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## **DECREE-LAW 7/2017**

**of 22 March**

### **BUSINESS REGISTRATION AND VERIFICATION SERVICES, P.I.**

The Business Registration and Verification Services (SERVE), established in 2012, aimed to make the business registration process less bureaucratic and to facilitate the licensing of economic activities, by eliminating unnecessary and bureaucratic procedures, having had a significant effect on the increased number of commercial companies and sole traders registered since then. The Sixth Constitutional Government, in strict compliance with the 2011-2030 Strategic Development Plan and its programme, is committed to continuing to build a favourable domestic environment for private investment, to make the country more attractive and competitive, without in any way undermining the legal security and certainty required for national and international trade.

For this reason, and given the important role played by SERVE in carrying out its activities with high levels of efficiency and effectiveness, it is the aim of the Government to implement a phased increase of its duties and to make it an actual one-stop shop that provides all services required for facilitating the business environment.

Hence, this Decree-law partially repeals Decree-law 35/2012, of 18 July, for the purposes of clarifying the nature of SERVE as a public institute with administrative, financial and asset management autonomy, and of strengthening its functions beyond business registration, while the rules on business licensing shall remain in effect.

In addition, considering that the provision of a quality and efficient service would not be comprehensive if it failed to provide other ancillary services to the business registration, it is foreseen that the staff of SERVE shall be able to work in coordination with the various central services, streamlining and facilitating procedures and serving as a contact point and customer service for the purpose of simplifying the licensing of economic activities.

Thus, pursuant to Article 115(3) of the Constitution of the Republic, the Government decrees the following to have the force of law:

## **CHAPTER I GENERAL PROVISIONS**

### **Article 1 Establishment and nature**

1. The Business Registration and Verification Services, P.I., hereinafter referred to as SERVE, is hereby established as a Public Institute, being a legal person capable of holding rights and obligations, with administrative, financial and asset management autonomy.

2. SERVE shall pursue its duties under the authority and supervision of the Government member in charge of economic development.

## **Article 2 Regime**

SERVE shall be governed by this Decree-law, its regulation on internal organisation, and all other rules applicable to public institutes.

## **Article 3 Mission and duties**

1. The mission of SERVE is to implement and promote policies related with business registration with a view to ensuring the provision of services to citizens and businesses regarding business registration and ancillary acts, increasing legal security and certainty in the business and corporate areas, and thus facilitating the business environment.
2. The following shall be the duties of SERVE:
  - (a) Contribute to economic development;
  - (b) Promote the provision of quality public services as a one-stop shop for citizens and businesses, by providing ancillary services to business registration and licensing of economic activities;
  - (c) Ensure the registration of all business-related events subject to registration, pursuant to the law;
  - (d) Promote the registration of beneficial owners, pursuant to the law;
  - (e) Simplify and expedite the licensing of economic activities, pursuant to the law;
  - (f) Promote the progress of licensing of economic activities with the competent authorities and deliver the relevant licence to the beneficiary, pursuant to the law;
  - (g) Manage and keep up to date the files and database related to business registration and licensing of economic activities;
  - (h) Process and make easily available the statistical and informative data on business registration and licensing of economic activities;
  - (i) Provide information on the contents of the registrations recorded with SERVE, pursuant to the law;
  - (j) Help to establish a healthy relationship among public institutions, through the sharing and exchange of relevant information;
  - (k) Cooperate with similar entities or other national or international entities, in particular through the execution of protocols, agreements or other legal cooperation instruments in their area of activity, as well as ensure the representation in international organisations whose activities are related to its mission.
  - (l) Any other duties as may be conferred by law.

## **Article 4 Jurisdiction and registered office**

1. SERVE shall have jurisdiction over the national territory.

2. SERVE shall have its registered office in Dili.
3. SERVE may open delegations or other forms of representation in any part of the national territory in order to perform its duties more efficiently.
4. While other delegations or forms of representation are not in place pursuant to the preceding paragraph, requests in connection with services provided by SERVE may be handed in at the entities representing SERVE, in accordance with rules to be defined by agreement.

