

Law no. 3/2014 of 18 June

Creates the Special Administrative Region of Oecusse and establishes the Special Zone of Social Market Economy

In Articles 5 and 71, the Constitution assigns to the ordinary legislature the task of specifically defining the special economic status to be enjoyed by the enclave of Oecusse and Ataúro Island.

The Constitution also says that special arrangements assigned to Oecusse should be more intense than the appropriate economic status of Ataúro Island, a smaller territory with closer proximity to the capital of the country,

By giving effect to the mentioned constitutional provisions, the territory of Oecusse is thus elevated to a special region given administrative, financial and patrimonial autonomy, legal personality and its own bodies. The degree of autonomy does not have legislative powers, and does not affect the oversight powers of the Prime Minister on the actions of its own bodies in the region, which are themselves subject to the normal control mechanisms of the constitutionality and legality of the actions of public authorities.

In the first case, it is understood that the legislative power shall, by constitutional imperative, not be removed from the sovereign organs to which it belongs: National Parliament and Government.

In the second case, the principles of state unity and integrity of national sovereignty advise that the level of administrative decentralization does not lead to excessive regional disparities and imbalances in wealth distribution, justifying that the Government, through the Prime Minister, may be called upon to exercise a certain degree of oversight, limited to the control and supervision of the legality of regional acts.

Associated with the creation of the Region of Oecusse as a legal person of the distinct territorial basis of the state, also comes the special economic zone comprising the territorial parcels corresponding to the Oecusse and Ataúro Island, although this merely as a complementary development hub.

The special economic zone imposes, in its own territorial limits, exemption from payment of customs duties and respect for the principles of the social market economy as a model of economic growth by attracting investment and establishing enterprises, domestic and foreign.

Thus, the National Parliament, pursuant to Article 95.1 and Articles 5 and 71 of the Constitution, decrees, to be valid as law, the following:

TITLE I General provisions

Article 1 Object

The current law creates the Special Administrative Region of Oecusse.

This law also establishes the Special Zone of Social Market Economy of Oecusse and Ataúro, which includes the island of Ataúro as a complementary development hub.

TITLE II

Oecusse Special Administrative Region

Chapter I

General provisions

Article 2

Creation of Oecusse Special Administrative Region

The Special Administrative Region of Oecusse, hereafter Region, whose legal status is defined in this law is created.

The Region is a territorial entity possessing legal personality, provided with adequate administrative and financial and patrimonial autonomy to pursue the objectives set out in Article 5.

Article 3

Territorial scope

The Region encompasses the geographical area of Oecusse, pursuant to Article 16 of Law no 11/2009, of October 7, which defines the Administrative division of the territory.

The interior waters, territorial sea and contiguous continental shelf to the enclave of Oecusse are also included in the Region.

Article 4

Supervision

The Government, in the person of the Prime Minister, exercises supervision over the regional executive bodies, consisting in the power to control and supervise their administrative activity.

Article 5

Objectives

1. The Region's objectives, of an economic nature, are the inclusive development of the Region, prioritizing activities of a socioeconomic nature to promote the quality of life and well-being of the community, namely:
 - a. Development of commercial agriculture;
 - b. Creation of an ethical financial center;
 - c. Creation of a free trade zone;
 - d. Increase in tourism;
 - e. Creation of a center for international studies and research on climate change;
 - f. Creation of a center of green research;
 - g. Implement and develop industrial activities, for export and import;
 - h. Other economic activities that create added value for the Region, as well as strengthening international competitiveness.
2. Other objectives of the Region are:
 - a. Develop a model of development based on a new type of social market economy, to stimulate, promote and accelerate the growth of the Region in an equitable and sustainable form;
 - b. Encourage, promote and accelerate the growth of the Region as an economically competitive region, a sub-regional and regional development hub, as a choice destination for investment, employment and residence;

