

**IV CONSTITUTIONAL GOVERNMENT
DEMOCRATIC REPUBLIC OF TIMOR-LESTE**

DECREE-LAW NO. 42/2008

of 26 November

Transforming *Rádio e Televisão de Timor-Leste* into a Publicly Owned Undertaking

The publication of this decree-law reflects the Government's commitment to spell out the objectives of the State for the media sector.

UNTAET Regulation nr. 2002/06, of 9 May, on the establishment of Timor-Leste's public broadcasting service, which is still in force, has now proved to be absolutely inadequate for the reality of public radio and television broadcasting services in the country.

The transformation of the radio and television public service into a publicly owned undertaking is the solution found to ensure accuracy and quality in the media services to be provided to the general public.

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

**Article 1
Establishment, nature and statutes**

1. The "*Rádio e Televisão de Timor-Leste, E.P.*", hereinafter referred to as "RTTL, E.P.", is hereby established.
2. RTTL, E.P. shall be a legal entity with autonomy regarding its administration, finances and assets.
3. This decree-law shall constitute a memorandum of association for all legal purposes, including registration.
4. The statutes of RTTL, E.P. shall be published in the annex of this decree-law and shall constitute an integral part thereof.

**Article 2
Applicable legal regime**

RTTL, E.P. shall be governed by this decree-law, by its own statutes, by the provisions of Decree-Law No. 14/2003, and by other applicable legislation.

Article 3
Succession and concession for public broadcasting services

1. RTTL, E.P. shall succeed to the *Serviço Público de Radiodifusão de Timor-Leste* and shall retain the legal status of the latter and take over all its assets, rights and obligations, namely the concession for public broadcasting services as granted to it under UNTAET Regulation No. 2002/06 of 9 May.
2. The concession contract for the public broadcasting service shall be granted by the Government members responsible for the areas of finance and the media in representation of the State.

Article 4
Supervision

1. RTTL, E.P. shall exercise its activity under the supervision of the Government member responsible for the media, who shall be in charge of:
 - a) Defining guidelines in accordance with the Government's programme and in compliance with the principle of editorial freedom;
 - b) Requesting all information necessary to monitor RTTL, E.P. activities and deciding on audits and inspections of its functioning;
 - c) Defining the parameters for any collective bargaining procedure;
 - d) Approving the company's rules and regulations, to be submitted to the Board of Directors within ninety days from the date of publication of this Decree-Law;
 - e) Exercising the powers incumbent upon the Timorese State in its capacity as the grantor of concessionaire's rights and proposing the terms of the concession contract that will shape and develop the relations between the State and RTTL, E.P.
2. Besides other monitoring instruments provided for in the law, activity plans, annual and long-term financial plans, operation and investment budgets and accountability documents shall also be subject to joint approval by the Government members responsible for the media and finance areas.
3. The Board of Auditors shall forward a quarterly summary report to the supervising Government member on control measures undertaken, anomalies detected and major deviations from expectations.

Article 5
Concessionaire's rights

For purposes of pursuing its objectives and in its capacity as a concessionaire of public broadcasting services, RTTL, E.P. shall be granted the rights to:

- a) Occupy land belonging to the public and private domain of the State and land belonging to public corporate bodies, pursuant to applicable laws and regulations;
- b) Benefit from easement protection and use for its radio-electric transmitters, pursuant to applicable law;
- c) Benefit from protection for its facilities under the same terms applicable to public services;
- d) Use and administer public domain assets assigned, or to be assigned, to it for conducting radio and television broadcasting services.

Article 6
Radio and television broadcasting purposes

1. In performing its activity as a public service concessionaire, RTTL, E.P. shall respect the generic and specific purposes of radio and television broadcasting, namely:
 - a) To promote the protection and the spreading of the official languages of the Democratic Republic of Timor-Leste;
 - b) To contribute to the provision of information and education to the public, the promotion and protection of cultural values expressing national identity, and the development of the country;
 - c) To contribute to the formation of a critical consciousness by stimulating creativity and free expression of thought;
 - d) To ensure accuracy and objectivity of information and programmes;
 - e) To ensure the functioning of an impartial radio and television public broadcasting service with a view to protecting and disseminating Timorese culture and tradition and ensuring pluralism of opinion so that the service is free and independent from political, economic, religious and other powers;
 - f) To contribute towards information, entertainment and cultural promotion of the general public, taking due account of a diversity of factors such as age, occupation and interest;

- g) To promote the broadcasting of educational or formative programmes particularly intended for children, the youth and the elderly, socio-professional groups and ethnical and linguistic minorities;
- h) To advocate improved mutual knowledge and closer ties among Timorese and foreign citizens, particularly with those who use the Portuguese language and with those having special links of cooperation and common interests with Timor-Leste.
- i) To contribute towards bringing about awareness, education, as well as civic and political participation among the population.

