VENERABLE JUDGES OF THE COURT OF APPEAL,

Adriano do Nascimento, Francisco Miranda Branco, Cidália Mesquita Ximenes, Noemia Sequeira, David "Mandati" Dias Ximenes, Maria Angélica R.C. Dos Reis, Antoninho Bianco, José Pacheco Soares, Lídia Norberta dos Santos Martins, Dário Madeira, Maria Anabela Sávio, Silvino Adolfo Morais, Helena Martins Belo, Alexandrino Cardoso da Cruz, Nélia Soares Menezes, Mariano Fatubai Mota, Gabriela Alves, Felix da Costa "Anin Buras", Fabião de Oliveira, José Sequeira "Somotxo", Josefa Álvares Pereira Soares, António dos Santos "55", Joaquim dos Santos, all Deputies of the National Parliament (hereinafter referred to as "Petitioners"), come under the provisions of article 150 of the Constitution of the Democratic Republic of Timor-Leste (hereinafter referred to as "CRDTL"), request

AN ABSTRACT CONSTITUTIONAL REVIEW

of Law No 1/2019 of 18 January, First Amendment to Law No 13/2005, of 2 September, *Law* on *Petroleum Activities* (hereinafter only referred to as "Law no. 1/2019"), considered in its totality, **for violation of the articles 88.3, 95.1, 95.2(a), 95.2(q) and 95.2(p), 95.3(f) 115.1(i), 116(e) and 139.1 and 139.2, all of CRDTL, and provided for in Law no. 9/2005 of 3 August, republished by Law No 12/2011 of 28 September,** The Petroleum Fund Law (hereinafter only referred to as "the Petroleum Fund Law"),

which it does in the terms and with the following grounds:

I-Previous Note

1

The petition for successive abstract review of the constitutionality and illegality of Law No. 1/2019, and published in the Official Gazette on January 18, 2019, is brought before this Learned Court under **Article 150(e) of CRDTL,** which states that may require the declaration of unconstitutionality a fifth of Representatives as representatives of Timorese citizens, thus providing for active legitimacy.

2

It is the mandate of the Supreme Court, in terms of the provisions of Article 126.1(a) of the CRDTL, "*Appreciate and declare the unconstitutionality and illegality of legislative acts and normative of the organs of the State",* and considering that article 164 of the same Fundamental Law determines in its number 2 that *"Until the installation and initiation of functions by the Supreme Court, all the powers attributed by the Constitution to this court are filed by the Maximum Judicial Instance of the existing judicial organization in Timor-Leste"*, it is evidenced that this Learned Tribunal has the mandate to rule on this petition.

1 - From Law No. 1/2019

3

It should be noted at the outset that Law No 1/2019 was approved by the National Parliament under Article 95.1 of the CRDTL and, as is clear from Article 1 and Article 2 thereof, has as its object the amendment of Articles 2 and 22 of the Law on Petroleum Activities.

4

Among its motivations, Law No. 1/2019 states that, in the development of the petroleum industry, the Strategic Development Plan envisaged the establishment of a national development of the *Tasi Mane* project on the south coast; and that it intends to take advantage of the *"good opportunity"* created by the Agreements concluded in this area to *"update the legal framework of State participation in petroleum operations"*.

5

and thus *"make it clear that participation of the State, of public corporations and any other wholly owned legal persons or controlled by these are not limited to a 20% maximum participation when that participation is based on a commercial transaction or an award under the law."*.

6

It should be noted also the motivation of the change in the scope of the exclusion or non-application of prior review by the Chamber of accounts, which is due to the *"nature of the contracts to be celebrated with a view to the acquisition of exploitation rights."*.

7

With Law No 1/2019, the definition of *"Treaty"* is replaced by "*Treaty between the Republic of Timor-Leste and Australia establishing the respective Maritime Border in d and Timor Sea, concluded on 6 March 2018".*

8

Of great importance is the amendment of Article 22 of the Petroleum Activities Act, *Participation of the State and other public corporations in Petroleum Operations,* in the following terms:

BEFORE	AFTER
1. *The decision on the participation of Timor-Leste in Petroleum Operations will be taken by the Council of Ministers, which may delegate this competence to the Prime Minister.*	1. *The decision on the participation of Timor-Leste or other Timorese public corporation, including through entities wholly owned or controlled by them, in Petroleum Operations is approved by the Board of Ministers, who may delegate this power to the Prime Minister.*
2. *This Law shall apply to the Employer by the State on the same terms as it applies to any other Contractor, with the necessary adaptations.*	2. *This Law applies to the State Contractor on the same terms as are applicable to any other Contracting Party, with the necessary adjustments.*
3. *Each Authorization shall stipulate the right of T i mor-Leste to participate in Petroleum Operations, up to a maximum share of twenty percent (20%) of the assets.*	3. *Each Authorization (contract) shall stipulate the right of Timor-Leste or any other Timorese public corporation, including entities wholly owned or controlled by controlled by them, to participate in petroleum operations, up to a maximum share of twenty percent (20%) of the assets.*

