes provided for in item 2, and the foreigner shall be given notice to appear before the Immigration Department.

Article 73
Procedure

1. During the investigation stage of the expulsion proceeding, the person subject to such a proceeding has the right to be heard, and enjoys all guarantees for his or her defence.
2. The investigator shall start any action deemed essential to find out the truth and can reject, on good grounds, any action requested by the person against whom the proceeding was initiated, when the alleged facts are deemed to be sufficiently proved.
3. Once the investigation is complete, a report shall be prepared, where the investigator describes the facts discovered and proposes what he or she considers an appropriate decision, and the file shall then be sent to the competent authority for a final decision.

Article 74
Expulsion Order

1. The decision to expel rests on the Minister of the Interior.
2. The expulsion order must include:
 - a) Statement of facts;
 - b) Legal obligations of the foreigner subject to expulsion;
 - c) Prohibition of re-entry into the national territory, with the indication of the duration of such prohibition;
 - d) Indication of the country to which the foreigner shall be sent.
3. The execution of the expulsion order implies adding the deportee to the list of persons not allowed re-entry.

Article 75
Notice of Expulsion Order

The expulsion order shall be notified to the person against whom the proceeding was initiated and included therein is the right to appeal, as well as the deadline to file such recourse.

Article 76
Appeals

1. The expulsion order may be appealed against to the Court of Appeal.
2. The appeal of the decision against foreigners who have entered and remained legally in the national territory or are permanent residents has suspensive effect.
3. The appeal of the decision against foreigners who have entered and remained illegally in the national territory has merely a devolutive effect.

4. Deadline to file the appeal is ten days from the date on which the notice of the decision to deport has been given to the person concerned.

Section III

Execution of the Expulsion Order

Article 77

Executing the Order

1. A foreigner against whom an expulsion order has been issued shall remain under police custody for a period of 48 hours, beginning at the time when the decision was notified, unless the foreigner is not in pre-trial detention or has not filed an appeal under Article 76, item 2.

2. Police custody provided for in the previous item is intended to ensure the expulsion order is executed, and its time limit may be extended by the Court for a maximum of 96 hours, if execution of the order is impossible within the time limit provided for in item 1.

Article 78

Violation of Re-entry Prohibition

1. It is a crime punishable by a prison term of up to two years for foreigners who re-enter the national territory during the time such re-entry is prohibited.

2. In case of conviction, the Court shall order the expulsion of the foreigner as an additional penalty.

CHAPTER XI

Immigration Crimes

Article 79

Aid to Illegal Immigration

1. All persons who, through any means, assist or facilitate the illegal entry or stay of a foreigner in the national territory shall be punished by imprisonment of not more than 3 years or fewer than 30 days.
2. If the acts referred to in the previous item were committed for profit, the penalty shall be imprisonment of not more than 4 years or fewer than 12 months.
3. Attempted offences shall be punished with the same sentences applicable to committed offences.

Article 80

Illegal Solicitation of Labour

1. All persons who, for cash or in-kind remuneration, hire or help the hiring of a foreigner in a workplace for any type of economic activity shall be punished by imprisonment of not more than 3 years or fewer than 30 days.
2. Attempted offences shall be punishable by the same penalties applicable to committed offences.

Article 81

Human Trafficking

1. All persons who under threat of force or any other form of coercion, fraud, deceit, abuse of power or by taking advantage of the victim's vulnerability, recruit, transfer, lodge or keep persons with the purpose of exploiting them or placing them in sexual exploitation, forced labour, slavery or human organ trafficking networks, shall be punished by imprisonment of not more than 8 years or fewer than 3 years.
2. The same penalties shall apply to those who, through payment either in cash or in kind, buy consent from a third party in control of the victim, to perform the activities provided for in item 1 of the present Article.
3. If the victim of the activities provided for in items 1 and 2 of the present Article is a minor under 18 years of age, the mere transportation, recruitment, transfer, lodging or keeping of these

persons for the purposes described in item 1, constitutes a crime that shall be punishable by imprisonment of not more than 12 years or fewer than 5.