- c. Ensure that the priority character of sustainable social development based on the principles and objectives of social market economy while driving economic and social growth in the Region;
 - d. Promote, encourage and facilitate the development in the Region of projects approved by Government, body or person, national or foreign, particularly for the following purposes:
 - i) Economic development, such as tourism, and agricultural development, including modernization, diversification and commercialization of the sector;
 - ii) Industrial and commercial development, such as mining and quarrying, oil and gas, petrochemical, manufacturing, trade and other value-added industries;
 - iii) Social development, such as public health, and development of hospitals, reference clinics, and centers of medical research;
 - iv) Cultural Development, aimed at strengthening local identity and traditions and citizenship, to promote Timorese artistic expressions, ecumenical reflection centers, performance centers and recreational centers;
 - v) Development of human resources, including through establishment of reference university teaching in economics, engineering, medicine, mathematics and philosophy, including institutions of vocational or technical training and centers of excellence for research, teaching and training;
 - vi) Development, study and implementation of territorial planning and adoption of a development plan for the creation of urban development zones and quality rural zones;
 - vii) Creation of a green belt in the suburban areas to supply local, domestic and export;
 - viii) Development of infrastructure, notably through the establishment of centers of investment and logistics, special economic zones, residential zones, real estate development and quality tourism;
 - ix) Market access to member countries of the g7+, the Community of Portuguese Language Countries (CPLP) and the Association of Southeast Asian Nations (ASEAN).
3. The Government, on the proposal of the Authority of the Oecusse Special Administrative Region, will regulate the activity program of the Region.

Chapter II

Fundamental principles and regional autonomy

Article 6

Principle of national solidarity

The Region must, under the law, have the necessary and adequate resources to pursue the objective of correcting the inequalities resulting from its enclave nature, particularly with regard to equitable distribution of wealth, employment, communications, transportation, education, culture, social security and health, encouraging the gradual integration of the region into wider economic areas, of national and international dimensions, and the reduction of these inequalities constitute a determining factor in defining the internal and external policy of the State.

Article 7

Principle of subsidiarity

1. The autonomy of the Region is founded on the principle of subsidiarity of its functions in relation to the State and the municipalities, and the unitary organization of the State.

2. The regional autonomy respects the sphere of attributes and powers of municipalities and their bodies, in conformance with a future specific law.

Article 8

Principle of legality and the direct application of national law

1. The actions of Regional bodies must obey the general principles of law and legal norms and regulations in force and respect the purposes for which their powers have been entrusted.
2. The laws, decree-laws and other normative acts in force will directly apply to the Region without the need for transposition or any regulation of the powers of the respective regional body.
3. The implementation of legislative acts in the Region is ensured through approval of acts reserved to the regional organs with administrative powers.

Article 9

Regulatory power

The Region has its own regulatory powers, which take the form of regional executive orders and regional administrative regulations to be issued by the relevant regional bodies, within the limits of the Constitution, laws and regulatory acts adopted by the organs of sovereignty.

Article 10

Financial and budgetary autonomy

1. The Region has its own budget and finances, whose management is the responsibility of its executive bodies.
2. In the scope of its financial autonomy, Regional executive bodies are responsible for:
 - a. Develop, adopt and amend activities plans and regional development plans, subordinated to national development plans in force;
 - b. Prepare their annual budget, proposing it to the Government;
 - c. Have their own revenues, authorize and process the expenses and raise revenues that are assigned to them by law.

Article 11

Own revenues

1. The revenues of Region are:
 - a. The annual General State Budget appropriation for the Region;
 - b. The proceeds of collecting taxes and fees in the Region, according to a special tax regime which may be prescribed by law;
 - c. The proceeds of fines and penalties that may be levied in the Region, according to the law;
 - d. The proceeds of loans granted under the terms of the law;
 - e. The proceeds of sale or encumbrance of goods that may be sold or encumbered by the Region under the terms of the law;
 - f. The proceeds of inheritance, bequests, donations and other gifts in favor of the Region;
2. Other revenues established by law in favor of the Region.

