

COMMITTEE ON PUBLIC FINANCE

**REPORT AND OPINION
Law Proposal No. 27/V (3a)**

**“Framework of the General State Budget and public
financial management”**

Approved at the meeting on June 30, 2021

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I - REMARKS

1. Introduction

The Government presented Proposed Law (PPL) no 27/V (3a), Law on the Framework of the General State Budget and Public Financial Management (PPL LEO), under the provisions of article 97.1(c) and article 115.2(a) of the Constitution of the Democratic Republic of Timor-Leste (Constitution), with the aim of reforming and clarifying both the legal framework of the General State Budget (OGE) and budget execution and the management of public finances as a whole, as part of the broader fiscal and public finance reform underway.

The legislative initiative entered the National Parliament on January 26, 2021 and, having been accepted, it was transferred on the same day, by determination of the President of the National Parliament, to the Plenary Support Division (DIPLN) for registration, numbering and drafting of a technical note [1], pursuant to the provisions of article 4 f) and i) of the Regulation on the Competences of the Divisions of the General Secretariat of the National Parliament, and issued on February 2nd to the Permanent Specialized Committee on Public Finance (Committee “C”), for the preparation, within 40 days, of the respective report and opinion, under the terms and for the purposes of article 101.1 of the Rules of Procedure of the National Parliament [2]. After repeated postponements, motivated by the course of other parliamentary work in the Committee and Plenary [3], the discussion and voting in general was scheduled for June 21, and the Committee C established the day of 17 June for consideration and vote on this report and opinion. However, later, Committee C decided to postpone the meeting to appraise the report and opinion to the 23rd, 24th, 29th and 30th of June, to allow for a more accurate assessment.

The Government has, in accordance with the aforementioned constitutional provisions, competence to propose the legislative initiative in question and the National Parliament has exclusive competence to approve it, pursuant to article 95.2(q) of the Constitution.

2. Object, content and motivation of the Government’s proposal

The purpose of PPL LEO is to approve a new Budget Framework and Public Financial Management Law, replacing Law 13/2009, of October 21, the Budget and Financial Management Law (LOGF), currently in force [4].

Attached to this report and opinion is a table of correspondence between the articles of the proposal under analysis and the LOGF, with references to other relevant legislation in force and brief comparative comments (cf. the Annex I to this report and opinion)

In the Explanatory Memorandum accompanying the draft law, the Government recalls the fiscal and public finance reform included in the Program of the VIII Constitutional Government as a priority, to which PPL LEO intends to give, in the Government’s opinion, an important response.

According to the Explanatory Memorandum: “One of the essential elements of fiscal reform and public finance management is the revision of Law n. 13/2009, of October 21, on Budget and Financial Management. This diploma enshrined in the legal system of Timor-Leste, for the first time after the approval of the Constitution of the Republic, the legal regime of the General State Budget and the norms that regulate budget execution and public financial management. Its approval represented an important effort of national regulation of the State Budget and public financial management, after a first decade in which the UNTAET financial legislation remained in force. However, although this diploma has adapted the budgetary procedure and political and administrative established structure in the Constitution of the Republic, it reproduces much of the norms contained in the United Nations law.

At this time, Law no. 13/2009, of 21 October, has been in effect for more than a decade and is virtually unchanged. Throughout this period, several limitations have been identified, both by virtue of national experience in implementing the law and by the evaluation of the financial management regime carried out by various international organizations, including the Public Expenditure and Financial Accountability (PEFA) Assessment of the World Bank Group, which conducted two exercises in this period, in 2013 and

2018, and the Article IV Consultation of the International Monetary Fund, which conducted five exercises in this period, in 2010, 2011, 2016, 2017 and 2019.

In the preamble of the bill, the Government points out as the two main objectives of the bill :

- streamline public management

and at the same time,

- increase transparency, responsibility, accountability and control of services and entities of the Public Administrative Sector.

The Government also states that it intended to incorporate the best international practices in terms of budgeting and transparency, whenever the Government considered them appropriate to the Timorese reality.

3. Conformity with formal, constitutional and regimental requirements and compliance with the law form

The present initiative is presented by the Government, within its power of initiative, in accordance with the provisions of Article 97.1(c) and Article 115.2 of the Constitution and with the provisions of Articles 90, 91.2 and 96.2 of the Rules of Procedure of the National Parliament (Rules).

As evidenced by the Technical Note 44/2020/DIPLN, the legislative initiative takes the form of draft law (PPL), and signed by the Prime Minister and Minister of Finance, and contains the mention of its approval by the Council of Ministers on January 20, 2021, obeying the form of draft laws under paragraphs 1 and 3 of Article 11 of Law No 1/2002 of June 29 (Law on Publication of Acts) and comply with the provisions of Articles 90, 91.1 and 96.2 of the Rules of Procedure. The initiative is written in Portuguese, in the form of articles, concretely defines the modifications to be introduced in the legislative framework and has a title that adequately translates its main object, thus showing itself to be in compliance with the rules contained in articles 92.1 and 98.1 of the Rules of Procedure. The bill contains a preamble and is accompanied by an explanatory statement, complying with the provisions of Article 98.1(d) and 98.2 of the Rules of Procedure as well as Article 11.1 of the Law on Publication of Acts. Finally, the proposal provides for the entry into force of the law (on the day following its publication), pursuant to Article 16 of the Law on the Publication of Acts.

4. Public Finance Committee - report /opinion and discussion in the specialty

The Public Finance Committee (Committee “C”) considers itself competent, by reason of the matter, to consider this legislative initiative, pursuant to the provisions of article 103 of the Rules of Procedure of the National Parliament.

Indeed, under the terms of Deliberation 2 / 2018 of the National Parliament, on the Constitution of Specialized Standing Committees, the Public Finance Committee is responsible for all matters relating to Budget Execution, Fiscal Policy and the State Budget itself.

The President of the National Parliament did not order the submission of the proposal for sectorial opinions from the other committees.

An Important issue will be the decision to maintain the discussion of this proposed law in the Plenary, as a general rule under Article 108.1 of the Rules of Procedure, or request and decide that the discussion and vote on the specialty take place in committee, as allowed by Article 108.2 of the Rules.

Both solutions are understandable:

- if on the one hand the specialty discussion in Plenary ensures greater participation and wider discussion, always important in a framework law for matters as important as the State Budget and public financial management,
- on the other hand, this bill, understandably, is of a remarkable dimension and complexity, which gives weight to the hypothesis of a discussion in Committee C, where the members specialized in public finance matters reside and where the discussion may be more focused and technically richer.

5. Reporters

Were appointed rapporteurs Mrs Angelina Sarmiento, from the People's Liberation Party (PLP) parliamentary bench and Mr Antonio Nobre Tilman, from the bench of Kmanek Haburas Unidade Nasional Timor Oan (KHUNTO).

In preparing this Report, the provisions of Article 34 of the Rules of Procedure of the National Parliament were observed, with the necessary adaptations.

6. Initiatives Taken -- Committee C Clarification Sessions and Hearings

During the process of initial consideration of the PPL LEO, clarification sessions were held from 23 to 26 March, 30 April and 19 May for members of Committee C [5], during which the content of the proposal was presented article by article and technical issues were discussed, as well as possible changes to the articles.

Observing the provisions stipulated in article 80 of the Rules of Procedure of the National Parliament, Committee C also decided to hold a series of public hearings with various entities. First heard were the President of the Court of Appeal, accompanied by auditors from the Chamber of Auditors (on May 26), the Authority of the Special Administrative Region of Oe-Cusse Ambeno (RAEOA - on the morning of June 2), the Deputy Minister of Social Solidarity and Inclusion (MSSI), accompanied by representatives of the National Institute of Social Security (INSS) and the Social Security Reserve Fund (FRSS) (on June 9) and the Minister of Finance (on June 10), as the main recipients of the standards to be discussed (and in the case of the Ministry of Finance, its author).

Were also heard the Ministries of Planning and Planning and State Administration (on the morning of June 01), the Unit for Planning, Monitoring and Evaluation - UPMA (on the afternoon of June 1), the Petroleum Fund Consultative Council (on the morning of June 8) and, as interested parties, the Governor of the Central Bank of Timor-Leste (on the afternoon of June 2) and FONGTIL Forum, accompanied by the association La'o Hamutuk. (in the late afternoon of June 8).

The hearing of the representations in Timor-Leste of the European Union and the World Bank was promoted (for the early afternoon of June 08), but the entities concerned did not attend.

The members of the committee asked several questions to the entities heard, also in writing.

The Ministry of Finance and the MSSI and INSS/FRSS responded in writing (their replies are attached - see Annex II 1 and 2 of this report and opinion). It should be noted however that the Ministry of Finance did not clarify during the hearing which limitations arising from the law in force the PPL LEO seeks to address.

Committee C also received written contributions from the Audit Chamber, RAEOA, the Ministry of State Administration, the Petroleum Fund Consultative Council, the Central Bank of Timor-Leste, FONGTIL Forum and the association La'o Hamutuk. These contributions, which also sought to respond to the questions raised by Committee C, are attached to this report and opinion (see Annex III).

The essence of these contributions is as follows:

- the Chamber of Auditors (CdC), concludes in its written contribution (see Annex III.1 of this report and opinion), that the draft law is well written, mirrors the reality of the country and meets the IMF standards, alerting only to the need for minor changes to make it more perceptible (referred to throughout this report and opinion, in the appropriate places) and the training of human resources for its implementation. Since the PPL LEO leaves this question open, for the legislation that implements the municipalities in Timor-Leste in the future, it does not seem appropriate to dismiss this solution now, as we will refer below. The CdC also alerts, as this report and opinion will do, to the problematic of the diverse approach contained in the current administrative structure and the need to better clarify what "budgetary autonomy" consists of. The CdC argues that the fit should be linked to the authorization of expenditure and warns, to some extent, of the problem of, in program budgeting, changing appropriations between budget programs of a ministry. The Committee ends by

drawing attention to the need to extend some of the deadlines provided for in the Government's proposal for the process of the General State Accounts and to the need to adapt separate legislation that conflicts directly with its precepts (from the Organic Law of the Committee), as also mentioned in this report and opinion;

- RAEOA, in its written contribution (see Appendix III.2 of this report and opinion), strangely questions the greater autonomy granted to it by the proposed law, even in cases where this autonomy already results, to a large extent, from current legislation or practice, contests the classification of the Region as a sub-sector and the biannual frequency of transfers of funds from the Central Administration and then, surprisingly, agrees with the greater autonomy (indeed a remarkable innovation) in the conclusion of loans (which the Government proposes no longer require the authorization of the Prime Minister). However, apart from these departures, the opinion of the RAEOA is largely positive;
- The written contribution of the Ministry of State Administration (see Annex III.4 of this report and opinion) contains a historical overview of the deconcentration process of the administration in Timor-Leste and a brief description of the decentralization project of the municipal local government, ending by pointing out that the financial regime of this local government is not included in the PPL LEO, given the lack of definition of its concrete implementation at this stage, and which should, however, be more clearly stated in its articles;
- The written contribution of the Consultative Council of the Petroleum Fund CCFP (see Annex III 4 of this report and opinion) highlights, of course, its reservations to the system of extension of revenues of the Petroleum Fund proposed by the Government, which, as we will see, covers the value of transfers authorized below and above the Estimated Sustainable Income. The CCFP also alerts to the change in the limits of budget amendments by the executive in the appropriations between ministries, believed to be by mistake since the limit proposed by the Government in the PPL LEO is now 0% (see Article 95(e) of the PPL LEO), i.e. such transfers are no longer permitted. The CCFP recommends, finally, the provision in the LEO of fixed budget allocations for certain sectors of government and the provision of sanctions for cases of lack of transparency in the State Budget and for the late presentation of the State Budget by the Government;
- the Central Bank of Timor-Leste, in its written contribution (see Annex III.5 of this report and opinion), begins by praising the budgetary principles of intergenerational equity and program budgeting. However, it suggests important specific adjustments to the content of the PPL LEO, of which we highlight the concern with the spending flexibility of the FRSS in its management of financial assets, with the excessive indebtedness of the RAEOA with the appropriateness of providing for low risk investments by the various treasury departments and with the need to clarify the exceptional nature of the relief of the replacement to the Administrative Public Sector of amounts unduly paid, in which this report and opinion is in full agreement (as we shall see below, in the appropriate places),
- FONGTIL Forum, in its written contribution (see Appendix III.6 of this report and opinion), like the CCFP, warns, by mistake, about the change in the limits of budget amendments by the executive in appropriations between ministries (remember that the limit proposed by the Government in the PPL LEO is now 0% (see Article 95(e) of the PPL LEO), However, as this report and opinion will do below, it points out that the role given to the UPMA (both in the process of drawing up the State Budget and in the control of its execution) goes far beyond its mission and organic competencies. It also suggests a possible excess in the exceptions to the execution duodecimal in a year of extended State Budget and also an equation of the autonomy of municipalities to the current autonomy of the RAEOA (which will be relevant for the future discussion of the financial regime of municipalities, when they are implemented as local authorities);
- finally, the association La'o Hamutuk, focuses its written contribution (see Annex III.7 of this report and opinion) on the issue of transparency, presenting several demands, among which the obligation to include information by reference in the General State Budget proposals, the general publication of all accounting reporting documents to the Parliament and the opening of the Budget Conference to journalists and the general public. It also mentions the importance of foreseeing a maximum limit

for the contingency reserve and the problem of short deadlines for the appreciation of the Major Planning Options Law, as this report and opinion will do below.

