

**ASOSIASAUN ADVOGADO
TIMOR LOROSA'E**

INTERNAL STATUTE DRAFT

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LAWYERS WITHOUT BORDERS
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Asociasaun Advogado Timor Lorosa'e

Draft of the internal Statute

TITLE I – GENERAL DISPOSITIONS

Section 1

1. The Asociasaun Advogado Timor Lorosa'e, also referred to as AATL, is an Association of public interest, governed by law and the present Constitution of Timor-Leste and represents advocates exercising the profession including public defenders in the Democratic Republic of East Timor.
2. The Asociasaun Advogado Timor Lorosa'e may as well represent all law graduated persons desirous of being a part of the Association.

Section 2

1. The AATL has its main office in the capital Dili, and reserves the options of opening representative offices in any district or areas under the legal jurisdiction of East Timor.
2. The AATL has a countrywide jurisdiction to exercise its duties and functions that the law and the present Constitution confer on it.

Section 3

1. The AATL is an independent legal entity not subjected in any manner whatsoever to any governmental body. The AATL has the capability to define and modify its own regulations and elects its own governing bodies.
2. The AATL has no political affiliation and does not belong to any political party.

Section 4

The objectives of AATL are:

- I. To uphold the Constitution of East Timor its democratic institutions and its guarantees and defence of Human Rights and the rule of law;
- II. To promote access to justice for the community privately and through the institutional channels established in the entity of the Public Defenders of the Republic of East Timor;
- III. To disseminate and promote awareness about laws and regulations among the community;
- IV. To promote and develop continuing legal education and training for advocates including public defenders, to enhance their capacity;
- V. To ensure ethical practices and professional behaviour among the advocates including public defenders in East Timor;
- VI. To enhance the dignity and credibility of the advocates' profession in East Timor;
- VII. To encourage a sense of solidarity among all practitioners of law in the country;

- VIII. To conduct research on reform in law and the judicial system;
- IX. To build collaboration with government authorities through regular dialogue, especially by holding consultation with the institutions related to the judicial system without causing prejudice to the independence of the Association;
- X. To collaborate with the government in law drafting processes;
- XI. To develop relations with national or international institutions;
- XII. To strive for political and financial independence of the Association;
- XIII. To promote social services and recreational activities for its members;
- XIV. To perform any other action that may be considered relevant to defend and protect advocates' rights, including public defenders.

Section 5

The core functions of AATL are:

- I. Defend the interests and rights of its members;
- II. Be responsible for professional accreditation of advocates to enable them to function as advocates in East Timor;
- III. Approve a Code of Ethics and a regulation to govern the professional conduct of advocates, including public defenders;
- IV. Deliberate, modify and approve internal regulations.

Section 6

- 1. The disciplinary body for the advocates, including public defenders, is the Superior Council of Advocacy.
- 2. Failure to comply with the regulations of the constitution may give reason to instigate disciplinary action.

Section 7

- 1. Appeals on decisions made by the Executive Board, Audit Committee and by the President of the General Assembly shall be presented before the General Assembly within fifteen days of the notification.
- 2. Appeals on decisions of the General Assembly shall follow civil law procedures before an ordinary Court.

Section 8

In any procedure instigated by any of the management committees of the AATL a broad exercise of the right of defence must be guaranteed.

Section 9

The assets of the organisation shall comprise the following:

- I. Fees and fines paid by the members;
- II. Income received from any service or product sold;
- III. Income and goods obtained through donations, taxes, fund raising or subsidies from public or private, national or international institutions;

TITLE II – MEMBERSHIP

Section 10

The exercise of functions as an advocate performed by any person who is not duly accredited by AATL will be considered illegal and the person liable for civil and criminal prosecution.

Chapter I – Categories of members and requisites to qualify for membership

Section 11

1. There are three categories of members in AATL:
 - I. Ordinary members category A;
 - II. Ordinary members category B;
 - III. Honorary members.
2. Ordinary category A members are advocates accredited by AATL to practice as advocates according to the regulations stipulated by law. Therefore only category A members with accreditation in force are eligible to bear a post as public defender.
3. Only ordinary category A members can practice as advocates in East Timor.
4. Ordinary category B members are those person holding a degree in law but who do not qualify to practice as advocates in East Timor but nevertheless desire to be a part of AATL. Such members could be researchers, teachers, dignitaries or employees in the Timorese Public Administration holding a degree in law.

Section 12

1. The following persons are eligible to become honorary members:
 - I. Persons who have contributed or provided exceptional service to AATL or to the field of law in East Timor;
 - II. Prominent citizens or dignitaries from East Timor or from foreign countries;
2. The nomination of such members is proposed by the Executive Board and approved by General Assembly.