Article 12 Rights

Are conferred on the region:

- a. The right to cooperate with sovereign bodies and other public entities in the pursuit of the goals of the Region;
- b. Access to information which the sovereign bodies and other public entities have relating to the Region;
- c. The management of public and private State property existing in the Region, without prejudice to the powers of municipalities for asset management;
- d. The right to be heard by the government and to rule, on its own initiative, for all questions which have to do with the Region;
- e. The right to significant participation in benefits arising from treaties, conventions or international agreements which concern the Region;
- f. The right to monitor and participate in defining foreign policy and negotiating treaties, conventions or international agreements which, directly or indirectly, may cover Region or the economic relations between the Region and other countries;
- g. The right to an autonomous public administration with its own staffing, career regimes and remuneration scheme;
- h. The right to place civil servants in the services of the Region, at the request of the Authority of the Oecusse Special Administrative Region, as requested deployment for an indefinite period.

Article 13 External relations

1. The Government is responsible for conducting foreign affairs relating to the Region.
2. Representatives of the Region may participate as members of governmental delegation from RDTL, in organizations and international conferences on appropriate subjects, limited to States and affecting the region.

Article 14 Public order and safety

1. The Government is responsible for internal and external security and the maintenance of public order in the Region.
2. The Authority of the Oecusse Special Administrative Region and forces for maintaining public order have the duty of mutual cooperation under the law.

Chapter III Organizational Structure

Article 15 Regional bodies

1. The bodies of the Region, or regional bodies, with administrative power, are:
 - a. The Authority of the Oecusse Special Administrative Region, hereinafter Authority, as the deliberative body;
 - b. The President of the Authority of the Oecusse Special Administrative Region, hereinafter President of the Authority, as the executive body.

2. Another body of the Region is the Advisory Council of Oecusse Special Administrative Region, with advisory powers, hereinafter Advisory Council.
3. The regional bodies represent the Region, within their respective powers, among the sovereign State organs and other State entities.
4. The organization and functioning of the regional bodies are regulated by Government Decree.

Article 16

Authority

1. The Authority is the deliberative collegial body of the Region, headed by the President of the Authority.
2. The powers attributed to the Authority are:
 - a. To elaborate activity plans and regional development plans, being proposed to the President of the Authority for approval;
 - b. To approve the proposed annual budget of the region;
 - c. To participate in the conception of regional planning and economic-social development policies, territorial planning, use of natural resources, culture and professional training;
 - d. To give advice on changes to this law that the President of the Authority may intend to recommend under its terms;
 - e. To exercise other powers conferred by law or regulation.

Article 17

Designation

The members of the Authority are appointed by the Council of Ministers, by resolution of the Government, on the proposal of the President of the Authority.

Article 18

President of the Authority

The President of the Authority is the highest representative of the region, responding, by the exercise of his/her powers, to the organs of sovereignty of the country.

Article 19

Term

1. The President of the Authority, who must be a Timorese citizen at least 35 years of age, is appointed by the President of the Republic, under recommendation of the Prime Minister, for a term of five years, successively renewable.
2. The President of the Authority shall establish habitual residence the national territory and will be prevented from carrying out, during his/her mandate, private activity that would result in conflict of interest with the exercise of his/her functions.
3. Upon taking office, the President of the Authority shall submit a declaration of assets to the President of the Court of Appeal, subject to the legal regime applicable to heads of sovereign bodies.

Article 20

Replacement and interim state

1. When the President of the Authority is unable to discharge his/her functions for a short period of time, these functions will be exercised by the next-ranking member of the Authority.

2. In case of vacancy in the office of President of the Authority, the new President of the Authority shall be selected within 120 days in accordance with paragraph 1 of Article 19.
3. During the vacancy of the office of President of the Authority, his/her functions will be exercised in the interim in accordance with paragraph 1, subject to approval of the Prime Minister.
4. The Acting President must comply with the provisions of the preceding article.

Article 21

Exoneration and resignation

1. The President of the Authority shall be exonerated, in the permitted cases, by the President of the Republic, on the proposal of the Prime Minister.
2. The President of the Authority must resign if incapacitated to perform his/her functions due to severe illness or other reasons, including prolonged absence.