In the hearing, the Chamber of Auditors also alerted to the incompleteness of the informative elements made part of the CGE (article 102 PPL LEO), in light of current legislation, which will make the Chamber's supervisory action more difficult. The CdC also mentioned that it had not been properly consulted in the preparation of the PPL LEO.

The RAEOA, in turn, expressed ignorance of several aspects of the bill during its hearing.

Although the PPL LEO strengthens and clarifies multi-year programming as one of the main vectors of reform, which currently has shortcomings and above all a legislative framework in its infancy, the Ministry of Planning showed in its hearing that it was not aware of the terms of the proposed reform in this area, nor did the written contribution of the Ministry of State Administration refer to this topic.

UPMA did not reply in writing to the questions asked by Committee C, which are attached (see Appendix II.3 to this report and opinion). At its hearing, the UPMA brought back the essence of its intervention at the hearing to the defense of its increased role, under the terms of the PPL LEO, in the preparation of the preparation of the State Budget and in the control of budget execution.

At the hearing of the MSSSI and INSS/FRSS, and then in their written replies (see Appendix II.2 of this report and opinion), presented the day before this report and opinion was voted on, the Vice Minister expressed her support for the PPL, emphasizing above all the substantial improvement that the new regime will introduce by defining in a clear and integrated manner the framework rules for the whole budget process, from the drafting of the budget to its execution and rendering of accounts. The MSSSI and FRSS also provided important clarifications of:

- the classification of INSS as a public institute in the context of the administrative-financial structure proposed in the PPL LEO, which they consider appropriate to the specificities of the public financial regime (see point IV.1 below);
- with the exception of the earmarking of social security contributions, 5% allocated to administrative expenses, which they consider necessary to cover management expenses of the FRSS itself, as is already the case today (see point IV.2 below);
- the Social Security Budget balances and their use to avoid cash flow shortages, as a mere accounting operation that in no way reduces the final value to be transferred to the FRSS (see point IV.2 below)
- the relief of unduly made public payments, limited to exceptional situations, of small amounts and for imperatives of good faith (see point IV.8 below)
- the possibility for the INSS to contract loans, which is not adequately regulated today (see point IV.8 below);

and

- the suitability of the LEO entering into force this year, applying to the 2021 budget year and the 2022 budget process, as the MSSSI and the institutes themselves have been preparing for (see point IV.11 below).

Whenever these responses and contributions have specifically informed this report and opinion, they are expressly referred to in the appropriate places.

II. LEGAL FRAMEWORK

1. Introduction -- of the budget system

The existence of a legal framework for the State Budget (OGE) and public financial management is already provided for in the Constitution (in Article 95.2(q), which grants absolute reservation to Parliament for approval), which attests to its importance. Indeed, it is important to ensure not only the predictability and clarity but also the stability of the rules governing public finances, which underpin State financing of

the in all its vectors, creating a uniform framework of budget laws and the rules of its implementation and public financial management in general.

This legislation exists in one form or another, depending on the legal and administrative traditions around the world. [6] Even when Timor-Leste still had a transitional administration under the responsibility of the UN, when preparing for the restoration of independence, the need was felt to approve legislation framing the budget and financial management, UNTAET Regulation 2001/13 [7], which remained in force after the restoration of independence and until its replacement by Law 13/2009 of 21 October, the Budget and Financial Management Law (LOGF), currently in force. [\[8\]](#)

The LOGF kept many of the solutions and approaches of UNTAET Regulation 2001/13, especially in the simplicity of procedures and in its great concentration in the central State, which is understandable given the relative simplicity of public administration in Timor-Leste at the time, but that may be considered maladjusted to the current governing and administrative reality, more mature and complex, a maladjustment that the draft law under analysis here intends to fill, although, as noted, with important flaws.

2. The specific draft law - changes in approach vis-à-vis the LOGF

Reading the explanatory memorandum shows that the draft law under consideration operates in three major fundamental areas, introducing a new administrative and financial structure, budgeting by programs and a multiannual timetable for the budgetary process, enshrining and developing the practice already followed in recent years, not without challenges in the light of the framework law in force. See, in this regard, the legal considerations of Committee C in its reports on the proposed laws for the State Budgets for 2020 (third proposed OGE 2020, PPL 22/V (3a), then Law 10/2020, of October 19) and 2021 (PPL 23/V (3a), then Law 14/2020, of December 29), regarding adequacy, not always easy and straightforward, of their administrative-financial structure and program budgeting solutions in light of the then in force (and still current) LOGF - proposals that already prepared several of the solutions that the PPL LEO now enshrines, without a framework law that clearly supported it.

a. The new administrative-financial structure and the budget perimeter

Since the restoration of independence, the Timorese public administration has evolved from a small and almost totally centralized Government to a developed administration, with considerable financial resources at its disposal, remarkable deconcentration, and a pioneering welfare State among developing economies.

However, the administrative-financial legal framework has remained stagnant, with few structural changes since the 2001 UNTAET Regulation on budget and financial management, assuming a non-deconcentrated (nor, of course, decentralized) administration, whose actions are subject to prior control procedures with strong centralized ministerial decision-making for day-to-day and/or minor issues. An adequate framework, no doubt, for the times of the UN transitional administration and the early years of a newly independent state, but somewhat out of step with the Timorese administration of today, endowed (perhaps excessively - it should be remembered, as Committee C has already pointed out in the past, that many of the institutes perform functions that do not seem to require a legal personality distinct from that of the State and most of them do not receive any revenues of their own) entities that claim to be autonomous, many of them embodied in public institutes (indirect administration, therefore), and a growing deconcentration, of which the municipal authorities and administrations and the Autonomous Region of Oe-Cusse Ambeno RAEOA are an expression.

It should be noted that it is difficult to answer the question of the classification of the RAEOA within the public administrative structure of Timor-Leste:

- whether the lack of superintendence (see DL 5/2015) indicates the nature of (somewhat) autonomous administration,

- the lack of elections (see arts 65.1 and 72.1 of the Constitution) and the existence of merit-based guardianship (see DL 5/2015) point (more decisively) in the direction of indirect administration, and it should also be noted that the understanding in Timor is that the autonomous administration of people and territory should have its legal regime regulated by law of Parliament, in a restrictive understanding of art. 72.2 of the Constitution - now the organization of the RAEOA is contained in DL (5/2015) and, more decisively, the legal provision for the establishment of the regime of the RAEOA by mere Decree of the Government (regulatory act - see art 15.4 of Law 3/2014), which typically indicates regulation of the (non-autonomous) administration of the State.

Thus, for now, it seems clear that the RAEOA is an indirect administration (deconcentrated) *sui generis* (not a public institute) -- even though the Region has its own indirect administration (regional public institutes, such as the Development Fund - FED).

Incidentally, Timor-Leste will soon be witnessing decentralization reforms, although the PPL LEO does not anticipate the administrative-financial regulation of the autonomous administration, whether municipal, regional or even associative. The PPL LEO relegates such matter to the future moment when there are concretely instituted in Timor-Leste, as is anticipated, municipal level local authorities (see Article 23 of the PPL LEO) and regional level local authorities (the recent Law 4/2021, of March 10, indicates that a regional level local authority will soon be established, through reform of the status of the RAEOA), as well as public professional associations (see PPL 25/V (3)).

It is true that LOGF welcomed from the beginning the existence of an administration with financial autonomy, which it called “Autonomous Funds and Services” (SFA). However, this has not been uniformly implemented, sometimes with legal personality, i.e., public institutes, and sometimes without legal personality, such as the Petroleum Fund (see Law 9/2005 of August 3, republished by Law 12/2011 of September 28, especially in its Art. 5.3), the Petroleum Fund (Special Fund until the end of 2005), the (Special until the end of 2009) Human Capital Development Fund (see DL 13/2020, of April 15, especially in its art 2), and, more recently, the COVID-19 Fund - see Law 2/2020, of April 6, amended by Laws 5/2020, of June 30, and 10/2020, of October 19, and DL 12/2020, of April 14, amended by DL 19/2020, of May 27 and by Law 10/2020, of October 19, especially in its art 2.2).

The current regime does not have a general public financial regime that gives it coherence, and there are even entities with very fictitious financial autonomy as to their revenues, all of which are their own (noteworthy examples being APORTIL (cf. article 27 of DL 3/2003, of March 10) and the National Communications Authority (cf. Article 13 of DL 15/2012, of March 28)), along with others, the majority, with revenues coming exclusively from state transfers and not their own - which, it should be said, violates the very definition of the category of Autonomous Service and Fund, since article 2.2(c) LOGF requires the collection of at least some of their own revenues. See, as noteworthy examples of very strong autonomy, the norms of the LOGF that accommodated an almost total budgetary separation of the Autonomous Funds from the State Budget, treated as extra-budgetary entities, the target of purchases and payments by the Consolidated Fund - cf. articles 23.2 and 50 LOGF (incidentally little used in the more distant past and obsolete since a few years ago, with the full integration of the SFAs in the State Budget). This is, in fact, one of the clear examples of an incorrect “transposition” of the norms of UNTAET Regulation no. 2001/13 that affect the LOGF, because a reading of the Regulation allows us to perceive that this autonomy was designed for the Banking and Payments Authority, now the Central Bank of Timor-Leste, and not for the autonomous funds.

On the other hand, the framework in force in the LOGF maintained the UNTAET Regulation’s solution of enshrining, in the foot of the Consolidated Fund of East Timor, Special Funds [\[9\]](#) extracted from that Consolidated Fund [\[10\]](#) in order to establish autonomy in the management of certain resources vis-à-vis the state civil service as a whole (but which in that Regulation corresponded only to monetary amounts granted by international organizations or foreign governments), This resulted in a separate financial and accounting treatment of, more recently, [\[11\]](#) only one Special Fund at the central level, the Human Capital Development Fund (HCDF) [\[12\]](#) and another at the regional level, the Special Development Fund (FED) of the RAEOA [\[13\]](#). This is at the same time as the complete omission from the LOGF of the administrative and financial regime to be attributed to the RAEOA and the Social Security system, regimes governed by their own legislation [\[14\]](#) in a separate, uncoordinated and, as for the RAEOA, incomplete.

As Committee C has repeatedly warned for some time now, one might think that a new legal framework should be approved that consolidates and details the administrative and financial regime of the various components of today's Timorese administration - however, Committee C also recalls that Timor-Leste experienced remarkable economic development under the LOGF, which could remain in force for several more years, without the need for the reform proposed here.

The new administrative and financial structure proposed in the PPL LEO eliminates the figure of the SFA, as defined by LOGF [15], and the Special Funds and, by opposition, the Consolidated Fund. There will now be one Treasury and three sub-sectors, enshrining autonomous budgets within the General State Budget, along with the Central Administration (in which the former SFAs are brought back), the RAEOA [16] and the Social Security system, exempting them from some rules applicable to most services and entities, as we shall see in detail in point IV below. The PPL LEO also details the regime of financial autonomy, greater or lesser (extended or limited, in the words of the proposal), of the services and entities of the Central Administration, ending the excessive centralization of financial management at the ministerial level and harmonizing the disparate regimes of autonomy inherited from past separate legislation, while strengthening the unity of treasury.

As for the budget perimeter, the proposal adopts a formal criterion, widely used in other countries (which also allows international comparability), designed for the (still) relative simplicity of Timorese administration. It clarifies the exclusion from the State Budget (OGE) not only of public entities with the form of a company, foundation (largely corresponding to the State Business Sector) or association, which already resulted from article 2.2(a) of the LOGF, but also the exclusion from the OGE of part of the Administrative Public Sector (the non-business public sector), namely the Central Bank of Timor-Leste, an independent administrative entity with its own budgeting and reporting rules [17], and the Petroleum Fund of Timor-Leste, a State fund without legal personality, the source of most of the State's public revenues but which, by its nature as a sovereign fund, includes types and flows of revenues and expenses fundamentally different from any other administrative public entity. This is without prejudice to the informative presentation in the State Budget of information regarding these two entities, including, as is required, the financial flows between these entities and the State Budget. This is the current solution, already in the context of the State 2021 Budget - see article 1.5 of Law 14/2020, of December 29, amended by Law 8/2021 of May 3.

b. Budgeting by programs and accountability for execution

A second major vector of reform is program budgeting (of expenses), also already adopted in Timor-Leste in the recent past (in OGE 2021 [18]), another increasingly widespread international trend and which has, as already repeated by Committee C in the past (even in a more remote past, in favor of its adoption), the virtue of allocating expenses to activities foreseen in an annual plan of the services or entities.

The LOGF already mentions this possibility [19] in passing and without coherence throughout the diploma, still centered on an organic classification of expenditure [20].

With the reform proposed herein, we will definitively cease allocating money to entities which, although classified in an economic manner and necessarily intended for the pursuit of the mission of the receiving entity, were not, prior to the budgeting by programs, legally predestined to certain specific purposes, designed as a whole that the government intends to be coherent in its planned activities, but which it is seriously doubted can be achieved. This increases not only the transparency of public action but, perhaps more decisively, the efficiency and effectiveness of public spending (pressured by transparency and the presence of precise indicators) and the consequent easier and more dense accountability of services and entities for failure to meet their objectives. This is an element of the reform that this Committee has long demanded but that is now being presented as a rushed and clearly ill-prepared path by the executive.