#### **Article 5**

##### **Duration**

SERVE shall operate for an indefinite period of time.

#### **Article 6**

##### **Authority and supervision**

SERVE shall be under the authority and supervision of the Government member in charge of economic development, whose duties shall be to:

- (a) Define the general and strategic guidelines, issue directives or request information on the objectives to be achieved, and on the priorities for SERVE's operations;
- (b) Request all information necessary for the monitoring of its activities;
- (c) Authorise the establishment or closing of delegations or other forms of representation, based on a proposal from the Executive Director;
- (d) Submit a fee table relating to the services provided by SERVE for the approval of the Council of Ministers;
- (e) Approve the selection of a banking institution for the deposit of such fees, pursuant to the law;
- (f) Approve a regulation on SERVE's internal organisation, based on a proposal from the Executive Director;
- (g) Propose to the Council of Ministers the appointment of the Executive Director and Deputy Executive Directors;
- (h) Request internal audits to its operations;
- (i) Approve the annual budget proposal, activity plans and relevant performance reports, and annual accounts, pursuant to the law;
- (j) Approve protocols and cooperation agreements executed with other public or private, national or foreign entities;
- (k) Perform all other acts established by law.

#### **Article 7**

##### **Duty of cooperation**

1. All public administration services and institutions with powers directly or indirectly related with the duties of SERVE are bound by the duties of information and cooperation necessary to the proper functioning of the services, as required by SERVE.

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2. In accordance with the preceding paragraph, SERVE may request, amongst others, information, clarification and opinions necessary for the performance of its duties.
3. Public administration services and institutions shall reply to SERVE's requests no later than 4 working days.

## **CHAPTER II INTERNAL ORGANISATION**

### **SECTION I GENERAL PROVISIONS**

#### **Article 8 Internal organisation**

SERVE shall be structured as follows:

- (a) Executive Director;
- (b) One-Stop Shop;
- (c) Statutory Auditor.

### **SECTION II EXECUTIVE DIRECTOR**

#### **Article 9 Appointment**

1. The Executive Director shall be appointed for a 3-year period, renewable for equal successive periods of time, by Government Resolution, on a proposal of the supervising Government member.
2. The appointment or re-appointment shall be based on criteria of proven technical and management capacity, expertise, seniority, independence and impartiality.
3. The Executive Director may not be appointed or re-appointed by an outgoing Government or prior to the Parliament's confirmation of a newly appointed Government, or after the calling of elections for the National Parliament.
4. The Executive Director shall perform his or her duties on a full-time and exclusive basis.
5. Provisions in this article shall apply, with the necessary changes, to the appointment of Deputy Executive Directors.

#### **Article 10 Executive Director**

1. The Executive Director shall be responsible for managing, administering and supervising the activities and staff of SERVE, and shall undertake to:
  - (a) Plan, coordinate and direct the SERVE activities both internally and externally so that SERVE fulfils its duties and its services function properly;
  - (b) Represent SERVE;
  - (c) Ensure the relationship with the supervising Government member, providing all information and explanations required;
  - (d) Prepare and deliver action plans, reports and budget, pursuant to the law;

- (e) Oversee the financial performance of SERVE, pursuant to the law;
  - (f) Manage SERVE's assets, including the purchase and sale thereof;
  - (g) Submit a draft regulation on SERVE's internal organisation to the supervising Government member for approval;
  - (h) Ensure that a business registration archive, both physical and digital, is in place;
  - (i) Ensure that a licensing of economic activities archive, both physical and digital, is in place;
  - (j) Promote the creation of a database with women-owned businesses;
  - (k) Approve expenditures, pursuant to the law;
  - (l) Promote the hiring and management of staff as required by the needs of the service, pursuant to the law;
  - (m) Propose to the supervising Government member the approval, creation or closing of SERVE delegations or other forms of representation;
  - (n) Execute agreements in order to guarantee access to SERVE's databases, in compliance with confidentiality rules in force;
  - (o) Deal with other matters that do not require the approval of a superior or that do not fall within the area of responsibility of another body;
  - (p) Perform all other acts established by law.
2. The Deputy Executive Directors, no more than two, shall assist the Executive Director and shall perform duties delegated to them.
  3. Without prejudice to the preceding paragraph, the Deputy Executive Directors shall replace the Executive Director in his or her absence or incapacity, performing his or her powers, rights and duties.