Section 13

The following are the requisites that need to be fulfilled to be a category A member:

- I. Sound mind;
- II. Law graduate;
- III. Written statement made by the candidate declaring that at the time of applying for membership s/he fulfils all the criteria and foresees no reason whatsoever for his/her nomination to be a member rejected on legal grounds;

- V. Completion of practical training;
- VI. Pay the annual fee;
- VII. Pronounce the oath before the Executive Board.

Section 14

The following are the requisites that need to be fulfilled to be a category B member:

- I. Sound mind;
- II. Law graduate;
- III. Written statement made by the candidate declaring that s/he foresees no reason whatsoever for his/her nomination to be a member rejected on legal grounds;
- IV. Pay the annual fee.

Chapter II - Rights and obligations of the members

Section 15

The rights of category A members are the following:

- I. To receive membership identification number and certificate of accreditation;
- II. To elect and be elected to any position in the various committees of AATL;
- III. To vote in the General Assembly meetings;
- IV. To call for a General Assembly meeting as per the regulations stipulated in the constitution;
- V. To be entitled to AATL legal representation if the case is related to his/her practice as an advocate;
- VI. To use the general facilities made available by AATL;
- VII. To request and access management information of the Association;

Section 16

The obligations of category A members are the following:

- I. Uphold the reputation and prestige of AATL and follow the code of ethics;
- II. Represent AATL only if authorised to do so by the Executive Board and otherwise never to express views and opinions in public or elsewhere that could be attributed to the association;
- III. Pay the membership fee regularly and on time and any other fees that may be stipulated by anyone of the legitimate committees of the association;
- IV. Obey the rules and regulations stipulated in the constitution as well as other directives that may be issued from time to time;
- V. Accept decisions made by the various committees of the association;
- VI. If elected as an office bearer, perform with honesty, diligence and dedication the tasks laid down for the post;
- VII. Attend without causing delay any summons issued by the association;

- VIII. Inform the association of any change in circumstances that can affect in any way the status of the category of membership that s/he currently holds and also relating to his/her right to practice as an advocate;

Section 17

The rights of category B and honorary members are the following:

- I. To receive membership identification number;
- II. To participate with right of voice in all the General Assembly meetings;
- III. To participate in the call for a General Assembly meeting as per the regulations of the constitution;
- IV. To use the general facilities made available by AATL;
- V. To request and access management information of the Association in conjunction with the support of at least two category A members.

Section 18

The obligations of category B and honorary members are the following:

- I. Uphold the reputation and prestige of AATL and follow the code of ethics;
- II. Represent AATL only if authorised to do so by the Executive Board and otherwise never express to views and opinions in public or elsewhere that could be attributed to the association;
- III. Pay the membership fee regularly and on time and other fee that may be stipulated by anyone of the legitimate committees of the association;
- IV. Obey the rules and regulations stipulated in the constitution, as well as other directives that may be issued from time to time;
- V. Accept decisions made by the various committees of the association;
- VI. Perform with honesty, diligence and dedication the tasks laid down if making part of a permanent or temporary commission;
- VII. Attend without causing delay any summons issued by the association;
- VIII. Inform the association of any change in circumstances that can affect in any way the status of the category of membership that s/he currently holds;

Chapter III – Registration and Accreditation of advocates including public defenders in East Timor

Section 19

The authority entitled to issue accreditation to a person fulfilling the necessary criteria to practice as advocate rests with the Executive Board. The General Assembly holds the responsibility for ratifying the decision. Decision to provide accreditation can only be rejected if there is enough basis to presume that it constitutes a violation of the law.

Section 20

1. The request for registration and accreditation must contain:

- I. Personal information of the candidate;
 - II. Original identification card. A certified copy must be provided by the candidate;
 - III. Original law degree certificate. A certified copy must be provided by the candidate;
 - IV. A solemn declaration by the candidate stating that s/he does not attract any cause for rejection of registration and accreditation if the application is for category A membership and that s/he does not attract any cause for rejection of membership if the application is for category B membership;
 - V. Completion certificate of legal practice training;
 - VI. Certificate stating that the person has no criminal record;
 - VII. Pay annual fee.
2. The Executive Board will make a decision within 15 days of receipt of the application.

Section 21

If the candidate fulfils the necessary criteria the Executive Board will issue an accreditation card with the photograph, name, personal particulars and a registration code assigned to the member. This card will bear the signature of the President of AATL.

Section 22

Regular use of the credentials issued by AATL is compulsory and a strict condition for persons practising as advocates.