The PPL LEO maintains the economic and organic classification, and also adds the functional classification, in the name of greater quantity and above all quality of the budgetary information presented.

It should be noted that program budgeting does not include revenues, as envisaged in the PPL LEO - being possible, program budgeting of revenues has a different logic, of identifying the revenues which finance a particular program, which is less widespread (and which to some extent

contradicts the principle of non-consignment foreseen in the PPL) and which it was understood to be inappropriate to adopt in Timor-Leste - in fact, in Timor-Leste, the main issue around the revenues and, very specifically, the percentage of them that comes from the Petroleum Fund and, among these, the percentage that reaches the Estimated Sustainable Income of the Fund, i.e. which depletes the base wealth of the Fund year after year, not limited to spending the annual income from the assets of petroleum origin. As for the other revenues, an organic and economic classification (as proposed in Article 11.2 of the PPL LEO) will be enough to determine where they come from and the nature of these revenues.

c. The new multi-annual financial programming

The reform proposed here clarifies, consolidates and expands the practice of planning multi-year expenditure in a top-down approach, in which the central government (upon a proposal from the Ministry of Finance and a decision taken by the Council of Ministers) sets the ceilings for overall expenditure and for the various budget segments, based, of course, on the Government's program but also, incisively, on the revenue that the State expects to collect. The main purpose of this is to ensure that the spending tendency of the base, which naturally aspires to a greater number of activities in pursuit of the missions in question, is limited by the reality of the (limited) means available to the State to finance its activity - the effectiveness of this approach is, however, questionable.

This is not an absolute novelty, since, in addition to the constitutionally required government program, [21] national development plans[22] and other political and strategic documents [23] are already being prepared, into which the annual and medium-term plans of services and entities should fit. In fact, the LOGF itself already refers, in articles 3.2 and 3.3, to the multi-year budget strategy, with the medium term being three years (and not five, as the PPL LEO is now proposing).

It is also a repeated practice to hold an annual budget day to prepare the State Budget, to discuss the implementation by each entity of the main options in terms of planning with an impact on the State Budget, seeking to fix the total amount of expenditure of each entity; the Ministry of Finance also already issues an annual circular on the preparation of the State Budget, which contains, in addition to procedural elements, these expenditure limits. What, in this respect, what the PPL LEO does is above all to clarify procedures, their interaction, deadlines, and the actors involved, with emphasis on the coordinating role of the Planning, Monitoring and Evaluation Unit - UPMA, going far beyond the mission and powers of this entity.

A major innovation of the PPL LEO will be, if adopted as proposed, the implementation of the annual approval of Major Planning Options (GOP) laws, provided for from the beginning in the Constitution but lacking, to date, of implementation and realization - see Articles 95.3(d) and 115.1(d) of the Constitution (note that the Rules of Procedure of the National Parliament also already provides for the figure, but of proposal and joint discussion with the proposals of the GSB - see Articles 162 to 169 of the Rules). It is doubtful however that this is the right moment for such a reform.

The adoption of a GOP law, at the beginning of the State Budget preparation process, intends to remove, both from the subsequent moments of preparation at the Government level and from the discussion of the OGE in Parliament, the fundamental issues of major planning options, of multi-year programming and, very specifically, the discussion of the limits of total expenditure of the OGE, which will be fixed in a binding way for the following year in the GOP Law, [24] as well as, to a great extent, the discussion of the limits of total expenditure of the Central Administration, the WAA SAR and Social Security, even if in this case fixed in an indicative way. [25] And on the revenue side, the setting of debt limits and the origin of revenues, with special emphasis on petroleum revenues, although also indicative, [26] will also alleviate this discussion, especially when the State Budget is being considered.

This is intended not only for a more widely discussed and reflected planning of governmental action on an annual and medium term horizon (five years), when the GOP is being discussed, but also for an appreciation of the State Budget proposal which is more focused on the following year, on short term governmental action and on the adequate means for its concrete realization, with the security of a greater

already based planning. A necessary step in constitutional terms but one that one seriously doubts will bear fruit.

It should be noted, finally, that the PPL LEO seeks to ensure, with new deadlines stipulated in the proposal, [27] that the discussion of the General State Account (CGE) for the previous year is completed before the State Budget for the following year is presented to Parliament, i.e. at the end of September - which could be interpreted, here too, as a clear intention by the Government to ensure a more detailed and informed discussion of the State Budget, [28] but which this Committee considers to be an unnecessary and untimely interference in the budget process.

III. FRAMEWORK AND ECONOMIC AND FINANCIAL CONSIDERATIONS

The Framework Law for the State Budget and Public Financial Management is an instrument that aims to allow the authorities to achieve their budget policy objectives. It should serve to improve the management of public finances, namely (a) achieve short-term macro-fiscal stability and medium-term fiscal sustainability; (b) enable a better allocation of resources; (c) improve expenditure efficiency; (d) optimize the use of available cash; and (e) improve the quality of budgetary information presented to Parliament and the public.

The Budget and Financial Management Framework Law should define the procedures that ensure a sound execution of the budget policy.

The outcome of the budget process depends on the presence of clear rules for the formulation, execution and reporting of the annual budget, as well as a clear definition of the medium-term fiscal policy objectives, elements defined in this single piece of legislation.

The proposal presented, as the Government itself states, introduces substantial changes in several aspects. These changes make the budget process more transparent and logical, despite its increased complexity. Its good execution depends, therefore, on the technical training of human resources and the improvement of information systems.

There is a wide diversity of worldwide practices regarding the role that the Budget and Financial Management Framework Law plays in determining the architecture for the budget system, that is there is no "model law". Instead, the specific institutional, legal and cultural characteristics of each country should be considered when drafting a new Law.

A substantial part of the guidelines for budget execution are also defined by the PPL. The government should ensure that the execution is carried out efficiently, effectively and transparently. To this end, it must be guaranteed the necessary freedom and flexibility in defining the methods that allow this good execution.

1. Budgetary Rules

The PPL presented does not contain numerical fiscal rules. It only takes into account the balanced budget, which in the case of the overall balance includes, as described above, revenue derived from loans and excess withdrawals from the Petroleum Fund.

Worldwide there are four types of budget rules, namely, rules on the budget balance, public debt, expenditure and revenue. While in 1990 only six countries had budget rules, today there are more than 90 countries, and for developing countries the most widely observed budget rule is the public debt rule (which sets a ceiling on public debt - usually between 40% and 70%). For example, in Indonesia since 2004 the public debt cannot exceed 60%, while in the case of Peru the public debt cannot exceed 30%. There is no numerical budget rule, and good practice of budget discipline is that the use of the budget balance, if any, contributes to the sustainability of public finances. In the case of the PPL the budget balance must be used to amortize and pay interest on debt or to finance the contingency reserve (article 16.2).

On the other hand, article 15 states that the overall balance of the State Budget should be zero or positive. However, no correction mechanism is defined in case the balance is negative, nor is any date stipulated on which the Government should further analyze the evolution of the balance throughout the year.

2. Treasury Unit

As a budgetary rule, the Treasury Unit is introduced, which is regulated by article 14 and articles 75 to 78. The Central State Treasury, the Social Security Treasury and the RAEOA Treasury are defined.

In general, the Central State Treasury allows for a better management of public money, making the timing of receipts compatible with the timing of payments. In order for this management to be effective, it is necessary to have coordination between the various departments, the Treasury and the Treasury Management Unit, and to correctly account for expenses and revenues, so as to verify a credible projection of receipts and payments to be made in the short term, and to guarantee the existence of funds to meet the State's commitments. The non-centralization of the RAEOA treasury with the Central State Treasury thus reduces the effectiveness of the measure.

On the other hand, the specificity of the welfare and citizenship function of social security, carried out through social benefits, and the Social Security Reserve Fund, which aims to earn money from the amounts from the annual contribution surpluses that are not subject to immediate distribution, requires the separation of the Social Security Treasury from the Central Treasury of the State. This separation thus allows to increase the efficiency in the use of social security money, which, as provided in Article 75.2, follows its own regime. The autonomy of the social security budget, the principle of self-financing of the welfare system and the specificity of respect for the consignment of revenue in the social security sector, makes it necessary to ensure the autonomy of the social security treasury in relation to the central treasury of the State, particularly with regard to the receipt of own and consigned revenues of social security and the direct payment of social benefits to beneficiaries, while ensuring the short-term profitability of surpluses. This separation of the social security treasury provided for in this PPL therefore respects the philosophy inherent in the social security system, as well as the existing rule in Decree-Law 47/2016, of 14 December, which provides that the INSS is responsible for performing the functions of the single social security treasury (paragraph h) of Article 5.3 of the INSS Statute, approved by Decree-Law 47/2016, of 14 December).

Article 75.4 seems to want to go a bit further. It states that the Central State Treasury aims to ensure the existence of funds, and should maximize the return on public money in its possession, i.e., it opens the possibility for active management of the Treasury. This may imply that the objective of the Treasury is no longer exclusively to ensure the timely fulfillment of commitments, but also to obtain a predefined level of liquidity, i.e., to guarantee a cushion of available cash against possible unforeseen or anticipated expenses. Additionally, it has other positive impacts with the stabilization of the circulation of money in the economy and the development of the capital market if there is interest from the Government.

Not being the object of this PPL, the operationalization of the treasury unit determines the effectiveness of the measure. Good treasury management comprises the consolidation of all government bank accounts into one main account, without hindering the existence of sub-accounts and zero-base or zero-balance accounts, the ability to make projections of short-term cash inflows and outflows, the timely sharing of information between the Ministry of Finance and the other Ministries and departments. Another prerequisite presupposes adequate infrastructure, including transaction processing or payment systems that allow transactions to be processed and recorded in a reliable, accurate and timely manner.

It should be noted that when developing Timor-Leste's capital market, the coordination between cash management and debt management should be taken into consideration in an efficient active cash management.

3. Public Debt

Within the scope of the Public Debt, there is nothing to prevent the demand for a more comprehensive indicator of indebtedness than the public debt of the Public Administrative Sector.

In fact, the debts of public entities outside the perimeter of the OGE are ultimately the responsibility of the State, putting at risk the sustainability of public finances. Only with knowledge of all the responsibilities of the State can we define limits considered sustainable for the level of public debt in the Public Sector.

The analysis of public debt sustainability must consider the overall indebtedness situation of the public sector as a whole, as defined in the General State Account, and not only the public debt of the general government sector.

4. Multi-Year Budget Programming

Budget Process
planning options
multi-year budget schedule
macroeconomic projections
expenditure by budget title

In Timor-Leste the new PPL aims to deepen multi-year budget programming. In practice there is an annual pre-budget debate in May (Major Planning Options Law) in which the government's expenditure priorities and economic planning are discussed. There the major aggregates of revenues and expenditures by subsectors are approved.

A medium-term budget framework is an instrument to ensure the sustainability of public finances in the sense that to complete it requires a forecast of the macroeconomic scenario and the planning of major public expenditures over the next few years.

The Major Planning Options Law identifies the major economic planning options and presents the macroeconomic projections on the basis of which the multi-year budget programming is carried out - to be presented in the same document.

It is important to distinguish between the multi-year budget programming proposed in the PPL (MTFF - Medium Term Fiscal Framework) and the multi-year expenditure programming Medium Term Expenditure Framework (MTEF).

The multi-year budget programming establishes the macro-fiscal framework, the revenue projections for the Public Administrative Sector, the limit on total expenditure for the Public Administrative Sector, the expenditure limits for the various sub-sectors (Central Administration, Social Security and RAEOA) and the public debt limit for the following budget year and subsequent years.

The multi-year expenditure program (MTEF) establishes the limits of expenditure financed by general revenue for the Central Administration as a whole, by budget program, cited by organic classification and/or functional classification.

The concern of the multi-year budget programming proposed in this PPL tends to be, above all, that of macroeconomic stabilization by limiting total expenditure, revenue and public debt in order to ensure the sustainability of public finances. To this end it must:

- a. Analyze the evolution of future expenditure without the introduction of new policies.
- b. Assess the impact of planned policy measures to be carried out in the future;
- c. Assess the need for additional policy measures to ensure the sustainability of public finances

In this sense, the figures for future years are indicative, being a basis for corrective decisions to ensure the sustainability of public finances. In this PPL, significant annual deviations need to be justified. Their justification, if carried out, would create greater political incentives for a credible projection process in multi-year budget programming.

There are major challenges in implementing multi-year budget programming. At the revenue level, Timor-Leste has been heavily dependent on the Petroleum Fund. Thus the price of oil, as well as the future profitability of assets are key variables in forecasting future revenue, and, by the principle of fiscal

stability, public expenditure in the medium-term. Thus, it is necessary to consider prudent assumptions regarding these variables.

On the other hand, the multi-year expenditure program (MTEF) goes further, aiming not only to ensure the sustainability of public finances, but also to reconcile economic policy priorities with fiscal policy, i.e., it identifies not only the “how much”, but also the type of public expenditures aiming at an efficient allocation of public resources. Countries such as Portugal and France elaborate this programming by functional classification, while Australia goes into even more detail by determining for the coming years the expenditure foreseen for each of the budgetary programs.

The multi-annual programming of expenditures (MTEF) requires a great deal of technical capacity on the part of each Ministry, which is why it is not a priority in this PPL.

5. Budget Day

After the approval of the Major Planning Options Law, the executive, on June 10, approves the annual allocation for each budget title.