Article 82
Criminal Association

1. All persons who establish a group, organization or association whose activities are geared to the commission of the crimes provided for in the previous Articles shall be punished by imprisonment of not more than 5 years or fewer than 2 years.
2. The same penalties apply to all members of such groups, organizations or associations.
3. The leaders of those groups, organizations or associations described in the previous items shall be punished by imprisonment of not more than 15 years or fewer than 5 years.
4. Individuals who commit the offences provided for in the present Chapter and cooperate with law enforcement authorities disclosing the truth, or who with their behaviour contribute in a decisive manner for the offence not to be committed, may be given an especially mitigated sentence with a reduction of 2/5 of the minimum and maximum limits.

Article 83
Investigation

The Immigration Department of the NPTL is responsible for enquiring and investigating crimes provided for in the present Chapter and others connected therein.

CHAPTER XII

Right to Asylum

SECTION I

ASYLUM

Article 84

Right to Asylum Guarantee

1. Foreigners and stateless persons, persecuted or seriously threatened by persecution as a result of an activity carried out in the country of their nationality or of their habitual residence, in favour of democracy, social and national freedom, peace among the peoples, freedom and human rights, are guaranteed the right of asylum.
2. Foreigners and stateless persons who fearing with just cause being persecuted due to race, religion, nationality, political opinion or for being part of a specific social group, cannot or because of fear do not want to return to their country of origin, or to their country of habitual residence, have also the right to be granted asylum.
3. Foreigners who have more than one nationality may be granted asylum only when the motives referred to in the previous items apply to all the countries they are nationals of.

Article 85

Effects of the Asylum Granting

Asylum granting under the terms of the previous item gives the beneficiary the status of refugee, subject to the provisions of this instrument, without prejudice to what has been stipulated in treaties or conventions which the DRTL is party to or adheres to.

Article 86

Exclusion and Right to Asylum

1. Asylum cannot be granted to:
 - a) Those who have committed acts that go against the fundamental interests or the sovereignty of the DRTL;
 - b) Those who have committed crimes against peace, war crimes or crimes against humanity, as described in international instruments designed to prevent them;
 - c) Those who have committed common-law felonies punishable by incarceration for more than 3 years;
 - d) Those who have committed acts that are contrary to the goals and principles of the United Nations.
2. Asylum can be denied if granting it results in a proven risk or evident threat to internal or external security, or to public order.

Article 87
Family Reunification

The effects of asylum granting are deemed to be extensive to spouses, minor, adopted or disabled children, as long as the asylum seeker so requires and without prejudice to what is provided in the previous Article.

Article 88
Effects of Asylum on Extradition

1. Asylum granting precludes follow-up of any extradition request against the asylum seeker, based on the factual grounds of the asylum granting.
2. The final decision over any pending extradition procedures against the asylum seeker is suspended while the request for asylum is being considered.

Article 89
Refugee Status

1. Refugees enjoy the same rights and are subject to the same obligations of foreign residents in the DRTL, insofar as they do not violate the provisions of this instrument, the 1951 Geneva Convention, and the 1967 New York protocol. Refugees have an obligation to abide by the law and regulations, as well as all norms concerning the maintenance of public order.
2. Refugees have the right, under the 1951 Geneva Convention, to an identification document as proof of the status granted them by the Immigration Department of the DRTL as per the model to be approved by decree of the Minister of the Interior.

Article 90
Prohibited Acts

Holders of asylum status cannot:

- a) Interfere, in any manner prohibited by law, in the political life of the DRTL;

- b) Carry out activities that might undermine internal or external security or public order, or that may harm relations of the DRTL with other States;
- c) Carry out activities that are contrary to the goals and principles of the United Nations or of international treaties and conventions that the DRTL is party to or adheres to.

SECTION II

ADMISSIBILITY OF THE ASYLUM REQUEST

Article 91

Asylum Request

For the purposes of this section, an asylum request is understood as the request by which a foreigner petitions a State for protection under the 1951 Geneva Convention, invoking refugee status as defined in Article 1 of said Convention, with the wording used in the New York Protocol.

