

Plenary Support Division
DIPLEN
TECHNICAL NOTE No. 9/2014/DIPLEN

SUBJECT: Admissibility and processing of the Draft Law n ° 14/III(2a) - Census of Population and Housing

AUTHOR (S): Legal advisors to Bureau / DIPLEN

DATE: May 27, 2014

COMMENTS

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AUTHOR (S): Counsel Bureau / DIPLEN

DATE: May 27, 2014

COMMENTS

The government presented the bill in question, registered and numbered in parliamentary support services on 14 May 2014 and submitted to the DIPLEN to prepare a technical note under the provisions of subparagraphs f) and i) of Article 4 of the National Parliament Regulation on Responsibilities of the Divisions of the General Secretariat.

The bill fulfills the **necessary constitutional, legal and regulatory requirements**, being able to transfer, for initial assessment, to the committee that the President deems appropriate, for the matter, to rule through the usual report and opinion.

The Government has the power to **propose** laws and National Parliament **jurisdiction** to approve (articles 95.1, 97.1(c), and 115.2(a) of the Constitution).

Moreover, the legislative initiative is signed by the Prime Minister and the responsible minister, contains the reference to its approval by the Council of Ministers, is written in Portuguese, is of articulated shape and has a title that adequately reflects its main object, so demonstrating compliance with the standards set out in Articles 90, 91.1, 92.1, 96.2 and 98.1, of the Rules of Procedure of Parliament (RPN) and Article 11 of the Law on Publication of Acts.

The Government includes legislative text presented in the **preamble**, thus giving effect to the precepts of Article 98.2 of the RPN.

The procedure is the ordinary **legislative procedure**, governed by Articles 90 to 117 of the RPN.

Thus, verification of compliance with the requirements, it is for the President to issue **orders and transmit** to the committee that he considers has the mandate to draw up the respective report and opinion, setting a period for doing so, sending the bill to distribute, accompanied by this technical note, the same committee, with copies to all Members and announce the fact in plenary meeting is the ritual of the direct delivery of the text to the chairman of the respective committee (Articles 95, 99 and 101 of the RPN).

We understand that the jurisdiction to review the matter is with the Committee on Health, Education, Culture, Veterans and Gender Equality (Committee F).

PROPOSED LAW No. / 2014
OF OF
GENERAL CENSUS OF POPULATION AND HOUSING

The operation of censuses of population and housing is essential for understanding the social and economic reality of the country.

The Censuses of Population and Housing, already performed in 2004 and 2010, respectively, has as their main objectives, counting and characterization of resident population in Timor-Leste, as well as a survey of the existing house and its conditions housing through the comprehensive collection of elements and data realized through investigation and statistical processing.

It is therefore normatively frame the realization of census activity from 2015, determining the entities responsible for implementing the procedures for their funding, as well as the mechanisms that ensure the safeguarding of confidentiality of collected information.

At that

The Government introduces to the National Parliament, under Article 97.1(c) and Article 115.2(a) of the Constitution of the Republic, the following proposed law:

CHAPTER 1
GENERAL PROVISIONS

Article 1
Subject

This law establishes the standards to be met by the Census of Population and Housing, hereinafter abbreviated by Census.

Article 2
Scope

Censuses covering the national territory Timor-Leste, including the population and their accommodation.

Article 3
Periodicity

1. Censuses will be held in 2015 and 2020 and thereafter every ten years.
2. Data collection occurs during the month of July in each target year for the Census.

Article 4
Execution

Census questionnaires are implemented through compulsory and free response, as of the moment of census.

Article 5
Objectives

Censuses have as objectives the collection, compilation, analysis and dissemination of official statistical information regarding demographic and socio-economic characteristics of the population covered and the characteristics of the dwellings.

CHAPTER II ENTITIES INVOLVED

Article 6 Entities involved

Participating in the implementation of Census are the following entities:

- a) Directorate-General for Statistics of the Ministry of Finance, or other entity with similar duties as defined by its organic statute;
- b) The bodies of political and technical coordination determined for each census;
- c) The services of the State Ministries and State Departments with powers regarding the registration in accordance with the regulations of organization in force.