At these Budget Days, which are the government’s responsibility, the next step in the top down methodology begins, that is, to concretize and make compatible in budgetary terms the medium term planning by organic classification, i.e., by ministry. The fact that we wish to deepen the top-down budget methodology and integrate it into the budget cycle, ensuring effective synergy between sectoral plans and programs, justifies the fact that the Budget Days are included in the PPL.

6. Program-Based Budgeting and Result-Oriented Budgeting

This PPL elaborates on program budgeting. Program budgeting provides more and better information on where public money is going and thus facilitates the prioritization of public spending.

In the specific case of this PPL, according to articles 10.3 and 46, program budgeting is results-oriented, i.e. performance-based. Results-oriented budgeting aims at improving the economy, efficiency and effectiveness of public expenditure, linking funding and resources to results, making systematic use of performance information.

The central idea is to monitor the performance of the budget program and its results and to use this information for budgetary decision-making. Performance evaluation indicators and their measurement make Governments responsible for the implementation of the fiscal policy. Program budgeting fits naturally into a medium-term and multi-year budget structure, although the latter is not a prerequisite for the former. A good way to improve the formulation of policy measures is to make maximum use of performance information and its implications for cost-benefit analysis.

In this regard, (re)consideration of spending priorities and program performance should be formally integrated into the budget process. In addition, provision should be made for a spending review process, a systematic process for examining all proposed new initiatives and ensuring that new spending submissions are matched with information on their effectiveness and efficiency. This process is governed by article 46.

In this context, the budget strategy presented in the PPL is based on the needs of entities and services, through the creation of programs from these entities (bottom-up method). In this context it becomes necessary to integrate the entities/services’ programs in the predefined ex-ante planning objectives through the top-down method mentioned above.

It is necessary to create a unit to ensure this coordination process, which in this PPL, is defined as the UPMA in coordination with the Ministry of Finance

7. Submission of the annual OGE proposal

Regarding the draft State Budget Law, considering that there is an evolution in terms of comprehensiveness, transparency and simplification with the presentation of the Report, budgetary developments and informative elements, some assessments should be mentioned, namely:

- The projected macroeconomic scenario should be transparent and prudent.

The forecast with and without new policies should be indicated (no-policy change and policy change scenario), because only then the National Parliament has the true notion of the impact of the economic policy measures, something which is not contemplated in this PPL. The credibility of the State Budget goes through the quality of the economic projections. These should not only be disclosed, but also justified, indicating the respective methodology, something which has not been done and which is also not contemplated in the PPL.

- The analysis and mitigation of fiscal risks should be referenced and accommodated in the PPL given their importance for the sustainability of public finances.

Budgetary risks can be endogenous (internal) or exogenous (external), and have a regular or discrete incidence with greater or lesser probability of occurring. These relate to economic risks, country-specific risks and structural risks. Regarding economic risks, the sensitivity of budgetary projections and public debt to macroeconomic changes must be considered, as well as analyzing alternative budgetary scenarios and making an assessment of debt sustainability.

Regarding contingent risks, the risks associated with government guarantees and other contingent liabilities should be analyzed, as well as analyzing the implicit contingent liabilities, i.e., state-owned enterprises, the financial sector, and off-budget funds and assets.

The IMF's Fiscal Transparency Manual suggests that the disclosure of fiscal risks can be usefully brought together in a single fiscal risk statement, presented with the budget. As examples we have Indonesia and the Philippines. The type of fiscal risks to be analyzed should be clearly defined in the PPL.

Another important element is disclosure of their financial obligations under multi-year investment projects.

8. Extension of the validity of the annual OGE proposal

The LEO specifies the rule to be applied in case the budget is not approved. The use of the duodecimal regime is considered in this PPL. However, rules may be defined which stimulate the articulation between the Government and the National Parliament for the presentation and approval of the State Budget. Namely, some countries limit the duration of the duodecimal regime to a certain period - 4 months for example. In order to ensure that the non-approval does not jeopardize the socio-economic development of Timor-Leste the PPL proposes that the extension of the validity of the law implies the implementation in that year of an OGE similar to the one approved in the previous year, including all the appropriations of expenditure and revenue, including the transfer of the Petroleum Fund.

Another innovation is the possibility of substituting for the transfer from the Petroleum Fund by borrowing. This change takes into account the possibility of developing a capital market in Timor-Leste, something that may happen later this year. Note that, with Timor-Leste having a Petroleum Fund and the U.S. dollar as its currency of circulation, it is possible to issue Timor-Leste public debt in dollars and guaranteed by the Petroleum Fund. This will allow the realization of loans with a relatively low associated cost, i.e. low interest rate, while ensuring the sustainability of the Petroleum Fund.

9. Execution of the State Budget

Good practice in expenditure execution control indicates that the expenditure execution process should under normal circumstances be divided into three stages:

- i. Intent to spend (expenditure authorization, appropriateness);
- ii. Assumption of responsibility (commitment and liquidation of expenditure);
- iii. Clearance of charges (payment order and payment accomplishment)

In addition to clear rules for expenditure execution, internal control is a key part of ensuring an effective budget policy and quality budget execution (articles 63 to 66). An improvement in the integrated budget management information system is necessary. The permanence of an incomplete system such as Free-Balance is not compatible with the good practices proposed in the PPL for expenditure control. This control ensures: (i) budgetary responsibility of the entities; (ii) that all steps of expenditure execution are carried out; (iii) that expenditure is within the defined limits, and, (iv) minimizes the accumulation of arrears.

In the specific case of this PPL, it will be possible to authorize expenditure without commitment, which is only necessary when making a commitment. This can be justified by the existence of lengthy procurement processes in Timor-Leste, which can lead to part of the budget allocation being committed without the settlement of expenditure for too long, inhibiting the emergence of other projects.

However, such a situation will diminish the Ministry of Finance's control over expenditure. The final solution should involve an improvement in expenditure planning, to which program budgeting contributes, and an improvement in the procurement system and its legal framework.

As Timor-Leste is occasionally shaken by natural disasters, whose consequences are unpredictable - impact on health, infrastructure, housing, basic needs, etc. - it is advisable that the General State Appropriation has a buffer available for this purpose. This allocation could be dependent on the declaration of a Calamity Situation. An example is what happens in Indonesia. Additionally, the budget exposure to natural disasters and other major environmental risks should be analyzed and disclosed.

10. Reporting and Monitoring

According to the OECD and IMF, six weeks after the end of the first half of the year, a comprehensive update on budget implementation should be carried out. This report should indicate the impact on the OGE of changes in the macroeconomic forecast underlying the OGE, any recent policy decisions related to the OGE, and any other circumstances with impact. The report should include updated projections for the fiscal year concerned and the following two fiscal years.

Monthly execution reports and the presentation of a General State Accounts (CGE) are foreseen in the PPL. The format should be identical to that of the State Budget proposal. Adjustments made during the year should be indicated. Comparative information about revenues and expenditures from the previous year should also be provided.

Additionally, for the execution of the results-oriented program budgeting to be properly supervised and evaluated by the National Parliament, it is necessary that the General State Account includes the description and identification of the results obtained by the implementation of the various programs, something which is not foreseen to be included in the CGE according to the PPL.

In addition to the Chamber of Auditors and the National Parliament of Timor-Leste, civil society is incorporated into the public finance oversight process (article 56). Furthermore, it is also incorporated into the budget process (article 45.2), although it is not clear how this consultation will be carried out. It is noteworthy that international indicators such as PEFA and Open Budget Survey, among others, consider that the intervention of civil society in the budget process is essential for the proper functioning of public finances.

However, the introduction of independent fiscal institutions is not considered. Independent fiscal institutions assess a government's budget policies, plans, rules, and performance against macroeconomic and budget objectives. Independent fiscal institutions assess the long-term sustainability of public finances and short to medium-term macroeconomic stability, in addition to other official objectives, i.e., they have quite distinct objectives from the external audit role given to the Chamber of Auditors.

Perhaps the PPL does not consider independent fiscal institutions because they are associated with developed countries, but this is not true at all. Examples are the cases of Kenya, Chile and Peru.

An assessment of economic and fiscal protections by independent fiscal institutions contributes to an increase in the credibility of the government and the country. For a future opening of Timor-Leste to capital markets, fiscal credibility and transparency are essential elements.

11. Accrual Accounting

In article 114, PPL intends to introduce accrual accounting. The first step, as indicated, is to submit a report on the possible transaction.

It follows, however, that its implementation requires strong technical capacity and instruments that do not yet exist. Implementation, according to the experience of other countries, tends to take five or more years, so an accounting change is not expected in the short term.

IV. LEGAL CONSIDERATIONS

1 - Structure and general wording

The draft law, in addition to an explanatory memorandum and a preamble, is composed of five articles, divided into nine titles. [\[29\]](#)

The object of the PPL LEO, described in article 1, is, of course, the framework of the State Budget (OGE) and the State General Account (CGE), the budgets and accounts that make up these, including budget execution, the financial regime of the services and entities of the Public Administrative Sector and the regimes of control and budgetary responsibility.

The scope of application of the proposal, described in Article 2, is rooted in the new administrative and financial structure referred to above, abandoning, on the one hand, the separation in the Central Administration between Consolidated Fund and Special Funds, and adopting, on the other, a structure based on the formal concept of the Administrative Public Sector. It excludes, as LOGF did, [\[30\]](#) public entities that adopt typical organizational forms of a private nature, such as public companies [\[31\]](#) and public foundations [\[32\]](#), which to a large extent represent the State Business Sector (SEE [\[33\]](#)), and also, as we shall see, public associations. It separates that Public Administrative Sector into three subsectors according to the most recent administrative evolution. In addition to the Central Administration (with the exclusion, as already explained, of the Central Bank and the Petroleum Fund, [\[34\]](#), and the definitive abandonment of the confusing figure of the “Autonomous Funds and Services”), the Administrative Region of Oe-Cusse Ambeno - RAEOA and Social Security, endowed with autonomous budgets (although integrated into the larger concept of OGE) - these two subsectors with specific budgetary, financial and accounting powers, which are intended to be adequate to their specific nature as regional administration and social welfare administration, respectively. The LOGF, as has already been said, ignores both the RAEOA [\[35\]](#) and Social Security.

The PPL LEO [\[36\]](#), like LOGF [\[37\]](#), also excludes public associations from its scope (the proposal even excludes them from the concept of the Public Administrative Sector, clearly only in the terms and for the purposes of LEO), also excluding those that may in the future belong to the autonomous administration. [\[38\]](#) As for the autonomous administration of people and territory, local authorities [\[39\]](#), while LOGF determines the generic application of its provisions and then announces a specific regime for their financing, [\[40\]](#) the PPL LEO opts for a clearer provision, referring its budget regime to the law that implements the municipalities as a local (municipal) power, while at the same time integrating them, not without confusion, in the Public Administrative Sector for the purposes of this draft law [\[41\]](#)- as the Ministry of State Administration points out in its written contribution (see Annex III.3 of this report and opinion). It should be said, moreover, that although the PPL LEO does not mention it, this should also be, in consistency, the solution for regulating the budget regime of the RAEOA, if and when this public legal entity evolves decisively to the category of autonomous administration, with elections of local government (in this case regional). [\[42\]](#)

It should be noted that the administrative-financial structure does not coincide with the basic administrative structure, [\[43\]](#) according to which the entities of Social Security (the National Institute of Social Security - INSS and the Social Security Reserve Fund - FRSS) and even of RAEOA belong to the

indirect central administration. [\[44\]](#) [\[45\]](#). This discrepancy raises serious problems, especially in the Timorese legal system where the general regime of the administrative structure, contained in DL 30/2020, of July 29, despite being recent, ignores the reform of the budgetary framework and public financial management that was already being prepared at the time of its approval. See, as major examples of contradiction:

- - the inclusion in the concept of indirect administration, by force of article 10.2 of DL 30/2020, of practically all (if not all) the entities without legal personality that PPL LEO (rightly) calls direct administration;
- - the description of financial autonomy made in articles 12 and 57-62 of DL 30/2020, which is still rooted, in practice, in the LOGF approach.

If we add to this the discrepancy between much of the organic legislation in force, written under the aegis of UNTAET Regulation 2001/13 or the LOGF, and the proposed general financial regime (with regard to the elimination of special funds, [\[46\]](#) the content of financial autonomy^[47] and the nature, as general or specific, of revenues^[48] ^[49]) and the regime for expenditure, we believe it is important to clearly express the prevalence that a framework law always has over other legislation governing matters of its object and scope. And let it not be said that this is intended to confer enhanced value on the LEO, something that only the Constitution can do (and so far has not done) as the Court of Appeal has already made abundantly clear (see, for all, the most recent Ruling 01/CONST/2021/TR, on the LOGF in its relationship with the State Budget Law); the prevalence of a framework law is embodied not in a supralegal (and infra-constitutional) stratification, i.e. not in the predominance of the LEO over other ordinary laws, even if subject to the Constitution, but in the power to

- repeal all prior legislation to the contrary, even if special - thus removing the rule of legal interpretation. “special law, even if earlier, derogates general law, even if later”,
- to conform, for the sake of systematic coherence, future legislation, whether at the political-legislative level at the time of legislative discussion or at the exegetical level at the time of interpretation of subsequent law, which will always be done in the light and, to the extent possible, in accordance with the letter and spirit of the framing law.