Article 92

Submission of Request

1. Foreigners and stateless persons who enter the national territory in order to request asylum must submit their request to any police authority within 72 hours from their entry into the country, orally or in writing.
2. In the case of a resident of the national territory, the time count begins on the date upon which the facts, or the knowledge of the facts, that serve as basis for the request are verified.
3. The request must include the asylum seeker's identification and that of the family members for whom protection is also being sought under the terms of this instrument, plus a statement of the circumstances or facts that constitute the basis for the asylum request and a listing of all the evidence.
4. In case the request is not directly submitted to the Immigration Department of the NPTL, it shall be sent to that Department, which immediately notifies the asylum seeker's to make a statement within five days, and informs the United Nations High Commissioner for Refugees (UNHCR).

5. Together with the notification referred to in the previous item, the asylum seeker is given a statement of proof of submission of request, whereupon he or she shall be informed of his or her rights and responsibilities, and told to keep the Department informed of his or her present residence and to appear every 15 days on a specific day of the week, without which the procedure may not go forward.

Article 93

Effects of Asylum on Offences Related to Entry into National Territory

1. Submission of a request for asylum precludes knowing of any administrative or criminal proceeding for illegal entry into the national territory initiated against the asylum seeker or family members who have the right to protection under the terms of the present instrument.
2. The above-mentioned proceedings are dismissed in case asylum is granted and it is proved that the corresponding offence was a result of the very same facts that justified the granting of asylum.

Article 94

Inadmissibility of Request

1. A request is considered inadmissible if, through the procedure described in the present instrument, some of the causes provided for in Article 86, or in the following paragraphs, become manifestly clear from the beginning:
 - a) It is groundless because it clearly does not meet any of the criteria defined by the Geneva Convention and the New York Protocol, because the asylum seeker's allegations concerning his or her fear of persecution in his or her country of origin have no material basis, being clearly fraudulent or an abusive use of the asylum process;
 - b) It is made by an asylum seeker who is a national of or an ordinary resident in a country which qualifies as a safe country or as a third country of shelter;
 - c) It falls within the situations described under Article 1-F of the Geneva Convention;
 - d) The request is presented, unjustifiably, beyond the deadline described in Article 92;
 - e) The asylum seeker has been subject to an order of expulsion from the national territory.

2. For the purpose of the provision of paragraph a) of item 1, there are deemed to be clear indications that the request is clearly fraudulent or that it constitutes an abusive use of the asylum process when the asylum seeker, namely:

- a) Based the request on proof provided by counterfeit or falsified documents, and when questioned about the same affirms in bad faith their authenticity, knowingly gives false testimony concerning the purpose of the request or destroys documents proving his/her identity;
- b) Knowingly omits the fact that an asylum request has already been submitted in one or more other countries, eventually resorting to a false identity.

3. For the purposes of paragraph b) of item 1, it is understood that:

- a) Safe country is a country about which one can safely determine, in an objective and verifiable way, that does not generate any refugees, or a country about which one can determine that the circumstances that could previously justify recourse to the 1951 Geneva Convention have ceased to exist;
- b) Third country of reception is a country where the asylum seeker was verifiably not a target of threats to his or her life and liberty in the sense of Article 33 of the Geneva Convention, nor subject to torture, or inhuman or degrading treatment, and where he or she received protection or took advantage of the opportunity, at the border or in the interior of the territory, to contact the authorities of that country to request protection, or was in fact admitted, and where he or she benefits from real protection against exclusion, in the sense of the Geneva Convention.

Article 95

Summary Investigation and Decision

1. The National Commissioner of the NPTL, after summary investigation, has the authority to issue a decision on good grounds as to the refusal or acceptance of the request within 20 days, after which the request will be considered accepted, in the absence of a decision.

2. The UNHCR representative shall be notified of the decision.

Article 96

Effects of the Request Refusal

1. The asylum seeker shall be notified of the decision to refuse the request within 24 hours, with the warning that he or she must leave the national territory within 10 days, on pain of immediate expulsion once the deadline has passed.

2. The notification referred to in the previous item shall include the information as to the rights of the asylum seeker under the terms of the following Article.

Article 97

Appeal

1. In case the asylum seeker is not satisfied with the decision, he or she can, within five days from receiving notice, submit an appeal to the Minister of the Interior. Such appeal shall have suspensive effect.

2. Within 48 hours from the date upon which the appeal was received, the Minister of the Interior shall issue a final decision, which can be appealed against to a court of law under the general law, within the following eight days.