Article 7
Obligations of a concessionaire

1. The following shall be obligations of a concessionaire of public broadcasting service:
 - a) To ensure news coverage for major national and international events;
 - b) To ensure the broadcasting of programmes reflecting a diversity of viewpoints and catering to information needs and interests of the general public;
 - c) To broadcast programmes catering to the interests of the different ethnical and linguistic communities in Timor-Leste, as well as to the different minorities in the country;
 - d) To produce and broadcast at least one national-level programme in the frequency bands granted to radio and television broadcasting;
 - e) To accord priority to the expansion and consolidation of national radio and television coverage;
 - f) To ensure the broadcasting of messages and communiqués whose dissemination is legally mandatory;
 - g) To ensure the exercise of the right to airtime and the right to reply and rectify pursuant to applicable law;
 - h) To broadcast educational, sporting and cultural programmes, with a view to promoting citizenship and advancement for all the Timorese;
 - i) To produce and electronically broadcast programmes intended for Timorese communities living abroad;

- j) To encourage activities by independent producers through remunerated commissioning of radio and television programmes;
 - k) To keep and update radio and television archives;
 - l) To develop cultural exchanges and co-production of television programmes with the Community of Portuguese-Speaking Countries, in coordination with the Ministry of Foreign Affairs;
 - m) To represent national radio and television broadcasting bodies in international broadcasting organizations and ensure the payment of the respective membership fees;
 - n) To maintain, in coordination with the Ministry of Foreign Affairs, relations of cooperation and exchange with the *Asia-Pacific Broadcasting Union* and other international organizations and foreign entities involved in broadcasting, by negotiating the necessary agreements and giving privilege to relations with the Community of Portuguese-Speaking Countries.
2. Obligations referred to in the preceding paragraph shall be laid down in the editorial statute of RTTL, E.P. to be approved under the terms of the law.

Article 8 **Labour relations**

- 1. Timor-Leste's Public Broadcasting Service staff shall retain all their rights and obligations insofar as RTTL, E.P. is concerned depending on the status they hold at the time of the entry into force of the present law.
- 2. State employees as well as public corporation staff or employees of publicly owned undertakings or publicly owned limited liability corporations may be authorised to hold posts or exercise functions with RTTL, E.P. on secondment and they shall retain all the rights inherent to their original employment, including seniority, retirement and other privileges.
- 3. RTTL, E.P. employees exercising functions on secondment in other public corporations or services shall return to RTTL, E.P. as soon as their assignment comes to an end, and they shall maintain the status they held before secondment.
- 4. Depending on the nature of their respective legal links, RTTL, E.P. personnel shall be subject to the legal regimes governing individual employment and service-provider contracts, as well as to the general or specific legislation applicable to them, namely the norms applying to journalists.

Article 9 **Exemptions**

1. All acts to be undertaken in the execution of the present law shall be exempt from any fees, taxes, emoluments and any other legal charges due to any entity, including
 - a) Registration of the RTTL, E.P. statutes;
 - b) An increase in the statutory capital of RTTL, E.P.;
 - c) Appointment of office-holders for the respective statutory bodies;
 - d) Registration of transfer of property provided for in this decree-law.

Article 10
Legal effects

1. The statutes of RTTL, E.P. shall be binding for third parties from the date of entry into force of this decree-law, irrespective of the statutes' registration.
2. The statutes of RTTL, E.P. in the annex of this decree-law shall not be required to be made into a deed and the respective registration shall be self-effecting by virtue of its publication in the *Official Gazette*.
3. Any change to the statutes shall only be made by a decree-law.

Article 11
Revocation

UNTAET Regulation No. 200/06 of 9 May is here revoked.

Article 12
Entry into force

This decree-law shall enter into force one the day after its publication.

Seen and approved by the Council of Ministers on 9 July 2008

The Prime Minister
Kay Rala Xanana Gusmão

Promulgated on 11 November 2008

To be published.

The President of the Republic
José Manuel Ramos-Horta

ANNEX
Statutes of Rádio e Televisão de Timor-Leste, E.P.