Section 23

Suspension of registration will apply when:

- I. A member so desires;
- II. A member has temporarily attracted any of the conditions that prevent him/her from exercising their right to be a member of the association according to the law;
- III. Condemnation in disciplinary process and for the time there stipulated;
- IV. Failure to pay the annual fee;

Section 24

Cancellation of registration will apply when:

- I. A member so desires;
- II. A member has been found to have permanent grounds to be denied continued right to be a member of the association according to the law;
- III. Loss of any one of the essential requisites to be a member of AATL;
- IV. Expulsion of the member following a disciplinary procedure;
- V. Demise of the member.

Section 25

The process to decide if a member has attracted the conditions necessary to be either temporarily suspended or permanently debarred from the association will be made by the Executive Board.

Chapter IV - Advocates' societies

Section 26

1. Individuals practising as advocates can be contracted by any agency or society that is a legal entity. The registration of the agency or society shall be done as per the law regulating this subject.
2. The fact that an advocate belongs to an agency or society does not exclude him/her from personal liability before the client, and the eventually liability of the agency or society.
3. The mandate to practice as an advocate and provide legal representation is given to and exercised only by individuals without prejudice to the rights of the agency or society.

Section 27

An advocate working as an employee in any agency or society will not have his/her independence to practice as an advocate curtailed or reduced in any manner whatsoever.

Chapter V – Fees

Section 28

The Executive Board will submit for approval to the General Assembly a scale for fees that could be charged for legal services provided by advocates.

Section 29

When determining the amount of fees, advocates shall assess in a reasonable manner the time required by the case, the difficulty of the case and the circumstances of the client.

Section 30

If there is no agreement on stipulation of fees, the same will be determined by the Court.

TITLE III - ORGANS

Chapter I - General

Section 31

The management committees of AATL are the General Assembly, the Executive Board and the Audit Committee.

Section 32

1. All positions pertaining to the executive board and audit committee shall be filled by an election process and shall hold office for a term of two calendar years.
2. The holding of such offices can be extended by one more term.

Section 33

All category A members fully registered and with subscription fee paid up to date are entitled to elect and be elected to any of the management positions.

Section 34

The casting of vote is by secret ballot. All category A members are obliged to cast their vote.

Section 35

1. The Executive Board of the Association holds responsibility for determining the date for election that should be carried out during a General Assembly meeting.
2. The deadline for submission of candidature is thirty days before the date of election.

Section 36

1. The submission of candidature shall be made to the Executive Board. Every list of candidates should provide enough people to be elected to all posts of the executive board and audit committee.
2. The application to contest an office should contain a written declaration stating that the candidate, if elected, is willing to occupy the office s/he is contesting.
3. The list of candidates shall include people from at least three different agencies, law firms or institutions representing advocates.
4. It is not permitted for representatives of any particular agency, law firm or institution to occupy all the positions either in the executive board or in the audit committee at the same time.
5. One public defender in the executive board and one in the audit committee shall always make part of the list of candidates.

Section 37

1. Only under valid reasons will an office bearer be allowed to vacate office before the completion of the full term. The presentation of facts and request to vacate office shall be made to the Executive Board at least sixty days before the intended date of leaving.
2. The Executive Board shall hold responsibility to either accept or reject such requests and is the competent authority to decide on interim measures to fill the vacant position.

Section 38

1. An office bearer may be required to vacate office based on a decision made by the General Assembly, if s/he is subject to a disciplinary ruling as a result of incompatibility to carry out the necessary functions or if the registration is cancelled or for exhibiting lack of dedication and a sense of responsibility.
2. After an office bearer has been removed from holding office the President of the Executive Board will appoint a substitute.

Section 39

If the majority of the office bearers of the Executive Board or the audit committee have been removed or have resigned their positions, the remaining members are obliged to call an extraordinary meeting of the General Assembly to elect a new Executive Board or the audit committee.

Section 40

Every meeting of all the committees of AATL shall be recorded. All the constituent committees of the Association will have their own book to record the facts happened and the decisions arrived at during the course of the meetings.

Chapter II - General Assembly

Section 41

The General Assembly is the supreme body of the Asociaaun Advogado Timor Lorosa'e and is formed by the members of any category.

Section 42

The functions of the General Assembly are the following:

- I. Elect the members of the Executive Board and the Audit Committee;
- II. Establish the general activities and the financial strategy for AATL;
- III. Deliberate about the actions taken, proposals made and decisions carried out by the Executive Board and the Audit Committee as per the regulations of the constitution;
- IV. Amend the constitution after securing a vote of 2/3rd of the members entitled to vote in the Assembly;

- V. Approve the amount of the annual fee and other contributions to be made by the members as well as the fees for legal services provided by advocates, including the public defenders;
- VI. Authorise the President of the Association to develop links and co-operation with other national or international institutions;
- VII. Decide and authorise the Executive Board to buy and sell goods on behalf of the Association by stating in clear and unambiguous terms the power to be vested for the purpose;
- VIII. Deliberate and adopt measures that are considered appropriate and relevant for the development of the Association;

Section 43

The General Assembly discussions are lead by a President and Secretary elected from among the members.