And always, of course, without prejudice to subsequent law expressly excluding the application of LEO in a certain sphere or even altering it, in whole or in part. And also without prejudice of defending infra, in item IV 11, the alteration, as of now, of some legal regimes in force of remarkable importance and which collide, frontally, with the provisions of the PPL LEO; hence, as a matter of fact, we defend the inclusion of a special norm of revocation, which determines the derogation of any special norms (contrary to LEO) in force at this date - thus, doubly and now expressly ruling out the rule of legal interpretation. “special law, even if earlier, derogates general law, even if later”.

2. Of the principles

The PPL LEO enshrines the budgetary principles that, to a large extent were already in the LOGF, with few changes (in yet another example of the pointlessness, at least partially, of this draft law):

- ❖ The **unity and universality** of the OGE, from the outset a requirement of article 145.2 of the Constitution, gains an express reference to the impossibility of collecting revenue and carrying out expenditure not foreseen or entered - see articles 3 PPL LEO and 4 LOGF;
- ❖ **Annuality and multi-annuality**, an expression of the programmatic aspect of the OGE, welcomes the new five-year planning cycles (and no longer three), and refers, now in law, to the complementary period of budget execution [\[52\]](#) after December 31 - see articles 4 PPL LEO and 3 and 52.1 LOGF;
- ❖ The **stability and sustainability of the budget**, referred to the social security in Article 4 of the PPL LEO, evolves in the face of the principle of balance centered on cash accounting, for sustainability in financing commitments, made and to be made, already thinking of an accrual accounting, while maintaining the formal concept of balance, i.e., without consideration for the

particularity of revenue that creates, itself, charges for the future - see Article 5 PPL LEO and 8 LOGF;

- ❖ The relative novelty, in article 6 PPL LEO, of the principles of **economy, efficiency and effectiveness**, i.e., the use of the minimum of resources for the best result, which, although omitted as such from the LOGF [55], have always resulted from article 145.2 of the Constitution;
- ❖ **Transparency**, in the LOGF called publicity, is intended to ensure that all interested parties, including the general public, are made aware of all information relating to the preparation, approval and execution of the State Budget, including the CGE and all budgetary, administrative or legislative changes, in a timely, reliable, complete, current, understandable and, a relatively new, internationally comparable manner - see articles 7 PPL LEO and 11 LOGF;
- ❖ The **responsibility** of the State and other public entities for commitments made, expressed in article 8.1 and 8.2 of the PPL LEO, is an expression of the principle of the Democratic Rule of Law contained in articles 1 and 6(b) of the Constitution that is not expressed in the LOGF, while the responsibility for budget execution of the various members of the administration, including political office-holders, was already expressed in the LOGF - see articles 8.3 and 111.1 and 111.2 PPL LEO and article 46 LOGF;
- ❖ **Intergenerational equity**, which complements the principle of merely formal balancing of the State Budget, was already stated in the LOGF and, for social security, in article 12 of Law 12/2016, of November 14, by imposing an equitable distribution of costs and benefits between generations, and the PPL LEO takes the opportunity to densify the principle regarding the most significant expenditures (reproductive expenditure) and/or with more intergenerational impact (public works, human capacity building, public debt, the business sector of the State and social security, to which “tax expenditure”[56] should be added), introducing the obligation, to be applauded, of providing information on future impacts of budgeted expenditure in each year, in the State Budget proposals - see articles 9 PPL LEO and 9 LOGF;
- ❖ **Expenditure programming** is the expression of one of the main vectors of the PPL LEO reform, as we mentioned above in point II.2, in the name of allocating public money to certain concrete ends, conceived as a coherent whole of planned action (which had certainly failed), something already partially provided for in the LOGF - see articles 10 PPL LEO and 35.3 and 35.4 LOGF;
- ❖ The **specification and non-compensation** aim, as already in the LOGF and by constitutional imperative of article 145.2 of the Constitution, at clarity, detail and accounting harmony of revenues and expenses foreseen in the State Budget, and the PPL LEO goes further by expressly referring, on the one hand the classifications [57] (organic and economic) of revenues and (organic, by program, economic and, a novelty, functional) of revenues and, on the other hand, the compensations that are required in the management of treasury and asset portfolio (of the Social Security Reserve Fund) - see articles 11 and 12 PPL LEO and articles 7 and 5 LOGF;
- ❖ Finally, the **non-earmarking** of revenues to cover specific expenditures, as already in the LOGF, aims above all that all revenues can, each year, be allocated, without breakdowns, to all expenditures, thus ensuring greater freedom in forecasting various types of expenditure each year, according to reality and the ever-changing political priorities, without having to, year after year, find corresponding (new) types of revenue; the exceptions remain untouched, though expressed with greater rigor [58] (however, always difficult to discern), densifying especially the exception par excellence of the social security system (whose contributory regime is, by definition, financed by social contributions[59]) and seeking to limit the other exceptions of isolated law[60] - cf. Articles 13 PPL LEO and 6 LOGF. It was discussed in the hearing with MSSI mainly the exception of Article 13.2(a)(ii) PPL LEO, of consignment of revenues from social security contributions for administration expenses, in the amount of 5%. Note that in Timor-Leste the administration of Social Security is basically funded by transfers from the Central Government. However, in the administration expenses, it is included, already in previous years, a specific appropriation for payment to the entity responsible for operational management of FRSS: the Central Bank of Timor-Leste. This expense, being of administration, has a very specific nature, because it refers to the management of the FRSS itself. Therefore, it may make sense that the FRSS finances itself, allocating part of the revenue from the contributions that are transferred to

the FRSS every year to finance the management of the Fund itself. This rule already appears in the law that approved the 2020 State Budget (see article 19.5) and in the law that approved the 2021 State Budget (see article 17.5), with an appropriation of \$1.5 million for this purpose (to pay the Central Bank for the operational management of the FRSS).

In support of some of these budgetary principles, the PPL LEO enshrines general budgetary rules that also shape the State Budget.

- **Unity of treasury**, a rule of budget execution which has so far been poorly complied with, although in part as a result of article 15 LOGF, aims mainly to ensure that there is liquidity available to meet obligations on time and also efficient financial management of available assets, as a whole, maximizing returns and minimizing risks (the Central Bank, in its written contribution suggests replacing the reference to “risk-free” investments with “low risk or acceptable risk”, which seems, in fact, more adequate, leaving to regulation the choice of the financial products in question), with the new budget structure in subsectors already referred to, each subsector will now have its own treasury, also foreseeing, the exclusion by the Minister of Finance of certain services and entities from this rule of unity, seeking to safeguard future practical conveniences and imperatives - see Article 14 PPL LEO;
- **Equilibrium of budget balances**, dictates from the outset as a rule without exception, in compliance with the principle of balanced budgets set out in Article 8 LOGF, the imperative of zero or positive overall balance of the GSB and its three sub-sectors, or rather, sufficient or excess resources (whether current or capital, with or without management balances from previous years) must always be provided to cover all forecast expenditure; however, the PPL LEO goes further and, as a result of the principles of budgetary stability and sustainability and intergenerational equity, enshrines the general rule that the current balances (i.e. the difference between current revenues[62] and current expenditures[63]) of the three sub-sectors should also be zero or positive, imposing that only in exceptional cases (such as economic crises which imply a decrease in revenues and/or an increase in current expenditures), duly justified in the report of the State Budget proposal whether current expenses, typically recurring annually, can be financed with capital revenues, which burden future generations[64], as for the Social Security sub-sector, due to its particularities of financing by consigned contributions and enforceable social rights, the also exceptional negative effective balance is foreseen[65], i.e., that only in exceptional cases (a decrease in contributions with maintenance or increase of expenses with social pensions), also duly justified in the report of the State Budget proposal, the actual expense (expenditure not related to financial management, i.e. mainly expenditure on payment of pensions and administration costs) is funded with revenue from financial assets (precisely the Reserve Fund, which was created for this purpose[66]) and management balances from previous years - see Article 15 PPL LEO. Committee C considers, however, this possibility to be of great concern.
- **Sustainability of public debt in particular**, as a particular expression of the principles of budgetary stability and sustainability and intergenerational equity as one of the main causes of material intergenerational imbalance of public accounts,[67] the excessive assumption of debt which, although legally limited to investment spending on strategic infrastructure for the development of the country,[68] universally carries the temptation to excessively postpone the actual payment of public expenditures, thus endangering the solvency and respect for commitments (all of them, not just debt service[69]) in the medium and long term; the PPL LEO also takes the opportunity to clarify the concepts of public debt and to syndicate the expression of its maximums, the first element of the above-mentioned calculation, as a percentage of gross domestic product, seeking to make transparent its weight in relation to the wealth actually generated annually in the country - see article 17 of the PPL LEO, in line with articles 2.2 and 3 of Law 13/2011 of Sept. 28;

It should be said, in passing, that, given the strong programmatic aspect of the new budgetary framework introduced by this PPL LEO, which also includes as we have seen the limits on debt and expenditure in the context of the Law of Major Planning Options (GOP), it would fit well in this context of general budget rules an express reference to the **mechanisms for monitoring and alerting the executive to deviations from the goals and limits of the GOP and OGE laws** and the need to submit a proposal to amend the OGE to Parliament, if the administrative correction proves to be insufficient or inadequate.

- **Finally, the transition, integration and preferential application of the budget execution surpluses** are rules that pursue the efficient use of the management balances (of the various sub-sectors) from previous years, imposing not only its transition and integration as revenue of the following budget year but also its most appropriate application - because the calculation of most of these surpluses (with the probable exception of the surpluses of mission of services and entities) will occur at the end of the budget year after the preparation of the proposal and until the approval of the State Budget for the following year, it is provided in correspondence in Article 96.2(a) of the PPL LEO the administrative budget amendment that allows the use of these balances in expenditure in the following year.

As a priority is prescribed the amortization and payment of interest on public debt (debt service) in the three subsectors (a standard better placed in Article 17 of the PPL), but also the financing of the contingency reserve, clearly unnecessary[70]; being that, necessarily,[71] it is provided for the special case of the surpluses of implementation of the budget for social security, which already revert to its Reserve Fund[72] with the proviso that, as a purely accounting operation, part of these surpluses are temporarily allocated to the treasury of the following budget year, to avoid disruptions (which, it is believed, is not very clear from reading the proposal nor was sufficiently clarified during the hearings) - see Article 16 PPL LEO.

3. On the financial regime of services and entities

We have already seen[73] that the present PPL LEO excludes from the budgetary perimeter, like the LOGF, public companies, foundations and associations,[74] which will appear in the OGE only as recipients and issuers of financial flows to and from the budgetary perimeter. The proposal then introduces, as one of its main vectors of reform, a new administrative-financial structure to the resulting Public Administrative Sector, based on a formal administrative criterion, i.e., starting from the separation between entities with and without a legal personality different from the State (indirect and direct administration, respectively[75]) and thus eradicating the mixed figure of the Autonomous Funds and Services.

However, it adapts, at the outset and confusingly, the composition of the Public Administrative Sector to the public financial context, dividing it into subsectors, extracting the RAEOA and Social Security system sub-sectors, already governed by their own rules [76] and separated in budgetary practice, from the remaining Central Administration, thus composed of (other) public institutes (the indirect administration for the purposes of the diploma[77]) and the administration without distinct personality from the collective person State (the direct administration[78]). Municipalities are also mentioned as the future sub-sector of local authorities [79] (other than the RAEOA), referring their budgetary regime, in an equally confusing manner, to the law that implements them [80] [81]. Note that “municipalities” here refers to local authorities, legal persons of local power, and not to administrative districts as used in Article 2.2 of Law 11/2009, of January 7, in the version republished by Law 4/2016, of May 25 (in Timor-Leste follows the current Brazilian approach where, unlike Portugal, the distinct designation “concelho” is not used for the administrative district of municipal level).

Finally, the Petroleum Fund of Timor-Leste[82] and the Central Bank of Timor-Leste[83] are excluded from the budget perimeter[84], a budgetary practice also already observed, although, strictly speaking, they belong to the Public Administrative Sector and, in the case of the Petroleum Fund, to the direct administration.[85]

It is based on this administrative-financial structure[86], difficult to figure out, that the PPL LEO erects the new financial regime (the set of rules that define the budgetary, financial and asset capacity of services and entities) of the Public Administrative Sector:

- On the one hand, the sub-sectors of the RAEOA and Social Security extracted from the Central Administration are granted autonomous budgets, although integrated in the OGE, with the associated budgetary, financial and accounting faculties of their own - it will be important to clarify the wording of Articles 29 and 30 of the PPL LEO, unclear in the distinction between budgetary autonomy and financial autonomy[87];

- On the other hand, all services and entities of the Public Administrative Sector, including those included in the sub-sectors of the RAEOA and Social Security, are brought under two general financial regimes (limited financial autonomy and extended financial autonomy) under the Treasury, eliminating the regime of Special Funds extracted from the , also eliminated, Consolidated Fund of Timor-Leste.

Thus, following current practice and, especially in the case of Social Security, as the legislation in force already indicates, the entities that make up the RAEOA and the entities that make up the Social Security system are granted, in addition to extended financial autonomy, their own budgets, with separate execution and subject to budgetary rules, The Social Security sub-sector also has, in view of the specificities of its revenues[88] and expenses[89], a distinct accounting system,[90] with its own accounting principles, concepts and procedures.[91]

As for financial autonomy, limited financial autonomy has been added to the previous merely administrative autonomy[92] of the departments of direct administration. In addition to performing day-to-day management acts, these departments will now have specific budget allocations, be able to collect revenue (even if it is not their own[93]) and, exceptionally, have access to bank accounts[94] [95], and will also be able to manage the assets allocated to them (if any); with another very significant change - ministries and secretaries of state not integrated into ministries (of direct administration) will, once the proposal is approved, be endowed with expanded financial autonomy[96], which one doubts will be adequately implemented.