SECTION III

REQUESTS SUBMITTED AT BORDER POINTS

Article 98

Special Provisions

Admissibility of the asylum requests made at the border points by foreigners who do not meet the legal requirements to enter into the national territory are subject to the provisions described in the previous Articles, with the changes included in the present Section.

Article 99

Request Evaluation and Decision

1. The Immigration Department of the NPTL shall inform the UNHCR representative about the requests for asylum referred to in the previous Article, and he or she shall have 48 hours to interview the asylum seeker, if he or she so wishes.

2. Within the timeframe referred to in the previous item, the asylum seeker shall be informed of his or her rights and responsibilities and shall be interviewed.

3. The National Commissioner of the NPTL shall make a decision on good grounds refusing or accepting the request within a maximum period of 5 days, but never before the deadline anticipated in item 1.

4. The decision referred to in the previous item shall be notified to the asylum seeker, including information as to his or her right of appeal, and shall simultaneously be communicated to the UNHCR representative.

Article 100

Appeal

1. Within 24 hours of receiving notification of the decision, the asylum seeker may file an appeal with the Minister of the Interior. Such an appeal shall have suspensive effect, and the Minister shall render a final decision within 24 hours.

2. The UNHCR representative may, if he or she so wishes, make a statement about the decision of the National Commissioner of the NPTL, and it must be done in writing within 24 hours from the communication about the decision.

Article 101

Effects of the Request and of the Decision

1. The asylum seeker remains at the international area of the border point while awaiting decision by the National Commissioner of the NPTL.

2. The decision to deny the request results in the return of the asylum seeker to the location where his or her trip originated, and in the event that this is impossible, to the country where the travel document with which he or she travelled was issued, or to another place where he or she may be admitted, namely a third country of reception.

3. Failure to notify the asylum seeker of the decision to accept or deny the request, within the deadline established in the previous Articles, shall determine the entry of the asylum seeker into the national territory, followed by the initiation of the asylum proceeding under the terms of the present instrument.

SECTION IV
GRANTING ASYLUM

Article 102

Temporary Residence Authorization

1. The Immigration Department of the NPTL shall issue to individuals covered by the accepted request for asylum a temporary residence authorization, valid for 60 days from the date the request was filed and renewable for 30 day periods until a final decision is made, the model of which shall be approved by decree of the Minister of the Interior.
2. Family members entitled to the same protection under the present instrument must be mentioned and named in the asylum seeker's residence authorization.

Article 103

Finding of Facts and Reporting

1. The Immigration Department of the NPTL shall take the required action and determine all facts deemed convenient for a fair and speedy decision.
2. Deadline for the fact- finding process shall be 60 days, renewable for an equal period, when justified.
3. During the fact- finding process the UNHCR representative may attach to the request reports or information about the country of origin and obtain information about the status of the application.
4. After finding the facts, the Immigration Department of the NPTL prepares a report with the final proposal which is to be sent, together with the file, to the Minister of the Interior.
5. The UNHCR representative shall be informed of this proposal and, if so willing, he or she may make a statement as to its contents within five days.
6. The asylum seeker shall be informed of the proposal's contents and may also make a statement about it within the same timeframe.
7. The Minister of the Interior shall decide within eight days counting from the last day of the term established in the previous item, taking into account the proposal that was made and the possible statements by the asylum seeker and the UNHCR.

8. All who participate in the asylum process must keep professional secrecy regarding the information they have access to in the performance of their duties.

Article 104
Notification and Appeal

1. A denial of the request for asylum can be appealed to the Court of Appeal, within 20 days. Such an appeal shall have suspensive effect.
2. The Immigration Department of the NPTL shall notify the decision to the asylum seeker mentioning his or her right to appeal provided for in the previous item, and shall also notify the UNHCR representative.

Article 105
Effects of the Asylum Denial

1. In case of an asylum denial, the asylum seeker may remain in the national territory for a temporary period, which shall not exceed 30 days.
2. The asylum seeker is subject to the general provisions stipulated in the present instrument, starting from the expiry of the deadline established in the previous item.

SECTION V
REQUEST TO REINSTATE REFUGEES

Article 106
Request for Reinstatement

1. Requests for reinstatement of refugees under the UNHCR mandate are presented by the UNHCR representative to the Minister of the Interior, who requests an opinion from the Command of the NPTL who shall issue said opinion within eight days.