CHAPTER I
Denomination, head office, duration and mission

Article 1
Form and denomination

Rádio e Televisão de Timor-Leste, E.P., hereinafter referred to as “RTTL, E.P.”, is a publicly owned company with exclusively public capitals and is governed by the present statutes and by applicable general and specific legislation.

Article 2
Head office

1. RTTL, E.P. shall have its head office in Dili and shall exercise its activity over the whole national territory.
2. In pursuing its objectives, RTTL, E.P. may establish branch offices in the country or abroad following a decision by the Board of Directors.

Article 3
Duration

RTTL, E.P. is established for indefinite duration.

Article 4
Mission

1. The mission of RTTL, E.P. shall be to provide radio and television public broadcasting services pursuant to applicable laws and the respective concession contract.
2. RTTL, E.P. may pursue any other commercial and industrial activity related to radio and television public broadcasting services, namely:
 - a) To run commercials;
 - b) To market programmes and publications related to its activities;
 - c) To market and rent radio and television broadcasting equipment, movies, magnetic tapes, videocassettes and similar products;

- d) To provide technical consultancy and vocational training services and cooperation with other national or foreign entities, particularly similar entities from Portuguese-speaking countries.

Article 5
Responsibility for contents of programmes

1. Responsibility for the selection and contents of information and programmes of the RTTL, E.P. programme services shall directly and exclusively rest with the executive directors of information and programming.
2. RTTL, E.P. shall ensure the contribution of its district branches towards information and programmes.

Article 6
Statutory capital

RTTL, E.P. shall have a statutory capital of \$ 8,335,031.00 (eight million three hundred and thirty five thousand and thirty one US dollars), fully approved and paid in by the State.

CHAPTER II
Structure, competences and functioning of its bodies

Article 7
Decision-making bodies

1. The following shall be the decision-making bodies of RTTL, E.P.:
 - a) The Board of Directors;
 - b) The Board of Auditors;
 - c) The Advisory Council.

Section I
The Board of Directors

Article 8
Composition

1. The Board of Directors shall be the management body of RTTL, E.P. and shall be composed of 7 people.
2. It shall be incumbent upon the Council of Ministers to appoint and dismiss the chairperson of the Board of Directors on the recommendation of the Government

- member responsible for the media sector, hereinafter referred to as the “supervising Government member”;
3. It shall be incumbent upon the supervising Government member to appoint and dismiss four members of the Board of Directors.
 4. The Board of Directors shall also include one representative of the Ministry of Finance and one staff representative elected at a Staff General Assembly.
 5. The appointment of the members of the Board of Directors shall be governed by criteria of proven technical and professional skills.
 6. Terms of office for members of the Board of Directors shall be 4 years renewable for equal periods.

Article 9 Powers of the Board of Directors

It shall be incumbent upon the Board of Directors:

- a) To ensure the leadership and senior management of the company;
- b) To administer the company’s assets;
- c) To approve the company’s management policy;
- d) To approve and vote annual and long-term financial plans;
- e) To examine and vote the annual plan of activities and the corresponding budget for the following year;
- f) On the basis of the corresponding opinion issued by the Audit Council, to examine and vote the financial statements and accounts of the previous fiscal year;
- g) To examine and vote proposals on the application of results from the previous fiscal year;
- h) To approve accountability documents;
- i) To approve procurement and disposal of assets and financial interests whenever such procurement and disposal are provided for in the approved annual budgets and are within the limits established by law and the statutes;

- j) To submit to the Government member responsible for the area of finance and the supervising Government member all the acts and documents that are to be submitted for approval, as provided for by law or the statutes;
- k) To appoint executive directors whenever deemed necessary, clearly defining the scope of their roles;
- l) To exercise any other competence under the terms of applicable legal or statutory rules.

Article 10 Meetings

1. The Board of Directors shall hold ordinary meetings once a month and extraordinary meetings whenever it is convened by its chairperson on his or her own initiative or at the request of another member.
2. Any of the members may be represented by another member at meetings of the Board of Directors through written notice to the chairperson.
3. Decisions shall be made by simple majority of the members present or represented, and the chairperson or his or her substitute shall have the casting vote in the case of a tie.
4. Minutes of the meetings shall be prepared.

Article 11 Delegation of powers

The Board of Directors may delegate the powers attributed to it to one or more of its members, pursuant to the law.