The previous financial[97] and patrimonial[98] autonomy is moved to a new figure, extended financial autonomy, which in general corresponds to the same content, although now granted in a generic way[99] to sovereign bodies and their services (excluding the Government), to all public institutes (indirect administration) and to all services and entities of the special sub-sectors (RAEOA and Social Security), municipal authorities and administrations (in preparation for the forthcoming decentralization) and, new, to ministries and secretaries of state not integrated (as we have seen). It should be noted that article 26.5 of PPL LEO will allow, by decision of the Minister of Finance, the maintenance of the financial autonomy of entities that currently enjoy it, avoiding a retrograde step in their autonomy according to the general rule of PPL LEO - here we think of the following entities, currently endowed with financial autonomy but which do not fit into the general rule of extended financial autonomy of article 26.4 of PPL LEO:

- the State Inspectorate General
- the Human Capital Development Fund,
- the COVID-19 Fund
- the Criminal Investigation Scientific Police
- the National Intelligence Service
- the Council for the Definitive Delimitation of Maritime Borders.

It should be noted, however, that in view of the generalization of this extended financial autonomy, the proposed regime determines that own bank accounts, loans and assets[100] will only exist if the legal nature of the service or entity allows it.[101]

Finally, it is declared as own revenues[102] those resulting from the specific activity of an entity with extended financial autonomy, as well as revenues from the administration and disposal of own assets (of those who have them, obviously)[103], also clarifying that the management balance of own revenues carry over to the next budget year[104], something that has been happening, outside of the budgets of the RAEOA and Social Security, only if and when special provisions have determined it, but that is difficult to understand.

4. The content of the budget

The PPL LEO, like the LOGF, determines the content of the OGE, both its legislative content (i.e. the content of the law and of the OGE draft law itself), with the changes imposed by the new administrative-financial structure and the financial programming adopted in the PPL LEO, and the content of the supporting documents accompanying the OGE draft law, with restructuring and expansion of the contents presented.

Starting from the description of the Budget as the forecasting document, with the value of law, of all revenues and expenditures of the Public Administrative Sector in the budget year, establishing the maximum limit of expenditures to be made, as a result of the principles of unity, universality and annuality,[106] the PPL LEO begins the description of the legislative content in general, listing the three subsectors that will make up the OGE (Central Administration, Social Security and RAEOA), describing the mandatory expenses[107] and, as a novelty, establishing[108] the minimum limit of 2% of total expenditure for the Contingency Reserve, for urgent and unforeseen expenses, and discouraging the commonly called “*budget riders*”[109], i.e., limiting the legal content to what is necessary for budgetary and financial policy, without prejudice to the inclusion of tax changes. However, it fails miserably in not establishing an instinctive limit for the Contingency Reserve (article 22.3(i)) of the LOGF currently establishes 5% as a maximum limit, which seems adequate[110]), in order to avoid the temptation of off-budgeting through the use of this reserve,[111] and on the other hand the express inclusion of matters relating to administrative fees.[112] It should be recalled that it is an opinion that has been expressed several times by Committee C, as set out in its legal opinion of 24 August 2020 on the “ANC Resolution on Spectrum Fees and Mobile Services of 29 June 2020”, that the matter of administrative fees is constitutionally subject to the parliamentary legislative reserve system for taxes.

Then, like LOGF, the LEO PPL maintains accounting on a cash basis[113] and strengthens the principle of specification[114], here with some adjustments that raise major doubts for this Committee.[115]

- It regulates the specification of revenues, and not only of expenditures, by economic classification up to the second degree, with the organic classification of revenues disappearing for the SFAs; [116] [117]
- it introduces the functional classification of expenses, also up to the second level,
- generalizes the limitation of the organic classification of expenses to the first level, of the service or entity with extended financial autonomy[118] - expressly providing for the exception of the Whole-of-Government Appropriation[119];
- enshrines the classification of expenditure by programs at the first level, of the program;
- It also regulates, given the specificity of the social security sub-sector (absent from the LOGF), the classification of its expenditures and revenues by administration, non-contributory regime,[120] and also contributory pay-as-you-go and capitalization regimes.[121]

PPL LEO, like the LOGF, also details the content of the OGE law and proposed law.

The OGE law[122] naturally continues to follow the general rules of legal structure, with the PPL LEO enshrining not only what already resulted from the LOGF but also from the most recent budgetary legislative practice: in addition to the budget tables (the true core of the Budget containing expenditure and revenue forecasts), the approval of the maximum amounts of loans (borrowing and lending, including guarantees), approval of transfers between subsectors, authorization for collection of taxes, fees and contributions, missing however, in an extremely serious way, the express reference to the authorization for transfer of the Petroleum Fund, which is required. Although the Petroleum Fund Law refers to it (see Article 8 of Law 9/2005 of August 3, republished by Law 12/2011 of September 28), a budget law should not omit reference to an authorization that represents more than 80% of the revenues of the State Budget each year.

As for the budget tables in particular[123], and in view of the LOGF, they have experienced a multiplication that results, in general, from the objective of the draft law of greater and clearer budget information and, specifically, especially the denser principle of specification of revenues and expenses applied, it should be remembered, to three subsectors with autonomous budgets, as we have seen. It is also envisaged, for the sake of transparency and in the context of multiannual programming, the presentation of tables with figures for previous and subsequent years, by reference. All this will make Parliament’s understanding of the draft State Budget Law and its adequate implementation largely unattainable, at least temporarily.

The proposed State Budget law[124] will, of course, as already provided for in the LOGF[125], have a structure and content identical to the State Budget law. As for the content of the documents that must

accompany the proposal, it is significantly enlarged compared with the LOGF and aggregated differently, abandoning the current structure into “general information”, “plan” and “information on assets and liabilities”, with the instructive elements now confusingly consisting of a “report”, “budget developments” and “informative elements”.

- The “report”[126] will integrate information previously contained in the “general information”[127] and the former category of “information on assets and liabilities”[128], with more detail and content, referring specifically, for example, the evolution and sustainability of the Petroleum Fund and public debt, information on treasury operations and Treasury accounts, rationalization of budget management, budget risks, contingent liabilities[129], public-private partnership expenditures and liabilities, and payment arrears -- the “report” will also include maps comparing macroeconomic forecasts of the proposal and previous years with the reference forecasts of international organizations and reality itself, proposing, in addition, that it also includes justification for any deviations from revenue projections, expenditure limits and public debt in the next five years;
- The “budgetary developments”[130] of revenues and expenses, previously integrated in the “plan”[131] and now with more detailed content (up to the maximum level of disaggregation in classifications by program, organic and economic) also include the sub-sectors of Social Security and the RAEOA;
- The “informative elements”[132] will now include information previously also contained in the “plan”, now focusing on programs (and no longer on estimates and forecasts of revenues and expenditures, better integrated in the “report”) and including specific informative elements for Social Security, absent from the LOGF - the information regarding the Petroleum Fund is rooted in the Petroleum Fund Law[133]; moreover, if such elements are referred to in the PPL LEO, it is also important to mention the inclusion of the justification[134] for withdrawals above the Estimated Sustainable Income, if applicable, which the Government has seriously omitted from its proposal.

5. The Budget Process

As we have been saying, one of the major vectors of the PPL LEO reform is the new multi-year financial programming, linked to program budgeting: seek to counterbalance the bottom-up approach of programs, permeable to overspending, with top-down multi-year planning, in which the central power (upon proposal by the Ministry of Finance and decision by the Council of Ministers) sets the overall expenditure ceilings and for the various budget segments, based on the Government’s program, The LOGF is largely limited to a passing reference to the multi-year perspective of financial stability[135], but it is doubtful that programming, as proposed by the Government, will prove to be an adequate process to ensure the country’s development.

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18 pages here are not yet translated

V. CONCLUSIONS

The above leads to the following Conclusions:

- a) The Government has submitted the Proposed Law (PPL) n 27/V (3), Framework Law for the State General Budget and Public Financial Management (PPL LEO), under the provisions of Article 97.1(c) and Article 115.2(a) of the Constitution of the Democratic Republic of Timor-Leste (Constitution), with the objective of reforming and clarifying both the legal framework of the State General Budget (OGE) and budget execution and public financial management as a whole, within the broader fiscal and public finance reform underway;
- b) The two main objectives of the proposal, according to the explanatory memorandum, are to streamline public management and, at the same time, to increase transparency, responsibility, accountability and control of the services and entities of the Public Administrative Sector;

- c) The Ministry of Finance did not clarify, at the hearing, the current limitations of the law in force that justify the proposed law under consideration;
- d) It should be noted however that the validity of the current Budget and Financial Management Law (LOGF) to date is obvious, which, despite its occasional limitations, has allowed significant economic development in Timor-Leste;
- e) On the other hand, the shortcomings of the PPL LEO are several and significant;
- f) To begin, the written contributions presented by entities heard by Committee C have made several serious criticisms of the proposal
- g) The draft law under consideration proposes a reform in three major vectors, introducing a new administrative-financial structure, budgeting by programs and a multi-year timing of the budget process, enshrining and developing the practice largely already followed in recent years;
- h) The new administrative and financial structure proposed in the PPL LEO, confusingly, eliminates the figure of the Autonomous Services and Funds (SFAs), as defined by the LOGF, and the Special Funds and, in opposition, the Consolidated Fund, thus creating a Treasury and three sub-sectors, enshrining autonomous budgets within the General State Budget, along with the Central Administration (in which the former SFAs reappear), the RAEOA and the Social Security system;
- i) The PPL LEO also details, in an equally confusing manner, the regime of financial autonomy, greater or lesser (extended or limited), of services and entities of the Central Administration, ending the centralization of financial management at the ministerial level and harmonizing the disparate autonomy regimes inherited from past separate legislation, while strengthening the unity of treasury;
- j) Regarding the budget perimeter, the PPL clarifies the exclusion from the General State Budget (OGE) not only of public entities with the form of a company, foundation or association, which already resulted from the LOGF, but also the exclusion from the OGE of part of the Administrative Public Sector (the Non-Business Public Sector), namely the Central Bank of Timor-Leste and the Petroleum Fund of Timor-Leste;
- k) Budgeting by programs is intended to increase not only the transparency of public action but, perhaps more decisively, the efficiency and effectiveness of public spending (pressured by transparency and by the presence of precise indicators) and the consequent easier and more dense accountability of services and entities for failure to meet their objectives, but which will most likely fail due to the Government's inability to pursue adequate programming and planning;
- l) Along with program budgeting, a bottom-up budgeting in which services and entities plan their activities based on their annual plan, the PPL clarifies, consolidates and expands the practice of planning expenditure on a multi-year basis in a top-down approach, in which the central government sets the expenditure ceilings overall and for the various budget segments, based, of course, on the Government's program but also, incisively, on the revenue that the State expects to collect - something which Committee C also doubts could be effective;
- m) A new feature of the PPL LEO will be the implementation of the annual approval of Major Planning Options Laws (GOP), provided for in the Constitution from the outset but which lack, to date, concretion and implementation, seeking to remove from both the later moments of preparation at the Government level and the very discussion of the OGE in Parliament the fundamental issues of major planning options, of multi-annual programming and, in a very concrete way, the discussion of the limits of the total expenditure of the State Budget, which will be fixed in a binding manner for the following year in the General State Budget Law - something that this Committee considers to be a very unnecessary interference in the budget process at this stage;
- n) The PPL LEO proposes, with new deadlines stipulated in the proposal, that discussion of the General State Account (CGE) for the previous year should be concluded before the State Budget for the following year arrives in Parliament, i.e. at the end of September - something that this Committee consider out of line with both the requirements of parliamentary procedure and the procedure adopted in the Chamber of Accounts;