#### **Article 11** **Termination of office**

1. The Executive Director and the Deputy Executive Directors shall cease their functions:
  - (a) On termination of their office period, save where it is renewed;
  - (b) Following permanent incapacity or supervening incompatibility that makes the continuation of the appointment impossible, by means of a reasoned Government Resolution, on a proposal from the supervising Minister;
  - (c) On dissolution or transformation of SERVE, pursuant to the law;
  - (d) Upon resignation;
  - (e) Upon removal in the interests of the service, by means of a reasoned Government Resolution, on a proposal from the supervising Minister;
  - (f) Upon removal in case of serious fault or gross negligence in performing his or her duties, by means of a Government Resolution, on a proposal from the supervising Minister.

2. In the case referred to in sub-paragraph (e) of the preceding paragraph, the removed officer shall be entitled to monetary compensation equivalent to three months' base salary.
3. In the cases referred to in sub-paragraphs (b), (e) and (f) of the preceding paragraph<sup>1</sup>, there is right of appeal, pursuant to the law.
4. The Executive Director and Deputy Executive Directors shall exercise their duties until their successor takes office.

### **SECTION III ONE-STOP SHOP<sup>2</sup>**

#### **Article 12 Statutory Auditor**

1. The Statutory Auditor shall be responsible for supervising the legality, compliance and proper financial and asset management of SERVE.
2. The Statutory Auditor shall be appointed by joint order of the supervising Ministry and the Government member responsible for finance, for a 2-year term of office, renewable for equal periods of time.
3. Natural or legal persons may be appointed as Statutory Auditor. Their appointment shall be duly grounded on criteria of proven technical and management competence, as well as independence and impartiality.
4. The remuneration of the Statutory Auditor shall be approved by joint order of the supervising Ministry and the Government member responsible for finance, and be published in the Official Gazette.

#### **Article 13 Powers**

1. It shall be for the Statutory Auditor to, particularly:
  - (a) Confirm the legality of acts performed by SERVE and its staff;
  - (b) Assess and give an opinion on the activity plan and its budget proposal before it is submitted to the supervising Government member;
  - (c) Examine and monitor the implementation of the budget, the annual plan and the performance reports;
  - (d) Examine and monitor the SERVE accounts, pursuant to the law;
  - (e) Issue an opinion on the acquisition, disposal or encumbrance of movable or immovable assets subject to registration;
  - (f) Any additional powers, as provided for by the applicable legal or statutory rules.
2. To exercise its powers, the Statutory Auditor may also:
  - (a) Ask the Executive Director for any documents, information and clarifications on the activities carried out by SERVE;

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<sup>1</sup> TN: The original mistakenly refers to "preceding paragraph", i.e. Article 11(2). The correct reference would be to Article 11(1).

<sup>2</sup> TN: The original mistakenly refers to "ONE-STOP SHOP" in this Section's title although the contents of the next couple of Articles refer to the Statutory Auditor.

- (b) Propose that external audits be carried out;
- (c) Report to the relevant Ministry any irregularities found in management.