Section 44

- 1. The presence of half of the number of category A members is deemed necessary to hold a meeting of the General Assembly.
- 2. If the quorum stated above cannot be met, the General Assembly will adjourn and meet half an hour later after a second summon with the actual number of category A members present.

Section 45

- 1. Decisions in the General Assembly will require an absolute majority vote of the members present with the exception of amendments to the constitution.
- 2. In case of a tie during vote, the President of the General Assembly or whoever may be the substitute has a deciding vote.

Section 46

- 1. The General Assembly meetings can be ordinary or extraordinary
- 2. The General Assembly will meet ordinarily at least once a year to discuss and vote on the following issues:
 - I. Approval of the annual report including financial report prepared by the Executive Board and the Audit Committee;
 - II. Establish guidelines, activities, strategy plan and budget for the fiscal year;
 - III. Once every two years to hold elections to the various management committees of AATL.
- 3. An extraordinary meeting will be held if:
 - I. Requested by any management body of the Association, including the President of the General Assembly;
 - II. Requested together by a group of members from which at least eight must belong to category A.

Chapter III - Executive Board

Section 47

1. The Executive Board consists of at least one President, one Vice-President and one secretary cum treasurer.
2. The President of the Executive Board is the President of the Asociaaun Advogado Timor Lorosa'e.

Section 48

In the Executive Board resides the power of administration and management of the Association.

Section 49

The functions of the Executive Board are the following:

- I. Execute and carry out the activities foreseen in the strategic and/or annual plans, as well as other decisions taken and promoted by the General Assembly;
- II. Represent AATL before any private or public institution, including judicial mandate, acts and contracts;
- III. Establish permanent or temporary commission as it deems fit to elaborate on views or opinions on legal issues;
- IV. Respect, make respect and observe the regulations of the Association;
- V. Submit for discussion and approval of the General Assembly: the amount and type of contributions to be made by members, the scale of fees for advocates, annual accounts and report on activities of the previous year, as well as the strategic plan and budget provision for the following year;
- VI. Elaborate and submit for discussion in the General Assembly modifications to existing regulations or new regulations to be adopted by the Association;
- VII. Control the finance and monitor the accounts of the Association;
- VIII. Buy and sell goods on behalf of the Association after seeking proper authorisation from the General Assembly;
- IX. Exercise any other duties other than the ones foreseen for the General Assembly and the Audit Committee.

Section 50

The Executive Board will meet at least once every two months.

Section 51

Any member of the Executive Board may request a special meeting.

Section 52

1. The Executive Board can meet only if the majority of its members are present.

2. In case of regular absence by any one of the office bearers, the person holding office next in the hierarchical order will be the automatic replacement.
3. Decisions are taken after securing an absolute majority of members entitled to vote with the President holding the right to cast the deciding vote in case of a tie.

Section 53

Any office bearer of the Audit Committee is permitted to participate in the Executive Board meeting but does not have the right of vote.

Chapter IV – Audit Committee

Section 54

1. The Audit Committee consists of at least one Director, one Vice-Director and one Secretary.
2. The Audit Committee is responsible for auditing the accounts of AATL and to give its view on other issues if specially requested to do so.

Section 55

The functions of the Audit Committee are the following:

- I. Examine the official books, archives, files, receipts and other records of the Association;
- II. Issue a report addressed to the General Assembly on the accounts presented by the Executive Board;
- III. Supervise the financial activity of the Association;
- IV. Give its view about financial matters or other issues if requested;
- V. Make suggestions to the Executive Board or the General Assembly on matters that it deems relevant and beneficial to the Association;

Section 56

The meeting of the Audit Committee will be held at least once a year preferably nearer the end of the fiscal year.

Section 57

1. The President will summon the Audit Committee meeting but any member of the Executive Board is also entitled to request a special meeting.
2. The Audit Committee can meet only if the majority of its members are present.
3. Decisions are taken after securing an absolute majority of members entitled to vote with the President holding the right to cast the deciding vote in case of a tie.

Section 58

Any office bearer of the Executive Board may participate in a meeting of the Audit Committee but does not have the right of vote.

TITLE IV – FINAL AND TRANSITORY DISPOSITIONS

Section 59

In case of vacuum in the present regulation, the advocate's statute, the legal regime for civil associations and the Civil Code, in that order, will apply.

Section 60

Individuals holding a degree in law and practising as an advocate in East Timor at the time of adoption of this Constitution are eligible to become a category A member. To complete this process the individual is required to produce before the elected Executive Board the original degree certificate along with a copy of the same certified by a notary and/or equivalent documentation from a recognised university or government institution either Timorese or foreign.