Article 7 Special censuses

The relevant departments organize and conduct the census attributable to Timor-Leste personnel in foreign embassies and consulates, in accordance with the instructions issued by the Directorate-General of Statistics of the Ministry of Finance.

CHAPTER III FUNDING AND EXPENSES

Article 8 Salary supplement.

The employees and agents of the Public Administration specifically working as coordinating and supervising the work of collecting and processing data from the Census and the hired specifically to the same effect, are entitled to a salary supplement pursuant to the order set by the Government member responsible for Finance.

Article 9 Financing

Censuses are funded by appropriations entered in the State Budget and eventually by grants from development partners.

CHAPTER IV PROTECTION OF PERSONAL DATA

Article 10 Statistical confidentiality

1. Statistical confidentiality is intended to safeguard the privacy of citizens, preserve competition between economic operators and to ensure confidence in the informants to the statistical system.
2. All statistical data collected with an individual character of the participating entities defined by this Law are confidential, and therefore:
 - a) may not be Discriminately entered in any publications or given to any person or entity, nor may a certificate be issued;
 - b) Constitute professional secrecy for all employees, agents and contractors are aware of them;
 - c) No service may order or authorize their examination.

3. Individual statistical data can not be disclosed without the express consent in writing of individuals to which they relate.
4. Notwithstanding the preceding paragraph, the statistical data of natural persons concerning their professional or business activities are not covered by statistical confidentiality, particularly when they are advertised because the statutory provision, by being part of public records.

Article 11
Personal data

1. Statistical data on individuals subject to statistical confidentiality are considered personal data, in accordance with Article 38 of the Constitution.
2. The questionnaires containing personal data are only stored during the period necessary for production the statistical information and should be eliminated within two years after the census moment.
3. The personal data collected in the questionnaires are made anonymous when translated into electronic form.

CHAPTER V
DUTIES TO FOLLOW DURING DATA COLLECTION AND TREATMENT

Article 12
Duties of the entities involved

The following duties apply to employees, agents and contractors in charge of coordination, control and collection and processing of statistical data from the Census:

- a) The duty of confidentiality on statistical data to which they have access and which is the subject of statistical confidentiality, which continues even after the termination of employment with the intervening authority of the Census and requires the signing of an oath, under the terms specified by by Article 5 of Decree-Law No 17/2003 of 1 October;
- b) The duty of attendance during the execution of questionnaires and processing the data contained therein;
- c) The duty of care, which implies the faithful performance of the questionnaire and faithful photographic reproduction of replies.

CHAPTER VI
VIOLATIONS AND PENALTIES

Article 13
Unlawful administrative offenses

1. Are punished with a fine of USD \$500 (five hundred U.S. dollars) those who, being required to provide information under this Act:
 - a) Do not provide information on a timely basis;
 - b) Provide incorrect, insufficient or misleading information.
2. And are punished with a fine of \$1,000 USD (thousand U.S. dollars) those who actively oppose the process of collecting statistical data to third parties.
3. And, also, are punished with a fine of USD \$2,000 (two thousand U.S. dollars) those using individual statistical data in violation of articles 10 and 11 of this Act, subject to disciplinary and/or criminal action emerging from the same facts.

Article 14
Criminal offense

1. Violation of statistical confidentiality considered a violation of secrecy under Article 184 of the Penal Code.
2. Whoever disobeys the request for statistical data collection, including the obstruction against third parties, shall be guilty of disobedience, according to Article 244 of the Penal Code.

CHAPTER VII
FINAL PROVISIONS

Article 15
Disclosure

The State media shall cooperate in the dissemination of Census.

Article 16
Subsequent regulation

The Government shall approve the necessary legislation for the implementation of this Law.

Article 17
Entry into force

This Law shall enter into force on the day of its publication.

Approved by the Council of Ministers on March 25, 2014.

The Prime Minister,

/ S /

Kay Rala Xanana Gusmão

The Minister of Finance,

/ S /

Emilia Pires