### **CHAPTER III<sup>3</sup>**

#### **ONE-STOP SHOP**

#### **Article 14**

##### **Powers**

The SERVE's one-stop shop shall have the power to:

- (a) Receive the documents required for business registrations, pursuant to the law;
- (b) Confirm the legal status of commercial companies, equity holders and directors, and of the sole trader, pursuant to the law;
- (c) Promote the progress of the licensing of economic activities with the competent authorities and deliver the relevant licence to the beneficiary, pursuant to the law;
- (d) Manage and keep up to date an electronic database of files related to the business registration and the licensing of economic activities;
- (e) Promote the progress of the request for obtaining an appropriate visa for equity holders, directors or sole traders with the competent authorities, pursuant to the existing law;
- (f) Solely for the purposes of registration, licensing or visa requests, certify photocopies of original documents submitted to the one-stop shop;
- (g) Provide information on the contents of registrations made with SERVE, pursuant to the law;
- (h) Provide information on ultimate beneficial ownership to the competent authorities entitled thereto, pursuant to the law;
- (i) Perform all other acts established by law.

### **CHAPTER IV**

#### **REGISTRARS OF BUSINESSES**

#### **Article 15**

##### **Registrars of Businesses**

1. All business registrations shall be performed by the registrars of businesses, pursuant to the law.
2. SERVE shall have a sufficient number of Registrars of Businesses to ensure day-to-day operations.
3. The Registrars of Companies referred to in the preceding paragraph shall be governed by their own statutes, and shall perform their duties at SERVE through secondment or temporary reassignment, pursuant to the law.

#### **Article 16**

##### **Powers of the Registrars of Businesses**

It shall be for the Registrars of Businesses to:

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<sup>3</sup> TN: The original mistakenly identifies this section as "CHAPTER III" instead of Section IV. For ease of reference, the name and numbering of sections and chapters in this translation follow the original.

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- (a) Perform all business registrations established by law;
- (b) Confirm the legality of instruments of incorporation submitted by equity holders as an alternative to pre-approved forms;
- (c) Decide on complaints, pursuant to the law;
- (d) Request a judicial examination of businesses, pursuant to the law;
- (e) Any other powers as may be expressly conferred by law.

## **CHAPTER V FINANCIAL AND PROPERTY REGIME**

### **Article 17 Property**

SERVE's property consists of all goods, rights, assets and liabilities which it receives or acquires for or in the performance of its duties.

### **Article 18 Revenue**

1. SERVE's revenue shall consist of:
  - (a) Annual State Budget allocations;
  - (b) Grants, donations or contributions given by any public or private, national or foreign, institution;
  - (c) Amounts resulting from the sale of its own assets or from establishing rights thereon;
  - (d) Revenue generated from its own assets;
  - (e) Fees due for services provided;
  - (f) Amounts resulting from the sale of publications or participation in events;
  - (g) Any other revenue generated from its activities or allocated to SERVE by law, contract or any other instrument.
2. The revenue provided for in sub-paragraph (e) of the preceding paragraph shall be paid directly at the permanent service desk of a banking institution selected by SERVE for the purpose, and later shall be transferred to Treasury, pursuant to the law.
3. The selected banking institution shall have a permanent and exclusive service desk located at SERVE, or in its vicinity in the case of delegations.
4. Without prejudice to the provisions in this Article, SERVE staff shall not be allowed to receive any payments for services rendered by SERVE, otherwise such staff will be subject to disciplinary proceedings and to civil and criminal liability pursuant to the law.
5. Without prejudice to any criminal liability deriving therefrom, any conduct by SERVE staff when carrying out their duties that may amount to any form of corruption, shall always give rise to a disciplinary proceeding pursuant to the law.

### **Article 19 Expenditure**

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1. SERVE's expenses shall be those arising from the performance of its duties pursuant to this law and other applicable laws.
2. All expenses shall be regulated and provided for in the budget for the year in which they were incurred, and shall be authorised by the Executive Director.

**Article 20**  
**Financial Management and procurement**

Financial management of SERVE shall be subject to the budgetary principles and regulations established by the budget and financial management law and to the procurement legal regime.

**Article 21**  
**Supervision**

The supervising Government member may, at any given time, request an internal or external audit of SERVE.