- o) The PPL LEO enshrines the budgetary principles which, to a large extent, were already in the LOGF, with few alterations (which also demonstrates the pointlessness of this PPL LEO), enshrining rules which also shape the OGE, such as unity of treasury, balanced budget balances, sustainability of public debt in particular, and the transition, integration and preferential application of budget execution surpluses;
- p) The sub-sectors of the RAEOA and Social Security extracted from the Central Administration are granted autonomous budgets, even though integrated in the State Budget, with the associated budgetary, financial and accounting facilities of their own which are not, however, clear from the reading of the articles as proposed by the Government;
- q) All the services and entities of the Administrative Public Sector, including those included in the sub-sectors of RAEOA and Social Security, are brought under two general financial regimes (limited financial autonomy and extended financial autonomy) within the scope of the Treasury, eliminating the regime of Special Funds extracted from the, also lapsed, Consolidated Fund of Timor-Leste, in an approach difficult to understand;
- r) The PPL LEO, similarly to the LOGF, determines the content of the OGE, both its legislative content (that is, the content of the law and of the OGE bill itself), with the changes imposed by the new administrative-financial structure and the financial programming adopted in the PPL LEO or the content of the supporting documents, and, as a novelty, establishing a minimum limit of 2% of total expenditure for the Contingency Reserve, intended for urgent and unforeseen expenses, and discouraging the commonly called “budget riders”;
- s) The PPL LEO keeps accounting on a cash basis and densifies the principle of specification, in a way that is not very understandable;
- t) In the proposal, the content of the documents that must accompany the proposal is significantly expanded and aggregated differently from the LOGF, which will not allow for its adequate understanding and implementation, at least in a transitional phase;
- u) The PPL LEO details the budgetary process of planning and preparing the proposals for both the OGE and the GOP in an excessive manner in many respects, and a prominent role given to the UPMA, clearly inappropriate;
- v) The proposal also includes clarifications about the extension of the State Budget law in a year when, on January 1, there is no State Budget law specifically approved for that year in force;
- w) This extension includes the forecast and authorization to raise revenue, including taxes, fees, contributions and loans but also transfers from the Petroleum Fund provided for in the state budget law to be extended, an important and controversial change to the current regime;
- x) The PPL LEO expands and details the budget execution regime in legal terms, with adjustments compared to the LOGF, but to a large extent enshrining what already results from the budget regulations under the aegis of the LOGF, which indicates the pointlessness of its legal provision;
- y) By keeping the accounting system on a cash basis, more budgetary operations will be recorded and an integrated accounting system for the entire Public Administrative Sector is envisaged, which again will greatly complicate the implementation of the PPL LEO;
- z) The PPL LEO regulates the public financial management regime, linked to the intended greater autonomy and accountability of budget executors, which will undoubtedly be very difficult to implement;
- aa) The PPL LEO expresses the legality of public financial management, i.e. its execution always on the basis of the law and its regulations, and the segregation of functions (and consequent cross-control);
- bb) The PPL LEO also lists in detail the various types of revenues, grouping them into “general revenues”, which finance the State Budget as a whole, and “own revenues”, which, as the name indicates, must be used to cover the expenses of the service or entity to which they were assigned and from which, for the most part, they originate, even before there is recourse to general revenues;

- cc) Own revenues are those arising from the specific activity of a service or entity with extended financial autonomy, from loans it takes out or grants, from its (own) assets and financial investments it holds, transfers from States or foreign bodies or donations, inheritances and legacies from individuals, if so determined, as well as management balances of revenues that were already, in themselves, own (which are automatically carried over to the next budget year);
- dd) The PPL LEO creates a State collection network, within the scope of the Central Treasury;
- ee) With regard to expenditure, the PPL LEO clearly expresses the principle of legality and, unlike revenue, the obligation of budgeting in advance of its realization;
- ff) The proposed law also describes the process of realization of the expense, with a sequence of actions that allows the start of procurement procedures before the commitment of the expense, which, despite being the current practice, generates confusion;
- gg) The alterations to the articles of the OGE law remain subject to the rule regime of legislative alteration;
- hh) The PPL LEO eliminated the possibility of transfers of values between ministries and secretaries of state not integrated by administrative means, which article 38.1 LOGF allowed up to 20% of the original appropriation;
- ii) ii) Also for the sake of greater autonomy of services and entities with extended financial autonomy, the PPL LEO does not provide for limitation of transfers from the categories of “wages and salaries” and “development capital” within each of these services and entities;
- jj) Changes to increase the total expenditure of the OGE, of the various subsector budgets, of securities and increases in the total amounts of borrowings and also guarantees and loans granted remain within the parliamentary sphere;
- kk) The PPL LEO includes several modifications in the executive sphere to expenditure adjustments which, to a large extent, already result from today’s legislation and practice;
- ll) The General State Account (CGE), by virtue of the proposed new structuring, now includes the 3 budgetary sub-sectors along with the Central Administration account, the Social Security account and the RAEOA account;
- mm) The CGE proposed by the PPL LEO now includes the tables of the new structure of the State Budget, a report with information on the evolution of macroeconomic indicators, in addition to the financial situation of the Public Administrative Sector and the sub-sectors, and the general reference to the execution and changes that the State Budget underwent during the year of execution;
- nn) The information accompanying the CGE, under the PPL LEO, has seen some additions, particularly information on public companies, foundations and associations, previously ignored by the CGE, in addition to information on public-private partnerships, which has been included in the most recent practice;
- oo) The submission of the CGE to the Audit Chamber and to Parliament sees, in the PPL LEO, the current deadline of 7 months after the end of the budget year reduced to 6 months, with the Audit Chamber having 30 days to certify the CGE and two months to send its opinion on the CGE to Parliament;
- pp) The consideration and eventual approval of the CGE by Parliament has, in the PPL LEO, a period of three months from receipt, which determines the conclusion of the process by the end of September, in order to guarantee the consideration of the new OGE after the examination of the accounts of the previous year;
- qq) The budget execution control process is more detailed and explicit in the PPL, LEO, without major changes from the current regime.

VI. RECOMMENDATIONS

As a result of the information analyzed, the hearings carried out and other steps taken, Committee “C” recommends

In discussion in the specialty, that:

1. Clarify the prevalence that a framework law always has over other legislation that regulates a matter of its object and scope;
2. The amendment of some legal regimes in force of notable importance and which collide, partially but frontally, with the provisions of the PPL LEO;
3. A maximum limit should be set for the Contingency Reserve, in order to avoid the temptation to spend off-budget through the use of this reserve;
4. There should be mechanisms for monitoring and alerting the executive to deviations from the objectives and limits of the GOP and OGE laws, and the obligation to present proposals for amending the OGE to Parliament, should the administrative correction prove to be insufficient or inadequate,
5. Justification should be included in the draft OGE law regarding eventual deviations of revenue projections, expenditure limits and public debt in the following five years;
6. It should be made clear that the non-approval of a GOP law does not prevent the presentation, appreciation and approval of the State Budget;
7. The short period of ten days for the appreciation and voting of the PPL (GOP proposed by the Government should be extended;
8. Simplify the legal foresight of the budget planning and elaboration process for both the OGE and the GOP, so that it only includes the essential steps, namely the inter-institutional ones, and not also the internal procedures of the executive;
9. 9. The role of the UPMA should be brought back to its mission, both in the preparation of the State Budget and in the administrative control of its execution;
10. As a compromise between the need to guarantee the functioning of the state and the political importance of guaranteeing parliamentary intervention in the mobilization of the country's most important (and finite) source of wealth, the eventual extension of the State Budget for oil revenues should be allowed only up to the amount of the Estimated Sustainable Income (ESI);
11. 11. Limit, in coherence, the substitution of withdrawals from the Petroleum Fund by loans only up to the ESI, in order to ensure that Parliament will always intervene in relation to revenues above the ESI,
12. 12. Provision should be made that if a law authorizing the transfer of the Petroleum Fund above the ESI is not passed, expenditures should be reduced proportionally in relation to available revenues:
13. Ensure that the organs of sovereignty (other than the Government) and their services and supporting entities see their funds released automatically, with a periodicity established in law, in order to avoid leaving these bodies as potential targets for financial pressure by the Government;
14. Careful consideration be given to the RAEOA borrowing without (current) Government authorization;
15. Careful consideration be given to the possibility of initiating the procurement procedure without budgeting the expenditure;
16. A material limit should be expressly introduced for administrative and also legislative changes in order to safeguard the value of appropriations necessary to meet obligations arising from law, international law, contract or final court decision,
17. The excessive use of government decrees to regulate the LEO should be corrected and replaced by legislative decrees (decree-laws) whenever the matters to be regulated are important and require greater institutional consideration, or even presidential intervention;
18. Express reference should be made to the revocation of special laws that are contrary to the new framework regime;
19. It should determine the application of the new LEO only to acts of budget execution carried out after the date of entry into force of the diploma;
20. It is determined that in 2021 there will be no Major Planning Options Law under the LEO;

Even though:

21. That the Rules of Procedure of the National Parliament be adapted to the LEO, once it is approved.

Finally to the Government that:

22. At the time of proposing the State Budget bill, make an analysis of the overall indebtedness situation of the Public Sector as a whole, with individualized information by sector, public company and public-private partnership, which will allow the evaluation of its evolution and execution through the information made available in the General State Account;
23. The methodology used in the calculation of the macroeconomic scenario projection at the time of the State Budget proposal should be presented, so as to ensure its credibility both internally and externally;
24. The disclosure of budgetary risks should be usefully brought together in a single budgetary risk statement, presented with the budget, so as to increase budgetary transparency.

VII. OPINION

It is the opinion of this Committee that, with regard to its formal configuration, the PPL n. 27/V (3a) complies in general with the essential rules of formal lawmaking, fulfilling the formal requirements for the presentation of draft laws, under the constitutional and procedural terms and is therefore in a position to be considered in Plenary.

VIII. APPROVAL OF THE REPORT AND OPINION

This report and opinion was read and voted on in Committee “C” meeting of June 30, 2021, and was **approved with 8 votes in favor, zero votes against and 3 abstentions.**

Dili, National Parliament, June 30, 2021

/s/

The President of the Committee, Deputy Maria Angélica R. da C. dos Reis

The Rapporteurs: Deputy Angelina Sarmiento, Deputy António Nobre Tilman

This report and opinion was read and voted on at a meeting of Committee “C” on June 30, 2021, having been **approved with 8 votes in favor, zero votes against and 3 abstentions.**

ANNEX I - CORRESPONDENCE TABLE OF PPL WITH CURRENT LAW

ANNEX II - WRITTEN ANSWERS AND UNANSWERED WRITTEN QUESTIONS BY COMMITTEE C

I. ANSWERS FROM THE MINISTRY OF FINANCE

II. ANSWERS FROM MSSI AND INSS/FRSS

III. QUESTIONS TO UPMA - NO WRITTEN ANSWER

Note: Endnotes have not been copy-edited.

- [1] Technical Note no. 44/2020/DIPLN
- [2] Approved in 2009, amended and republished by the Rules of Procedure of the National Parliament 1/2016, of 11 May
- [3] In particular the appreciation in the art by the Committee D (Economy and Development), accompanied by Committee C of the Code of Bill Miner (Bill No 4/V (1st)), and urgent consideration by Committee C and the Plenary, Law of Motion the 1st amendment to GBS 2021 (PPL 32/V (3), however publi each as Law 8/2021 of 3 M ay.
- [4] Amended twice by Law 9/2011, of August 17th, and by Law 3/2013, of September 11th
- [5] The deputies of Committee D were also present and participated with questions and suggestions
- [6] See below, points III, III.5 and III.11
- [7] UNTAET/REG/2001/13, of July 20, 2001
- [8] As discussed, amended twice by Lei 9/2011 of 17 August and by Law 3/2013 of 11 of September
- [9] Concept that is not accepted in the Portuguese-speaking legal tradition
- [10] See article 21 of UNTAET Regulation 2001/13 and articles 32 and 33 LOGF
- [11] The Infrastructure Fund, in its organic regime prior to DL 13/2016, of 18 May, was also a Special Fund - see. DL 8/2011, of March 16
- [12]. Cf. DL 13/2020, of April 15 - there was never alias Timor-Leste an example of Special Fund for Development Partners and International Organizations, established under Article 33 LOGF, which would correspond effectively the sense of “background Special I “ of UNTAET Regulation.
- [13] See DL 1/2015 of 14 January
- [14] See especially Law 3/2014, of June 18, amended by Law 3 /2019, of August 15, and DL 5/2015 of January 22, regarding RAEOA and Law 12/2016, of 14 of November, regarding the Social Security system
- [15] whose elimination ia ‘announced when the general scheme of the direct and indirect state (DL 30/2020 of 29 June) said non -
- [16] Strangely, the RAEOA, in its written contribution in Annex [III.2) seems to contest the sub - sector autonomy granted to it under the terms of PPL LEO
- [17] See articles 57 to 64 of Law 5/2011, of June 15
- [18] See Law 14/2020, of December 29, amended by Law 8/2021 of May 3
- [19] See articles 3.3 and 4 and 22.3 paragraph m) LOGF
- [20] See articles 23, 26 and 27 LOGF - the LOGF also refers, in passing, to the economic classification of expenses on a cash basis according to IMF guidelines (see article 43.1 LOGF)
- [21] See especially Articles 108 and 109 of the Constitution
- [22] See the Strategic Development Plan 2011 - 2030, available at ___
- [23] See the example, in the context of the COVID-19 pandemic, of the Economic Recovery Plan 2020-2021
- [24] See Article 47.5 of PPL LEO
- [25] See article 4 7.6 of PPL LEO
- [26] See article 4 7.6 of PPL LEO
- [27] See article 105 of PPL LEO
- [28] in addition u m significant increase in the quantity and quality of budget information presented to the PPL state budget, as we shall see below in section IV.4
- [29] See for a list and brief description of the operative content, the Technical Note 44/2020/DIPLN, in its point “2.Structure”
- [30] See article 18 of PPL LEO and art 2.2 paragraph a) LOGF
- [31] Currently governed by Decree-Law 14/2003, of September 24
- [32] For the time being, in Timor-Leste, there are no public foundations as such, of a business nature, that is, that provide goods and services on the market. It should be noted that foundational entities (personalized autonomous assets without corporate management) are, in Timor-Leste, personalized funds such as public institutes (indirect central administration).