2. The Cabinet member referred to in the previous item is who decides about the admissibility and granting of asylum, taking into consideration the special circumstances of the case and the legitimate interests to be safeguarded.

SECTION VI
LOSS OF THE RIGHT TO ASYLUM

Article 107
Causes for Loss of the Right to Asylum

Causes for loss of the right to asylum are:

- a) Express waiver;
- b) Engaging in prohibited acts or activities as stipulated in the provisions of this instrument;
- c) Proof of falsehoods in the basis invoked for the granting of asylum, or the revelation of facts, which if known at the time of the granting, would have resulted in a negative decision;
- d) The request by, and subsequent granting of protection to, the holder of asylum status in the country in which he or she is a national;
- e) Voluntary reacquisition of the nationality that the holder of asylum status had lost;
- f) Voluntary acquisition by the refugee of a new nationality, as long as he or she enjoys protection from that country;
- g) Voluntary relocation to the country he or she had left or from which he or she remained away for fear of persecution;
- h) The grounds on which asylum was granted cease to exist;
- i) Judicial decision to deport the holder of asylum status;
- j) Departure of the holder of asylum status from the national territory and resettlement in another country.

Article 108

Effects of the Loss of the Right to Asylum

1. The loss of the right to asylum based on paragraph b) of the previous Article is cause for expulsion from the national territory, without prejudice to the provision of item 3 of this Article.
2. The loss of the right to asylum for causes described in paragraphs a), c), d), e), f), g) and h) of the previous Article places the refugee under the general provisions described in this instrument for the stay of foreigners, without prejudice to the provision of the following item.
3. In case of loss of the right to asylum, for the reasons described in paragraph h) of the previous Article, the refugee may request to be granted a residence authorization, exempted from presenting the visa, under the terms of the general law on foreigners.

Article 109

Expulsion of Asylum-Status Holders

Expulsion of an asylum-status holder under the terms of the previous Article may not result in his or her placement in the territory of a country where his or her freedom is at risk for any of the causes which, under the terms of this Chapter, may constitute the basis for granting asylum.

Article 110

Legal Authority

1. The Minister of the Interior has the authority, following a proposal from the National Commissioner of the NPTL, to decide about the loss of the right to asylum.
2. The proposal by the National Commissioner of the NPTL described in the previous item shall be brought to the attention of the UNHCR representative who, if he or she so wishes, may make a statement about such proposal within five days.
3. The decision stipulating the loss of the right to asylum can be appealed against to the Court of Appeal. Such an appeal shall be filed within 20 days, and shall have suspensive effect.

SECTION VII

SOCIAL SUPPORT

Article 111
Guarantee of Reception

The DRTL guarantees asylum seekers conditions consistent with human dignity, until the final decision about the request is made.

Article 112
Social Support

1. Asylum seekers and members of their respective household, who lack financial and social support, shall be provided social support to the extent possible, under the terms of this Chapter.
2. Social support under the previous item shall be provided by non- governmental organizations, under conditions to be agreed upon to that effect.

Article 113
Termination

The procedure described in this Chapter shall be deemed terminated when the process is stalled for over 60 days for reasons attributed to the asylum seeker.

CHAPTER XIII

Fees

Article 114
Fees

1. The fees for visas and visa extensions are the following:
 - a) To issue ordinary visas Class I, US\$ 30, Class II, US\$ 20, Class III and IV, US\$ 40.

- b) To issue work permits and establish residence, US\$ 50;
 - c) To extend permanent visas, US\$ 35.
2. The fees to be paid for issuing and renewing residence authorizations are the following:
- a) To issue authorization for temporary residence, US\$ 40, and to renew residence card, US\$ 25;
 - b) To issue authorization for permanent residence, US\$ 100, and to renew residence card, US\$ 25;
3. To escort foreign nationals whose exclusion from the national territory is the responsibility of the carriers under the terms of this instrument, a US\$ 750 fee shall be required for each individual.
4. The fees described in this Article are revisited annually by a joint order from the Minister of Planning and Finance, and the Minister of the Interior.