**CHAPTER VI**  
**STAFF**

**Article 22**  
**Regime**

1. The process of staff selection, recruitment and hiring for SERVE shall be ensured by the Executive Director, under and in accordance with the staff plan and pay scale approved by the supervising Government member.
2. The hiring to which the preceding paragraph refers shall be done through a term contract or a service contract, pursuant to the law.
3. Civil servants and Public Administration agents may perform duties or professional activities at SERVE under a reassignment scheme, pursuant to the law.
4. Civil servants and Public Administration agents performing duties or activities pursuant to the preceding paragraph, shall be entitled to return to their original positions without losing any rights; for purposes of length of service, promotion and progression, such duties shall be considered as having been performed at the original place of work.
5. Civil servants and Public Administration agents performing duties at SERVE under a reassignment scheme shall be subject to SERVE's operating rules, without prejudice to the general duties arising from the law.

**Article 23**  
**Professional secrecy**

1. Regardless of the hiring arrangement, members of the SERVE internal organisation and the staff shall be subject to professional secrecy regarding facts and information to which they have access in the performance of their duties, and shall not disclose or use them for their own benefit or otherwise, either directly or through a third party.
2. After termination of office, members of the SERVE internal organisation and the staff shall continue to be bound by their duty of professional secrecy.

**Article 24**  
**Liability**

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The internal organisation and staff of SERVE shall be civilly, criminally and disciplinarily liable for acts unlawfully committed or omitted in the exercise of their functions.

**Article 25**  
**Staff Plan**

A staff plan and respective pay scale shall be approved by order of the supervising Government member, based on a proposal from the Executive Director, in accordance with the law.

**CHAPTER VII**  
**TRANSITIONAL AND FINAL PROVISIONS**

**Article 26**  
**Regulation on internal organisation**

1. The regulation on SERVE's internal organisation shall be approved by a Ministerial Diploma of the supervising Government member. It shall determine the functional structure of SERVE's central services, details of its internal organisation, and rules on the arrangement and operation of the services.
2. The regulation on internal organisation shall be submitted by the Executive Director to the supervising Government member within 90 days from the date on which this law enters into effect.

**Article 27**  
**Protocols**

SERVE shall conclude protocols with various public and private entities in order to facilitate provision of services by the one-stop shop.

**Article 28**  
**Amendment**

Article 16(2)(b) of Decree-law 26/2015, of 12 August, is replaced by the following:

**"Article 16**  
**National Directorate of Registries and Notaries**

1. (...)
2. (...)
  - a. (...)
  - b. Promote and ensure the registration of civil and criminal affairs, non-profit organisations, and movable property subject to registration.*
  - c. (...)
  - d. (...)
  - e. (...)
  - f. (...)
  - g. (...)
  - h. (...)
  - i. (...)
  - j. (...)

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k. (...)”

**Article 29**  
**Repeal**

The following articles and paragraphs are to be repealed:

- (a) Articles 4 to 18 of Decree-law 35/2012, of 18 July;
- (b) Article 3(3)(b), Article 19(1)(b), and Article 21 of Ministerial Diploma 4/2014, of 12 March.

**Article 30**  
**Closing of Business Registries**

The existing and installed business registries shall be closed down, and their staff shall be transferred to other existing registry offices.

**Article 31**  
**Transfer**

Any registrations made while under the UNTAET and by the National Directorate of Registries and Notaries of the Ministry of Justice, as well as the documents in relation thereto, shall be transferred to SERVE within no more than 1 year following the date on which this Decree-law is published.

**Article 32**  
**Entry into force**

This Decree-law shall enter into force on the day after its publication.

Approved in Council of Ministers on 17 January 2017.

The Prime Minister,

**Dr. Rui Maria de Araújo**

The Minister of State, Coordinator of Economic Affairs,

**Eng. Estanislau da Silva**

The Minister of Justice,

**Ivo Valente**

Promulgated on 15 / 03 / 2017

To be published.

The President of the Republic,

**Taur Matan Ruak**