

Government Decree 17/2017 of May 12 2017

Regulations for the oversight, observation and media coverage activities for the election of Deputies to the National Parliament

The holding of free and fair elections has as a fundamental presupposition that all operations for its preparation, the voting and the counting are based on criteria of transparency.

Electoral observation activities by representatives of political parties and party coalitions, electoral observation and media coverage of electoral processes are fundamental instruments for implementing the principle of transparency and accountability of candidates, political parties, coalitions of political parties and electoral administration bodies to the national and international communities.

Making rules for these activities, in accordance with the principles and legal norms enshrined in the Constitution of the Democratic Republic of Timor-Leste, is therefore, an imperative of the credibility of the electoral process and widespread acceptance of the electoral results which are determined.

In approving this Decree, the Government clearly defines the status of parties' and party coalitions' agents, electoral observers and media professionals, establishes the procedural rules for accreditation of these and defines the relevant sets of rights and duties.

Accordingly, the Government decrees, pursuant to Article 77 (e), (f) and (g) of Law No 6/2006, of 28 December, as amended by Law No. 9 / 2017, of May 5, to validate as a regulation, the following:

CHAPTER I

General Provisions

Article 1

Scope

This Decree of the Government approves the rules of acquisition and loss of status as a political party or political party coalition agent, electoral observer and media professional.

Article 2

Definitions

For the purposes of applying this Government Decree, the following is considered:

- a) Political party or political parties' coalition agent, is a natural person designated by a political party or coalition of political parties, to carry out an activity to oversight voting operations, counting of votes or tabulation of the electoral results respectively, at a polling station, polling center, at a municipal tabulation center or in the Special Administrative Region of Oe-Cusse Ambeno tabulation center, or at the national tabulation center, and who, as such, is accredited by the Technical Secretariat for Electoral Administration (STAE);
- b) Electoral Observer, is a natural person designated for observation of the electoral process, who represents a national or international organization and who, as such, is accredited by STAE;
- c) Media professional, is a natural person designated by a media body to ensure the media coverage of the electoral process and, as such, is accredited by STAE;

CHAPTER II

POLITICAL PARTIES' OR POLITICAL PARTY COALITIONS' AGENTS

Article 3

Powers

1. Political parties and coalitions of political parties competing for the election of Members of the National Parliament may designate up to five agents per polling center and polling station, to follow voting operations and the tabulation of electoral results, being one effective agent and four substitutes.
2. During voting, within the area where the polling station is operating, only one candidate agent from each party or coalition of parties may be present in order not to prejudice the regular functioning of voting operations.
3. The rules foreseen in the preceding paragraphs apply to the tabulation in polling centers, the municipal tabulation centers and the Special Administrative Region of Oe-Cusse Ambeno tabulation center.
4. The provisions in the previous paragraphs shall apply, with the necessary adaptations to the national tabulation center.

5. The agent's competencies are:

- a) Monitor the conduct of voting operations, from the establishment of the polling center and the polling station, until its final closure, from next to the polling station;
- b) Presenting questions and obtaining answers during the conduct of electoral operations;
- c) Monitor, in own vehicle, the transportation of ballot boxes and other polling center or polling station materials.
- d) Monitor the process of counting votes and tabulation of the results;
- e) Signing the minutes and initial all documents relating to voting operations and the tabulation of results at which the agent is present.
- f) To file complaints and protests during the electoral process;
- g) Deliver the respective claims to CNE, if the claims or protests are not addressed or resolved through the deliberations of election officials.

6. The lack of appointment or presence of an agent does not constitute grounds for challenging the election.

Article 4

Incompatibilities

Being a political party's or coalition of parties' agent is incompatible with the following functions:

- a) Candidate;
- b) Observer;
- c) Election official;
- d) Member of an election tabulation committee.

Article 5

Rules of conduct

A political party's or coalition of parties' agents shall respect the following rules of conduct:

- a) Maintain impartiality in the course of his/her duties, not seeking unduly to favor the list of candidates that he/she represents and respect the Constitution, laws, and applicable regulations.
- b) Cooperate with other agents of political parties or coalitions of parties so that the electoral process takes place in a transparent and orderly manner.

- c) Display the identification required by national authorities, and present this when requested by election officials or other competent national authorities.

Article 6

Benefits

On Election Day and for the duration of the activity, an agent of a political party or coalition of parties shall be exempted from the duty to attend his or her employment, without prejudice to his or her rights or privileges, including the right to remuneration, provided that he or she performs these functions supported by a document issued by STAE.