Article 22

Powers

The President of the Authority has the power to:

- a. Direct the Region;
- b. Enforce this law and other laws applicable to the Region;
- c. Sign the proposed annual budget approved by the Authority and sent to the Government, for the purposes of registration, budgeting and final accounts;
- d. Define the Regional policies and order the publication of the regional executive orders;
- e. Elaborate, disseminate and enforce the regional administrative regulations;
- f. Propose to the Government the appointment and exoneration of the members of the Authority;
- g. Appoint and exonerate, observing the legal procedures, office holders of the Regional Public Administration;
- h. Conduct, on behalf of the Authority, any external issues that concern it, when authorized by the Government;
- i. Convene the Advisory Council;
- j. Grant, under the terms of the law, medals and honorary titles instituted by regional administrative regulation.

Article 23

Advisory Council

1. The Advisory Council is the body to assist the President of the Authority in making decisions.
2. The Advisory Council is chaired by the President of the Authority and meets at least once per month.
3. The President of the Authority shall consult the Advisory Council before making important decisions and defining regional administrative regulations, except with respect to nomination and exoneration of personnel or applying disciplinary sanctions.
4. The Advisory Council, on its own initiative or at the request of the President of the Authority in the course of the budget process, assists in the elaboration of the budget and gives advice on its implementation.
5. The President of the Authority shall approve the bylaws of the Advisory Council at its first meeting.

Article 24

Composition, appointment and term

1. The Advisory Council consists of seven members, appointed by the President of the Authority from former members of the government, one *lia nain* from Oecusse, a *chefe de suco*, a member of the security forces, and two municipal representatives.
2. The term of members of the Advisory Council may not exceed the term of office of the President of the Authority, but the members of the Advisory Council continue to carry out their functions until the inauguration of the new President of the Authority.
3. When necessary, the President of the Authority may invite any person he deems of interest to attend meetings of the Advisory Council.

Article 25

Consultants and technical specialists

1. The Authority may hire national and foreign citizens to provide consultancy or exercise specialized technical functions.
2. The individuals referred to in the previous paragraph are accepted only at personal title and respond to the Authority.

Chapter IV

Economic and financial system

Article 26

Land use

1. The State guarantees the right to use and enjoyment of land for development of investment projects, within the limits provided for by the Constitution and the law.
2. The land is ceded to investors according to their respective needs and terms for the duration of contracts, according to each type of economic activity.

Article 27

Expropriation

1. The Authority protects, in accordance with the law, the right of natural and legal persons to acquire, use, dispose of or inherit property and their right to compensation in case of legal expropriation.
2. The compensation provided for in the previous paragraph must match the actual value of the property at the time of expropriation and should be freely convertible and paid without undue delay.
3. The property rights of businesses and investments from outside of the Region are protected by the law.

Article 28

Financial regime

1. The Region maintains independent finances regulated by law.
2. The Region handles all its financial revenues, which are reinvested in the Region, the National Territory or abroad, for the exclusive benefit of the Region.
3. Without prejudice to the paragraph above, some of the proceeds from the Region can be invested outside the Region, in Timor-Leste and abroad, only after consultation with the Government.
4. Under the terms of paragraph 2, the Government does not collect any revenues from the Region.

Article 29
Fiscal and tax system

The Region has an independent tax system, defined by law.

Article 30
Procurement system

The region has its own procurement system, regulated by decree-law.

Article 31
Financial market

1. The financial market of the Region is defined by law.
2. The Authority shall ensure the free operation of the financial market and the various financial institutions, as well as regulating and supervising their activities in accordance with the law.

Article 32
Customs system

1. The Region has its own customs system.
2. The customs system of the Region is regulated by decree-law.

Article 33
Free trade

The Authority protects and monitors, according to the law, the free operation of industrial and commercial enterprises, as well as setting its industry and commerce fostering policy.