Article 115

Fee Exemption and Reduction

- 1. Holders of diplomatic and official passports are exempt from visa fees and charges for extensions of stay.
- 2. Fee exemption also applies to foreign nationals from countries with which the DRTL has agreements for such purpose or whose domestic law guarantees identical treatment to DRTL nationals.

CHAPTER XIV

Fines

Section I

Applicable Fines

Article 116

Illegal Stay

- 1. In cases where the foreigner exceeds the authorized stay in the national territory, the following fines will apply:

- a) US\$ 70 to US\$ 150, if the overstay period does not exceed 30 days;
- b) US\$ 150 to US\$ 270, if the overstay period exceeds 30 days, but is less than 90 days;
- c) US\$ 270 to US\$ 500, if the overstay period exceeds 90 days.

2. Extensions to the maximum stay allowed in the provisions of this instrument cannot be authorized without proof of payment of any applicable fine under the previous item.

Article 117

Transportation of Foreigners not Authorized to Enter

Carriers as well as all who transport into the national territory foreign nationals whose entry into the DRTL is not authorized, shall be subject to a fine of not more than US\$ 1500 and not less than US\$ 750 for each individual.

Article 118

Practicing Unauthorized Professional Activity

The practice of a professional activity, as an employee or independently, by foreigners lacking authorization and appropriate work permit or residence authorization, when required, shall be subject to a fine of not more than US\$ 1000, and not less than US\$ 250.

Article 119

Use of Illegal Labour

Companies and individuals who employ foreign nationals who do not have the authorization for practicing that activity under the terms of this instrument, shall be subject to a fine of not more than US\$ 2000 and not less than US\$ 500 for each individual detected illegally practicing the above mentioned activity.

Article 120
Renewal After Expiration

Foreigners who request renewal for their temporary residence over 30 days after expiration of the same shall be fined not more than US\$ 250 and not less than US\$ 50.

Article 121
Non-observance of Certain Responsibilities

Violation of the obligation to communicate described in the present instrument entails a fine of not more than US\$ 200 and not less than US\$ 25.

Article 122
Non-observance of Lodging Registration

For each foreigner whose particulars are not entered in a register, either in hard copy or any other format, under the terms of this instrument, shall be fined not more than US\$ 200 and not less than US\$ 25.

Section II
Application of Fines

Article 123
Reporting of an offence

1. A report shall be prepared in connection with every detected offence that carries the application of a fine under the terms of the present instrument. 2. Where more than one offence is committed by the same person a single report shall be prepared covering all such offences.
3. The report must include the location and the date on which the offence was committed, the name of the offender or responsible party, and his or her respective address, the circumstances that resulted in the offence, and the name and contact information of the witnesses to the offence, as well as the identification and signature of the reporting officer.

Article 124
Voluntary Payment and Claims

1. The report shall be immediately notified to the individual responsible for the offence, together with the information that he or she can voluntarily pay the fine within 10 days, in which case the minimum amount established by law or, during the same period of time, he or she can file a claim about the fine imposed.
2. The claim described in the previous item must be addressed to the National Commissioner of the NPTL, and must be accompanied by all the evidence that in the opinion of the claimant justifies non- payment of the fine.
3. In case the claim is not satisfied, a new deadline of five days is allowed for voluntary payment of the fine in the minimum amount established by law.
4. Voluntary payment of fines shall be made using the fine notices issued by the Immigration Department of the NPTL in triplicate, and payment shall be made to the Treasury of the NPTL. One copy remains at the Treasury, another copy with the offender, and the third copy goes to the Immigration Department as proof of payment.

Article 125
Wilful Failure to Pay

1. In the case of wilful failure to pay, the report of the offence, together with other relevant documentation, shall be sent to the District Court of the area of residence of the offender, in order to proceed with execution or, where such Court does not exist, to the District Court where the offence was committed.
2. Upon receiving the file, the Court initiates the execution proceeding, setting the date for the hearing, sending summons to the reporting officer(s) and the offender, informing the latter that he or she may bring up to three witnesses and present other evidence.
3. The offender's appearance in Court is mandatory, and the Court shall make a decision even if the offender fails to appear and it is proved that he or she was duly notified.
4. Once the presentation of evidence has been completed and the Court decides not to acquit the alleged offender, the Court shall declare him or her guilty and shall determine a fine according to the criteria defined in the next Article and within legal limits, accrued by the court costs due.