Article 7

Designation and accreditation procedure

1. The full list of agents appointed by political parties or coalitions of parties is presented to STAE in writing and in electronic format, by the political party or coalition of parties no later than seven days before the start of the election campaign.
2. The document in which the agents are listed must be signed by the representative of the candidate list for election as Deputies to the National Parliament and contain, for each agent listed, the following information:
 - a) Full name;
 - b) Voter card number;
3. STAE issues the credentials to agents of political parties or coalitions of political parties no later than 5 days after the deadline for receipt of the document referred to in paragraph 1 of this article.
4. In the event of an irregularity, STAE immediately notifies the representatives of the candidate list for election as Deputies to the National Parliament so that they can correct it within 48 hours.
5. If irregularities are not corrected by the representative of the candidate list who has been validly notified for this purpose, then credentials are not issued for these agents.
6. Before receiving credentials, agents appointed by the political parties or coalitions of political parties are subject to prior training administered by STAE.
7. The template for the credential of a political party's or coalition of parties' agent is set out in the annex to this Government Decree, of which it forms an integral part for all legal purposes.

Article 8
Assigning identification code

1. Each of the agents for a political party or coalition of political parties will have an identification code, assigned by STAE.
2. The identification code referred to in the preceding paragraph determines the polling center and the polling station where the agent will perform his/her functions.

Article 9
Cancellation of registration

1. STAE revokes the accreditation of agents of candidate lists who do not comply with the provisions of electoral legislation and this regulation.
2. Appeals against a decision to revoke accreditation as in the previous paragraph can be filed with CNE within twenty-four hours.
3. After consulting STAE, which has twenty-four hours to respond, CNE decides the appeal filed in accordance with the preceding paragraph within 48 hours.

CHAPTER III
ELECTION OBSERVERS

Article 10
Powers

1. Electoral observation shall consist of the collection of systematic, complete and accurate information on the laws, processes, institutions and other factors relating to the holding of the elections, the impartial and professional analysis of such information, as well as the drawing of conclusions based on criteria of strict accuracy and impartiality, including the formulation of recommendations intended for improving the integrity and effectiveness of the electoral process.
2. Election observers may, in particular, carry out the following tasks:
 - a) Observe the electoral acts for which they were accredited;
 - b) Monitor the voting operations process, from the establishment of the polling center to its closure;
 - c) Monitor the transportation of the ballot boxes and other elements of the polling center or polling station to the municipal tabulation center;

- d) Monitor the process of counting votes and tabulation of results.

Article 11

Rights

1. National and international observers shall enjoy the following rights:

- a) Freedom of movement throughout all the national territory;
- b) To ask for clarification from all structures involved in the electoral process on matters linked to the electoral process and to obtain from such structures the corresponding clarifications in due time;
- c) Freedom of communication with all the lists of candidates and social segments in the country;
- d) To monitor all electoral acts;
- e) To access any official documentation relating to the electoral process;
- f) To visit CNE and STAE facilities in order to verify the conformity of the means used in the electoral process;
- g) Freedom to have access to, and communicate with, media representatives;
- h) Free access to all the laws, regulations and codes governing the electoral process;
- i) Freedom to access all polling centers and district and national tabulation centers;
- j) Communicate with, and have access to, CNE and STAE.

2. In order for observers to adequately accomplish their functions, the electoral authorities shall:

- a) Guarantee that observers have freedom to issue public statements and present the reports they deem appropriate without any kind of interference;
- b) Guarantee that there is no interference in the selection and quantity of electoral observers;
- c) Guarantee that there will be no interference in the activities of observers;

- d) Guarantee that there will be no pressures, threats, or reprisals on any national or foreign citizen working for an observer or observer mission, whether national or international, as well as on all those people providing assistance or information to observers and electoral observer missions.

Article 12

Duties

National and international observers shall have the following duties:

- a) Respect the sovereignty of the Timorese State, the Constitution of the Democratic Republic of Timor-Leste, and the legislation in force;
- b) Not interfere nor obstruct the development of the electoral process and abstain from giving instructions or orders to election officials;
- c) Refrain from publicly issuing statements that call into question the normalcy of the electoral process;
- d) Provide the National Electoral Commission (CNE) and STAE with a copy of the final election observation report they produce;
- e) Observe strict impartiality and neutrality in the conduct of their duties, avoiding any partiality or preference in relation to national authorities or lists of candidates;
- f) Not exhibit or use the symbols of the lists of candidates;
- g) Not accept nor attempt to obtain any gifts, favors or incentives from any list of candidates or their agents, or from any other organization or individual involved in the electoral process;
- h) Disclose any relationship susceptible to creating a conflict of interest with his or her functions or with the process of electoral observation and evaluation;
- i) Base all their reports, information and conclusions on documented, factual and verifiable evidence originating from credible sources or on information from suitable eyewitnesses;
- j) Always carry the identification document issued by STAE and display it whenever requested by an authority or election official.