Article 12 The Chairperson of the Board of Directors

1. It shall be incumbent upon the chairperson of the Board of Administration, or any person who replaces him or her:
 - a) To actively and passively represent the company in court and thereout;
 - b) To convene and preside over the meetings of the Board of Directors, coordinate its activities and ensure the correct execution of its decisions;
 - c) To coordinate the activity of executive directors, in accordance with limits established by law;

2. The chairperson of the Board of Directors shall, whenever he or she is absent or unable to act, be replaced by a member designated by him or her.

Article 13
Status of members

1. A member of the Board of Directors shall not simultaneously be:
 - a) a civil servant or agent of the Public Administration;
 - b) a leader of a political party;
 - c) a holder of political office;
 - d) a holder of significant financial interests in telecommunications and the media in Timor-Leste;
2. The chairperson of the Board of Directors shall perform his or her functions on a full-time basis and shall be remunerated in accordance with a joint ministerial instrument issued by the Government member responsible for the area of finance, the supervising Government member and the Government member responsible for state administration.
3. The remaining members of the Board of Directors shall be remunerated on the basis of attendance vouchers the value of which shall be determined in a joint ministerial instrument issued by the Government members responsible for the areas referred to in the preceding paragraph.
4. During his or her term of office, the chairperson of the Board of Directors shall not exercise any other function or professional activity except the function of lecturing on a part-time basis.
5. Subparagraph a) of paragraph 1 shall not apply to the elected staff representative sitting on the Board of Directors, who shall be an RTTL, E.P. employee released from his or her functions to attend any meeting of the Board of Directors.

Article 14
Termination of office

1. Members of the Board of Directors shall cease their functions:
 - a) When their respective term of office has come to an end, unless it is renewed;
 - b) Following permanent disability or supervening incompatibility declared by the appointing entity, or by the Board of Directors, after approval by the

supervising Government member, in the case of the member elected by the staff;

- c) Following resignation;
 - d) Following dismissal decided upon by the appointing entity or by the Board of Directors, after approval by the supervising Government member in the case of the member elected by the staff, in the event of serious offence proved as committed without just cause in the exercise of their functions, namely after three consecutive absences from meetings that they should have attended;
 - e) Following conviction for intentionally committing a criminal offence carrying an imprisonment sentence of more than two years.
2. In the cases provided for in subparagraphs b) and d) of the preceding paragraph, the member concerned shall be entitled to judicial appeal.
 3. After any cessation of term of office, the new member shall be appointed for a period of four years.

Article 15 Dissolution

The Board of Directors may be dissolved by a decision of the Council of Ministers on the recommendation of the supervising Government member, in case of serious irregularities or problems in its functioning, or in case of considerably excessive expenditures going above those budgeted for without adequate justification.

Section II The Board of Auditors

Article 16 Composition

1. The Board of Auditors shall be the body responsible for monitoring the management of RTTL, E.P. and it shall be composed of three members, one of whom is to be the chairperson.
2. The members of the Board of Auditors shall be appointed by the Government member responsible for the area of finance, following consultations with the supervising Government member.
3. Terms of office for members of the Board of Auditors shall have the duration of four years, renewable for equal periods.

4. The Board of Auditors may, on its own initiative or at the request of the chairperson of the Board of Administration, be assisted by external auditors.
5. Members of the Board of Auditors shall be subject to the same regime of incompatibilities and termination of office that applies to members of the Board of Administration.
6. The chairperson of the Board of Auditors may attend, or be represented by another member at meetings of the Board of Directors.

Article 17
Powers

1. It shall be incumbent upon the Board of Auditors:
 - a) To verify the legality of acts performed by the company's bodies and whether such acts comply with the statutes and other applicable legislation;
 - b) To monitor the execution of activity plans and programmes;
 - c) To periodically examine the company's accounts and budgetary execution;
 - d) To issue a detailed opinion on the financial statements, reports and accounts of the Board of Directors;
 - e) To give its opinion on the company's performance and financial management, as well as on the achievement of planned results and benefits;
 - f) To give its opinion on criteria for the assessment of assets, amortization and reintegration of capital, establishment of provisions and reserves, and determination of financial results;
 - g) To issue its opinion on procurement, disposal or taxation of immovable and movable assets subject to registration;
 - h) To notify the supervising Government member of irregularities it finds in the management of RTTL, E.P.;
 - i) To propose to the supervising Government member the carrying-out of external audits;
 - j) To exercise any other competence under the terms of applicable legal or statutory rules.
2. It shall be incumbent upon the chairperson of the Board of Auditors to convene and preside over meetings of the Board of Auditors, to coordinate its activities and to ensure the correct execution of its decisions.