Article 34
Shipping

1. With authorization of the Government, the Authority may implement vessel registration and issue, under the terms of the law, the respective exploitation licenses.
2. Private shipping companies, as well as companies related to them and the private port terminals of the Region, can operate freely.

Chapter V
Special Development Fund

Article 35
Creation of the Special Development Fund

The Special Development Fund is created for the Oecusse Administrative Region, hereinafter called the Fund, pursuant to Law no. 13/2009 of 21 October on Budget and Financial Management, as amended by Law no. 9/2011 of 17 August, on the Organic Structure of the Chamber of Auditors of the High Administrative, Tax and Audit Court.

Article 36
Purposes and operation of the Fund

1. The Fund is intended to finance strategic multi-year projects of a social and economic nature in the Region, including:
 - a. Transportation infrastructure, including roads, ports and airports;
 - b. Infrastructures of social nature, including hospitals, schools and universities;

- c. Infrastructure which promotes protection from floods and landslides;
 - d. Installations for water treatment and sanitation;
 - e. Power generators and distribution lines;
 - f. Telecommunications;
 - g. Other installations necessary for the strategic development of the Region;
 - h. Training human resources, including programs and scholarships to add to professional training (sectors) in the Region in strategic development sectors.
2. The entity responsible for operations of the Fund consists of the Authority and the Government member responsible for finances.
 3. The Authority has jurisdiction to alter appropriations assigned to projects, within the limits of total authorized appropriations by the National Parliament in the General State Budget and subject to the respective purposes.
 4. The Authority shall submit to the Government an annual plan to manage the Fund, to be approved by the Council of Ministers and submitted to the National Parliament in the context of the draft law on the General State Budget.
 5. The Authority shall also submit to the Government its activity and financial reports, which must also be submitted to the National Parliament.

TITLE III

Special Zone of Social Market Economy of Oecusse and Ataúro

Article 37

Establishment

The Special Zone of Social Market Economy of Oecusse and Ataúro, hereinafter Special Zone, is established. The Zone covers the territories of Oecusse and Ataúro Island and functions, in the area of the Special Zone, as a complementary hub of development.

Article 38

Characterization

1. The Special Zone is intended to delimit its corresponding territorial space to attract private investment and to apply economic development and social policies development guided by principles of social market economy.
2. "Social market economy" means an inclusive and participatory model consisting of socio-economic and environmentally sustainable development in the respective geographical and adjacent areas, diversifying the economic areas to be developed.
3. Importation of goods intended for the execution of projects and economic and social development programs in the Special Zone area shall be exempt from payment of all customs duties.

TITLE IV

Final and transitional provisions

Article 39

Civil servants

1. The general civil service system applies to civil servants in the Region, except as regards the system of career regime, remuneration, and requested deployment.

2. Upon the establishment of the Region, civil servants who are performing functions in Oecusse retain their functional linkages and continue to provide service with equal remuneration, allowances and benefits to those as of that date, in accordance with law.
3. The career regime and remuneration is defined by Government decree, after hearing the Authority.

Article 40
Special leave without salary

Public officials incorporated into the Authority may enjoy a regime of unpaid leave for the duration of the period of one term of the regional bodies, renewable according to law.

Article 41
Oversight

1. The acts and contracts carried out or entered into within the scope of the legal system of the Special Zone are not subject to the prior supervision by the Chamber of Auditors of the High Administrative, Tax and Audit Court.
2. The Chamber of Auditors of the High Administrative, Tax and Audit Court conducts periodic audits to acts or contracts performed or concluded within the legal system of the Special Zone, in order to verify that they conform to the regime currently in force for concomitant control.

Article 42
Municipal representatives

Until the municipalities are in place, the Advisory Council functions with five members.

Article 43
Amendments

Amendments to this Law will take into account the proposals made by the Authority to the Government, which then submits them to the National Parliament in the form of a draft law.

Article 44
Entry into force

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

Approved on 23 May 2014.

The President of the National Parliament,

Vicente da Silva Guterres

Promulgated on 16 of June 2014.

To be published.

The President of the Republic,

Taur Matan Ruak