Article 13

Designation and accreditation procedure

1. National or international organizations which have the purpose of implementing electoral observation missions, within or outside the national territory, must make a written request for the accreditation of their observers to the Director General of STAE, up to seven days before the election.
2. Organizations that do not have in their objectives the implementation of electoral observation, but have carried out in Timor-Leste electoral observation activities duly accredited by STAE in past electoral processes, may also request the accreditation of electoral observers.
3. The request for accreditation shall be accompanied by an official document with the constitution and rules of the organization that proposes to carry out electoral observation activities and by a complete list of observers included in the mission and which states for each proposed observer:
 - a) The full name of each observer;
 - b) The electoral number of the observer;
 - c) A photocopy of the identity card or voter card for a national observer;
 - d) A photocopy of the passport, when it's an international observer;
 - e) Two passport photographs of the observer.
4. After receiving the documents that support the application for accreditation of observers, the Director General of STAE decides on the issuance of the respective credentials within forty-eight hours.
5. The credentials are issued no later than five days after the request compiled by the organization that requires the accreditation of its observers is received by STAE.
6. Appeals against a decision to reject can be filed with CNE within twenty-four hours from the notification of the decision.
7. After receiving STAE's response, which shall be submitted within a maximum period of twenty-four hours, CNE shall decide the appeal within twenty-four hours, and shall communicate its decision to the observer, the organization that the observer represents and to the Migration Department of the National Police of Timor-Leste.

Article 14

Special duty of collaboration

1. STAE and the Ministry of the Interior collaborate to ensure the issue of entry and stay permits to international observers who wish to monitor the electoral process in national territory.

2. The application for entry and stay permit for international observers in accordance with procedures is sent by STAE to the Minister of the Interior so that the visa is granted to the international observer by the competent services.

Article 15

Electoral observer credential

1. The electoral observer credential contains the following information:
 - a) The full name of the observer;
 - b) Current picture of the observer;
 - c) The electoral number of the observer, if a national observer;
 - d) Passport number if an international observer;
 - e) Name of organization represented by the observer;
 - f) Date of issue of the credential;
 - g) Signature of STAE General Director.
 - h) Hologram with the emblem of STAE.
2. The template for electoral observer credentials is set out in the Annex to this Government Decree, of which it forms an integral part for all legal purposes.

Article 16

Revocation of observer's accreditation

1. STAE revokes the observer accreditation when one of the following situations occurs:
 - a) Violation of the laws and regulations in force in the Democratic Republic of Timor-Leste;
 - b) Infringement of the duties as provided in this Regulation;
 - c) Pursuit of activities incompatible with observer status;
 - d) In other situations expressly foreseen in the law or in the present decree.
2. STAE communicates the revocation decision to the observer, the organization that he/she represents, and the Migration Department of the National Police of Timor-Leste.
3. After notice of the revocation decision, the observer shall return the credential issued within a maximum period of twenty-four hours.
4. In situations where the observer does not voluntarily return the credential, STAE notifies the revocation decision to the municipal directors of STAE and the Migration Department of the National Police of Timor-Leste so that the necessary steps are taken to collect the credential.

5. The revocation decision may be appealed to the CNE, within twenty-four hours.
6. CNE decides the appeal within a maximum period of twenty-four hours, counting from the time STAEs response is presented.
7. CNE decisions are notified to the observer, to the organization that he/she represents, to STAE and to the Migration Department of the National Police of Timor-Leste.

CHAPTER IV MEDIA PROFESSIONALS

Article 17 Rights

In covering the electoral process, media professionals shall have the following rights:

- a) Of access to electoral information sources, pursuant to the current regulation;
- b) To security conditions guaranteed by the state authorities to enable them to exercise their functions;
- c) To preserve secrecy of information sources, pursuant to the law;
- d) To be respected by all stakeholders in the electoral process.

Article 18 Right of Access.

The right of access provided for in the preceding article shall be exercised in the following terms:

- a) For purposes of media coverage, media professionals shall have the right to access places where the entire electoral process takes place, including presentation of lists of candidates, electoral campaign activities, voting, counting of votes and tabulation of results;
- b) The right of access shall allow media professionals to watch the counting and tabulation of votes, without prejudice to the provisions of the following norms;
- c) Prior to commencing reporting in polling centers, polling stations, and tabulation centers, media professionals shall obtain authorization from the president of the polling center in order to avoid disturbing the normal functioning of voting.