3. The chairperson of the Board of Auditors shall, whenever he or she is absent or unable to act, be replaced by a member designated by him or her.

Article 18
Meetings

1. The Board of Auditors shall hold ordinary meetings once a month and extraordinary meetings whenever it is convened by its chairperson on his or her own initiative or at the request of another member.
2. Any of the members may be represented by another member at meetings of the Board of Auditors through written notice to the chairperson.
3. Decisions shall be made by the majority of members present or represented, and the chairperson or his or her substitute shall have the casting vote in the case of a tie.
4. Minutes of the meetings shall be prepared.

Section III
The Advisory Council

Article 19
Composition

1. The Advisory Council shall be composed of:
 - a) Two representatives of both genders designated by the National Parliament, one of whom shall be representing non-governmental organizations;
 - b) Two representatives of both genders designated by the President of the Republic, one of whom shall be representing religious denominations;
 - c) Two representatives of both genders designated by the Government, one of whom shall be representing the youth;
 - d) Two representatives of both genders designated by the staff of RTTL, E. P., one of whom shall be a media professional;
 - e) One representative designated by the National University of Timor Lorosae.
2. A member of the Advisory Council shall not simultaneously be:
 - a) a civil servant or agent of the Public Administration;
 - b) a leader of a political party;

- c) a holder of political office;
 - d) a holder of significant financial interests in telecommunications and the media in Timor-Leste.
3. The chairpersons of the Board of Directors and the Board of Auditors may attend meetings of the Advisory Council, without a right to vote.
 4. Terms of office for members of the Advisory Council shall have the duration of four years, renewable for equal periods.

Article 20 Powers

It shall be incumbent upon the Advisory Council to:

- a) Elect a chairperson from among its members;
- b) Consult and issue an opinion on annual and long-term activity and financial plans, on operation and investment budgets, and on accountability documents before approval by the Government member responsible for the area of finance and the supervising Government member;
- c) Give its opinion on any matter that decision-making bodies decide to submit to its consideration for comments;
- d) Exercise any other competence under the terms of applicable legal or statutory rules.

Article 21 Meetings

1. The Advisory Council shall hold its ordinary meetings every three months and it may hold extraordinary meetings whenever convened by its chairperson at the request of two thirds of the members.
2. Decisions shall be made by simple majority of members present.
3. Minutes of the meetings shall be prepared.

CHAPTER III Economic and financial management

Article 22 Plans

1. The economic and financial management of RTTL, E.P shall be programmed and regulated by annual and multi-annual activity and financial plans, as well as by annual operation and investment budgets that provide for the required resources to cover expenses contemplated therein.
2. Annual and multi-annual financial plans shall contemplate the course of expenses, planned investments and sources of funding.
3. Multi-annual financial plans shall be updated on an annual basis and reflect the RTTL, E.P. medium-term strategy.
4. The financial year shall coincide with the calendar year.

Article 23
Property and assets

RTTL, E.P. shall succeed to the Public Broadcasting of Timor-Leste and it shall take over the whole of the latter's property and assets, its rights and obligations.

Article 24
Revenue

1. The following shall be revenue for the company:
 - a) Revenue from its activities;
 - b) Revenue from its own assets;
 - c) Stocks, appropriations and grants for the company;
 - d) The product of disposing of its own assets or establishing rights on them;
 - e) Donations, inheritances or legacies;
 - f) Any other revenue or amounts generated by its activities or that should accrue to the company pursuant to the law, the statutes or a contract.
2. The editorial freedom of RTTL, E.P. shall not be affected by the objective of generating revenue.

CHAPTER IV
Human Resources

Article 25
Staff

1. The staff of RTTL, E.P. shall be subject to the legal regimes governing personal employment and service-provider contracts.
2. The process for staff recruitment shall be preceded by a public announcement and it shall be conducted in accordance with fair selection criteria to be laid down in the company's regulations.

Article 26
Incompatibilities

1. The staff of RTTL, E. P. shall be barred from taking over functions that involve representing media companies, news agencies, radio or television operators.
2. Staff from information or programming areas shall also be barred from collaborating in radio or television broadcasts outside the RTTL, E.P. and from using their names for sponsorship purposes.
3. The holding of any post at RTTL, E.P. shall be incompatible with involvement or participation, on a personal basis, directly or through a third party, in the procurement of assets, provision of services or execution of works related to RTTL, E.P.
4. The breaching of the provisions of the preceding paragraphs shall entail dismissal or contract termination.