- [33] The grief of the ESS be in East Timor reappointed in practice, the public enterprises, is made for a system for the entire state of the business sector that includes not only public undertakings but also other public bodies business oriented (public foundations or even, in theory, public associations with a business nature) - see article 42 of DL 30/2020, of 29 July [the current regime of public companies, DL 14/2003, of 24 September, does not regulate public entities of a business nature that are not public companies)
- [34] See above point II.2 a) and articles 24 and 25 of the PPL LEO
- [35] Despite mentioning local authorities in its article 2.3 LOGF, a category in which the RAEOA does not seem to fit, as discussed briefly above, in point II.2.a
- [36] See article 18 no. 1 of PPL LEO, from which the exclusion of companies, foundations and associations of the Administrative Public Sector is taken, for the purposes of this diploma
- [37] See art 2.2 paragraph a) LOGF
- [38] The PPL 25/ V (3) on Professional Public Associations was admitted in Parliament, which refers to these public associations, in the explanatory memorandum and in the preamble, as belonging to the autonomous administration - by way of derogation, as a subsequent special law, of article 42.1 subparagraph c) of DL 30/2020, which returned them to indirect administration. PPL 26 / V (3) on the establishment of the Bar Association and approval of its statutes also contained references to the Order belonging to the administration autonomous.
- [39] Article 42.1 c) of Decree-Law 30/2020, which may at first sight be considered to lead local authorities to indirect administration, must be interpreted correctly in light of Articles 65.and 72 of the Constitution which clearly brings local power (whether municipal or regional) back to the figure of autonomous administration, from the outset by the demand for the election of its organs by the population in question.
- [40] In its article 2.3
- [41] See article 19 paragraph d) and article 23 PPL LEO
- [42] Article 3 paragraph g] of the Authorization Law 4/2021, of 10 March, concerning the bases of public administration, seems to announce this step in the near future.
- [43] In this regard, answer from the Ministry of Finance (question 6) in Annex II.
- [44] PPL LEO alludes to this, in its articles 21 and, less expressly, 22.
- [45] The MSSJ and the INSS/FRSS clarified the specificity of the administrative-financial structure in their hearing - see also Annex II.2
- [46] As mentioned above, the FDCH (DL 13/2020) and the FED-RAEOA (DL 1/2015) are special funds
- [47] See article 26 to 30 PPL LEO
- [48] See article 71 and 72 PPL LEO
- [49] We will talk below, in point IV.8, of the major examples of APORTIL and the Autoridade Nacional das Comunicações.
- [50] See Articles 79 to 88 PPL LEO
- [51] The tent, as an impressive example, is article 106.2 of D L 3/2016, of March 16, amended and republished by DL 54/2020, of October 28, concerning municipal services of finances
- [52] Which was previously the result of budget execution regulations
- [53] Pick - to the transition to an accounting based and m appointments scheduled by Article 114 PPL LEO
- [54] Loans, of course, but also, in particular in Timor-Leste, the use of petroleum revenues, especially above the Estimated Sustainable Income of each year
- [55] See in approximate terms article 46.2 LOGF
- [56] As the Chamber of Auditors suggests in its written contribution, contained in annex III.1, that is, the tax revenues that the State waives, through the modulation of the incidence of taxes, from the outset through tax benefits, in name of policy options not directly linked to revenue collection, such as promoting economic development and protecting the environment)
- [57] The classification levels contained in the OGE Law and supporting documents (developments budget) are specified in Article 33 PPL LEO
- [58] This is the case of consignments by donations from international entities or individuals
- [59] See article 10 of Law 12/2016
- [60] It should be noted that the LOGF provides, in its article 17, for earmarked income accounts, something that has had little or no use to date precisely because the consignment of income has rightly remained an exception even under the aegis of the LOGF.

- [61] PPL LEO refers to “financial availability”, although more strictly it should refer to “availability of banknotes and cash equivalents” - see also in this regard the written contribution of the Chamber of Auditors, in annex III.1
- [62] As are the tributary, services and property including those of the Petroleum Fund up to the Estimated Sustainable Income
- [63] Such as personnel expenses, intermediate consumption, social benefits, subsidies and interest
- [64] As are the revenues from medium or long-term loans (public debt) and the Petroleum Fund revenues above the Estimated Sustainable Income and note that it already results from article 2.1 of the public debt regime (Law 13/2011) that the loans should only fund the construction of strategic infrastructure for the country’s development (which are capital expenditures), as well as article 8(d) of the Petroleum Fund Law, Law 9/2005, it results that those withdrawals can only be done in the long-term interest of Timor-Leste, which will mainly also correspond to capital expenditures (i.e. expenditures related to investments).
- [65] Remember that the LOGF ignores the Social Security system
- [66] See DL 55/2020, of October 28
- [67] The other being in Timor-Leste, the impoverishing of the Petroleum Fund for its mobilization beyond the Estimated Sustainable Income, Article 8g d) of the Petroleum Fund Law 9/2005, as we have seen, already accounts enough to prescribe the obligation to be made in the long-term interests of the country
- [68] See article 2.1 of the public debt regime (Law 13/2011), already referred to
- [69] But also these, taking into account from the outset the risk implicit in each debt operation of the future charges being unexpectedly higher than those initially estimated, due to the vicissitudes of the financial markets.
- [70] There are standards more appropriate provision of the contingency reserve, as if already to their minimum and limits maximum - cf. Article 32 paragraph 3 PPL LEO (the Chamber of Accounts in its written contribution, questioned even if the standard does not collide with the principle of non-consignment, which seems excessive - see Annex III.1)
- [71] As explained by MSSSI at its hearing
- [72] pursuant to article 12.1(b) of DL 55/2020
- [73] In point II.2 a)
- [74] Although belonging to the Public Sector [as well referred to in article 18 of PPL LEO), these entities have, due to their structure and the nature of their activity (business and/or associative), a very different financial and accounting experience. other public entities within the budget perimeter
- [75] See Article 20 of PPL LEO
- [76] See:
- as for the RAEOA, Law 3/2014, of June 18, and DL 5/2015, of January 22,
 - as for the Social Security system, Law 12/2016, of November 14, the annex to DL 47/2016, of December 14, and DL 55/2020, of October 28
- [77] See particularly Article 21 of the PPL LEO, expressed in extracting from the Central and indirect administration the public institutes of the Social Security subsector
- [78] See article 20 of PPL LEO - it has already been said above that this solution diverges from the approach of the general regime of the administrative structure of Timor-Leste, contained in DL 30/2020:
- Its article 10.2 includes in indirect administration practically all (if not all) entities without legal status;
 - Its article 42.1 sub-paragraphs b) and c) integrates in indirect administration public companies and other public legal persons subject to the tutelage of the Government
- [79] The currently existing municipal level local administrations are deconcentrated central administration - see DL 3/2016, of 16 March, republished by DL 54/2020, of 28 October
- [80] The LOGF, as we have already said, determines to apply to local authorities, with (only) the funding to be relegated to a specific diploma
- [81] The Audit Chamber (cf. the contribution ESCR successfully Accounts chamber, the Attach the III. L) questions whether any time may municipalities (local) integrate the GIP but this and the solution in countries with local administration more incipient and/or recent. The Ministry of State administration, in its written contribution (see annex I II. 3), presents a brief summary of the decentralization project, also at the financial level, and recommends the complete exclusion of local municipal authorities from PPL LEO.
- [82] Cf. Law 9/2005 of 3 August, republished by Law 12/2011, September 28
- [83] See Law 5/2011, of June 15
- [84] For the reasons explained above, in point II 2 a) - see Articles 24 and 25 of the PPL LEO
- [85] The Central Bank and, it has been said, independent administration

- [86] Very based on the Portuguese administrative-financial structure (see Portuguese Law 151/2015, of 11 September, amended several times), the dual in turn and based on the structure of the Public Sector of the International Monetary Fund, presented in the Government Finance Statistics Manual, albeit appropriately simplified.
- [87] The Chamber of Auditors also refers to this lack of clarity in its written contribution in Annex III. 1
- [88] including receipts from transfers from the Central Administration - see article 72.5 PPL LEO
- [89] See Articles 77 and 78 of PPL LEO
- [90] Even if it is to be integrated into an accounting system for the entire Public Administrative Sector, as proposed in article 63.6 of PPL LEO
- [91] As already results from article 5.1 paragraph c) of the annex to Decree-Law n. 47 / 2016, of December 14
- [92] Defined in article 12.1 of DL 30/2020 as follows: “it takes place in the provision of the competence of the bodies of a legal person to practice the legal acts provided for by law without interference by the bodies of any other legal person, without prejudice to the regime of inter-organic and inter-subjective relations provided for in this statute, of the organic of each legal person and of other legislation”
- [93] Article 72 of PPL LEO reserves for legal classification the category of “own” services revenues with limited financial autonomy.
- [94] According to article 27 of PPL LEO, these last faculties are, until today, typical of more extensive financial autonomy, according to article 12.2 of DL 30/2020
- [95] See, regarding bank accounts, article 14.3 of PPL LEO
- [96] See Article 26.3 of PPL LEO
- [97] Defined in article 12.2 of DL 30/2020 as follows “constitutes in the practice of legal acts provided for in the law in financial matters, under the terms of this diploma, of the organic of each of the legal persons and of the legislation in force in the field of public finances.
- a) Forecast of specific budget allocation;
 - b) Revenue collection;
 - c) Authorization of the expenditure;
 - d) Authorization of payments;
 - e) Ownership of bank accounts”
- [98] defined in Article 12 paragraph 3 of DL 30/2020 “embodiments as follows - if the possibility of a legal person owning movable and immovable property, integrating them within his private assets and practicing thereon the acts of disposition that the law allows”
- [99] See Article 26 No. 4 of PPL LEO
- [100] See the description of own assets in article 58 of Decree-Law 30/2020.
- [101] Which will be the case of entities with legal personality, but hardly for those who do not, with the possible exception of their own bank accounts.
- [102] Without prejudice to the others that result from LEO, as provided for in article 72 of PPL LEO - we have already seen that, as part of the budgetary autonomy of the RAEOA and Social Security subsectors, all revenues (including transfers) are own - see article 72.5 PPL LEO
- [103] This will standardize the disparate separate regimes, such as APORTIL (see article 27 of DL 3/2003, of 10 March) and the National Communications authority [see article 13 of DL 15/2012, of 28th of March March), currently with all its receipts, at least formally, classified as own
- [104] With its own revenues, combines s, tuned Article 72.2(g) PPL LEO
- [105] See, as the most recent example in OGE 2021, articles 19 and 20 of Law 8/2021, of May 3, which amended OGE 2021
- [106] In article 31 of PPL LEO - see principles of unity, universality and annuality in articles 3 and 4 PPL LEO
- [107] Pursuant to article 32.2 of the PPL LEO << fulfillment of obligations arising from law, international law, contract or final court decision whose payment must occur during the respective budget year, as well as sufficient income to cover these expenses.>>
- [108] See Article 32.3 of PPL LEO
- [109] See Article 32 nos. 4 and 5 of the PPL LEO - in certain jurisdictions other than the Timorese jurisdiction to date, let us say, there is often the temptation to include in the PPL of the OGE matters of a budgetary or financial nature -public, in order to limit its discussion and promote its adoption in an easy way, together with the always politically important EMB.
- [110] The La’o Hamutuk relates that even in his written contribution (cf. annex III.7)
- [111] In this regard, refer to the answer of the Ministry of Finance (question n. 2) in Annex II.

[112] It is recalled that, and opinion has aired several times by the Committee C, poured alias legal opinion of 24 August 2020 concerning the resolution of the NC ON THE RATES OF SPECTRUM-SERVICES MÓ VE I S OF 29 D AND JUNE DE 2020 that the matter of tax the administrative s follows, constitutionally, the regime legislative tax

[113] In other words, recording revenue and expenses as the inflow and in flow of v is effective Erbas (cf. Article 33 paragraph 7 PPL LEO) and that the PPL LEO already set the transition to accrual accounting, i.e. recording the commitments when assumed (see article 114 PPL LEO)

[114] In article 33 of PPL LEO - see the principle of specification in article 11 PPL LEO

[115] The description of the types of classification and their levels can be found in articles 10 and 11 PPL LEO

[116] What is understood, at least at the moment, is due to the scarcity of own income in Timor-Leste.

[117] See article 27.1 subparagraph a) LOGF

[118] Pursuant to article 26 LOGF, the organic classification of non-autonomous services descends to the second level (of the chapter), limited however to the first level, pursuant to article 27 LOGF, for Autonomous Services and Funds.

[119] See article 33.4 of the PPL LEO - containing expenses related to the entire Central Administration, including not only the Contingency Reserve but also:

- the co responsibilities m Loans (given the centralization of loans in one State - cf. Article 74.4 PPL LEO.)
- transfers to other subsectors (social security and RAEOA).

Another example, not expressly mentioned, is the allocation of the Counterpart Fund.

[120] See revenues derived transfers Central Administration

[121] See regarding the characterization of both contributory schemes, article 58 of Law 12/2016, of November 14

[122] See Articles 37 and 38 of PPL LEO

[123] See article 39 PPL LEO

[124] See article 40 PPL LEO

[125] See article 29 LOGF

[126] See Article 41 PPL LEO

[127] See article 22.2 LOGF

[128] See article 22.4 paragraphs a) to d), f) and g) LOGF

[129] Liabilities of uncertain materialization, by nature, such as convictions in legal proceedings (estimated in partial value, which implies the possibility of liabilities not fully budgeted)

[130] See article 42 PPL LEO

[131] See article 22.3 paragraphs a) to l) LOGF

[132] See article 43 PPL LEO

[133]

[134]

[135]