Article 19

Duties of Media Professionals

In covering the electoral process, media professionals and media organs shall:

- a) Act with rigor and professionalism;
- b) Comply with electoral laws and regulations, and promote democratic principles;
- c) Contribute towards the holding of free and fair elections, promoting the dissemination of news based on concrete facts;
- d) Grant equal opportunity and treatment to the various lists of candidates;
- e) Confirm all information prior to its dissemination, consulting all involved or interested parties, and should be able to prove the veracity of such information at any time;
- f) For the purposes of the preceding paragraph, in case of error, media professionals and media organs shall correct any news that is shown to be false or inaccurate;
- g) Ensure impartiality and independence in covering the facts, through the dissemination of full and accurate electoral information and without showing preference for any list of candidates proposed by a political party or coalition of political parties;
- h) Refuse gifts, favors or special treatment from political parties, coalitions of political parties or their representatives, and refrain from making promises on the contents of media reporting;
- i) Not engage in plagiarism, deliberate distortion of reality, unsubstantiated accusations, use of defamatory, calumnious, or aggressive language, or language inciting violence or discrimination against people on the basis of color, race, origin, nationality, gender, sexual orientation, political or religious choice or mental or physical disability;
- j) Attribute statements made to their respective authors;
- k) Respect the private life of people;
- l) Refrain from interfering in electoral operations;
- m) Not collect images less than twenty-five meters away from the polling center or polling station;

- n) Not collect images and information that compromise the secrecy of the vote;
- o) During counting of votes and tabulation of results, refrain from interfering in the process and only disseminate information provided by STAE, CNE and the STJ for the validation and publication of the electoral results.

Article 20

Accreditation procedure

1. A media professional interested in participating in coverage of the electoral process must request accreditation from STAE that enables him/her to enter polling centers, polling stations and election tabulation centers.
2. The request referred to in the preceding paragraph, must be in accordance with the template approved by order of the Director General of STAE, after consulting with CNE, and it contains the full name and the voter number of the applicant, supported by the following documents:
 - a) A photocopy of the applicant's identity card;
 - b) A photocopy of the passport when it is a foreign applicant;
 - c) Proof of the exercise of professional activity in the field of media or declaration of the media body for which he / she performs functions, in the case of a foreign applicant;
 - d) Two passport photos of the applicant
3. The period for applying for accreditation shall start after the publication in the Jornal da Republica of the Presidential Decree that sets the date of the election and ceases on the seventh day prior to the date designated for voting.
4. The Director General of STAE decides on the issuance of the respective credentials within forty-eight hours of receiving the documents that support the process of requesting accreditation of a media professional.
5. The credentials are issued within five days after the date of receipt by STAE of the accreditation application for a media professional.
6. Appeals against a decision to reject can be filed with CNE within twenty-four hours from the notification of the decision.
7. The accreditation of media professionals, national and international, expires with the publication of the election results by the Supreme Court (STJ).

Article 21
Credential for Media Professionals

1. The media professional credential contains the following information:
 - a) The full name of the media professional;
 - b) Current photograph of the media professional;
 - c) The electoral number of the media professional, if a national observer;
 - d) Passport number if it is an international media professional;
 - e) Date of issue of the credential;
 - f) Signature of STAE Director General;
 - g) Hologram with the emblem of STAE.
2. The template for media professionals' credentials is set out in the Annex to this Government Decree, of which it forms an integral part for all legal purposes.

Article 22

Statement of Commitment

1. A media professional or media organ applying for accreditation to cover the electoral process, in addition to presenting the forms and documents provided for in article 20 of this regulation, shall sign three copies of a statement of commitment under which they undertake to comply with the provisions contained in this present regulation.
2. For the purposes of the preceding paragraph, the first copy of the statement of commitment shall remain with the applicant, the second copy shall be filed at the STAE national headquarters, and the third copy shall be forwarded to CNE.

Article 23

Cancellation of Accreditation

1. In the face of protests and claims against the conduct of a media professional or a media organ that violates rules provided for in the current regulation, CNE will issue up to three recommendations for the irregularity committed to be remedied by a correction.
2. If, after the third recommendation referred to in the preceding paragraph, the media professional or a media organ persists in such conduct, CNE, based on a substantiated opinion, may request STAE to cancel and withdraw the accreditation.

CHAPTER V

Article 24 Court of Appeal

Until the establishment of the Supreme Court of Justice, the references in this regulation to this are considered to be made to the Court of Appeal.

Article 25 Entry into force

This Government Decree shall enter into force on the day following its publication.

Approved by the Council of Ministers on 11 May 2017

To be published.

Prime Minister

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