5. The decision is immediately notified to the offender if present, or by mail if absent, setting a deadline for voluntary payment, after which if payment is not made, the sentence shall be executed.

6. The decision of the District Court in this case cannot be appealed.

Article 126
Criteria for Determining Fines

1. In order to determine fines the Court will consider, among others, the following criteria:

- a) The financial status of the offender;
- b) Economic advantages derived from the offence;
- c) Recidivism;
- d) Criminal intent;
- e) Damage caused to society, to the State or to other public entities.

2. Negligence in paying any of the fines described in this instrument shall always be punishable by law.

Article 127
Restrictions

Under no circumstances shall visas be extended, permanent visas granted, authorizations of residence renewed or any acts performed for the benefit of a foreigner without proof of payment of any fines due.

Article 128
Disposal of Fines and Fees

1. The monies received for fines under the terms of the present instrument will be assigned as follows: 80% for the State, and 20% for the NPTL.

2. The total amount of the fees will be distributed according to the criterion described in the previous item, except for fees for visas to establish residence, ordinary visas Class II and IV, and work permits, with 80% accruing to the State, 10% to the NPTL, and 10% to the Ministry of Foreign Affairs and Cooperation.

CHAPTER XV

Final and Transitional Provisions

Article 129

Identification of Foreigners

In order to establish or confirm the identity of foreigners the Immigration Department of the NPTL may resort to the required means of identification, namely photos and fingerprints.

Article 130

Expenses

The expenses necessary to leave the national territory that cannot be borne by the foreigner or by those who are responsible for him or her under the terms of this instrument shall be borne by the State drawing from an amount to be assigned in the budget for the NPTL for this purpose.

Article 131

Regularization

1. Foreigners who entered the country after September 7, 1975, and who are conducting activities in the national territory for which under the present provisions it is mandatory to be a resident or holder of a proper visa, must, within 90 days from the entry into force of this Act, request a visa that will allow them to stay or to practice a professional activity.

2. The granting of the visa described in the previous item shall follow the requirements established in this law, with the necessary adaptations, and its application shall be regulated by a ministerial instruction issued by the Minister of the Interior.

Article 132
Visa Exemptions

The Government may, through a resolution by the Council of Ministers, taking into account the tourism influx, regional and global security concerns, and international relations of the State, exempt nationals of certain countries from the obligation to hold ordinary visas Class I and II, or tighten the conditions under which they are issued and granted.

Article 133
Enforcement

The power to enforce the provisions of this Act belongs to the National Police of Timor-Leste.

Article 134
Revocatory Clause

All legal or regulatory provisions contrary to the provisions of the present law, namely UNTAET Regulation 9/2000 of January 25, are hereby repealed.

Approved on 6 May 2003 and

Confirmed on 29 September 2003

The Speaker of the National Parliament

[Signed]

Francisco Guterres “Luo-Olo”

Promulgated on 8 October 2003

To be published.


The President of the Republic

[Signed]

Kay Rala Xanana Gusmão

ANNEX 1

BLUE INK STAMP (COMMON MODEL FOR VISAS DESCRIBED IN ARTICLE 34)

	
VISTO/VISA	
TIPO DE VISTO: COMUM CLASSE I	<input type="checkbox"/>
CLASSE II	<input type="checkbox"/>
CLASSE III	<input type="checkbox"/>
CLASSE IV	<input type="checkbox"/>
TRABALHO-----	<input type="checkbox"/>
PARA FIXAÇÃO DE PERMANÊNCIA--	<input type="checkbox"/>
VÁLIDO ATÉ: / / PERMITIDA A PERMANÊNCIA POR:	
AUTORIZAÇÃO N. DE / / POR:	
NOME:	
NUMERO FAMILIARES:	NUMERO DE ENTRADAS:
LOCAL, DATA E ENTIDADE EMISSORA:	
<hr/>	
(ARTIGO 17 E 34 DA LEI DE IMIGRAÇÃO E ASILO)	

MEASUREMENTS: LENGTH 8 CM

WIDTH 6 CM

MUST BE AUTHENTICATED WITH INK STAMP BEARING THE NAME AND RANK OF THE ISSUING ENTITY.