BEFORE	AFTER
4. T i mor-Leste's participation may take place at any stage of the Petroleum Operations, in accordance with the terms and conditions to be established by contract.	*4. The limit of twenty percent (20%), provided in the previous number, is not applicable in cases where the participation of Timor-Leste or any other Timorese public corporation, including entities wholly owned or controlled by controlled by them, results from a commercial transaction or from an award under the law.*
	5. The participation of Timor-Leste or any other Timorese public corporation, including entities wholly owned or controlled by controlled by them, may take place at any stage of the Petroleum Operations, in accordance with the terms and conditions to be established by contract.
	6. The Petroleum Fund may be applied directly in Petroleum Operations, in the national territory or abroad, through the execution of commercial transactions, through Timor Gap, EP, pursuant to Article 15.4 of Law no. 9/2005, of 3 August, republished by Law no. 12/2011, of 28 September.
	7. Contracts for purchase and sale, acquisition, assignment, transfer, transfer, novation, merger, encumbrance or any other legal transaction entered into or payments made by Timor-Leste or any other Timorese public corporation, including entities wholly owned or controlled by controlled by them, is designed to allow the participation of Timor-Leste or any other Timorese public legal person, including through entities fully owned or controlled by them, or of the Petroleum Fund, in Petroleum Operations and, as well as for the conduct of these, are not subject to prior inspection by the Audit Chamber of the High Administrative, Tax and Audit Court."

9

In addition, Article 3 of Law No 1/2019 establishes that the said amendments enter into force on following its publication and will produce retroactive effects that refer to September 27, 2018.

III - Legal and constitutional analysis of Law No. 1/2019

a) the overflow of the declared object of the Law no. 1/2019 and its **respective consequences in the legal, constitutional legal framework**

10

Article 1 of Law No 1/2019 provides as follows: *"This Law approves the first amendment to Law No. 13/2005, of September 2, on Petroleum Activities".*

11

Although the object is expressly stated that it is intended to amend the provisions of the Law on Petroleum Activities, it is certain that, if we take into account the wording of the article as a whole, the diploma does not follow the matters regulated by this law - read the Law of Petroleum Activities.

12

First of all, paragraph 6 of the new wording of Article 22, stating that *"The Petroleum Fund may be applied directly in Petroleum Operations*, *in national territory or abroad, through the conclusion of commercial transactions, through the Timor Gap, EP, pursuant to the provisions of Article 4 of Law No 9/2005 of 3 August, republished by Law No 12/2011 of 28 September,"* Introduces a material change *ex novo*, in fact, a special rule for the applications of the Petroleum Fund.

13

The introduction of the standard has material implications at the level of the provisions of the Petroleum Fund Law.

14

Article 22.6 refers to Article 15.4 of Law No 9/2005 of 3 August, with the amendment of Law no. 12/2011 of 28 September (hereinafter referred to as "the Petroleum Fund Law").

15

Article 15 of the Petroleum Fund Law on investment rules *"... () to qualify as an eligible investment,* the *applicable instrument must be issued or, for a situated investment, abroad in a recognized international jurisdiction" (emphasis* added).

16

Law No. 1/2019 thus opens up the scope of the Fund's applications beyond that provided for in the Petroleum Fund Law, due to the application instruments no longer have to be issued or, investment located, abroad, in recognized international jurisdiction, also considering the national territory for these purposes.

17

It should be noted that practice shows us, in the light of the fulfillment of the purposes of creating the Petroleum Fund, that good investments are made in secure bonds and shares abroad *"in internationally recognized jurisdiction"*, conditions which fulfill the requirements of the law which, at its base, is to reduce the risks associated with preservation of the fund itself, since it is fundamental to ensure adequate conditions for return (the change contained in the Law no. 1/2019 contradict).

18

The Petroleum Fund Law requires the responsible Minister to be tied to the principles of diversification of the portfolio, however, *"with the objective of maximizing the financial return of the Petroleum Fund Function the level of risk assumed, taking into account the purpose of the Fund, the constraints on the and the ability of Timor-Leste to withstand the risks.*", as prescribed in Article 14.1.

19

More, under Article 4 *"No more than 5% of the Petroleum Fund should be applied in other eligible investments and since a) the Minister has included this other class assets, of which the investment is part* of, *the proposed distributed portfolio is presented to the National Parliament in* compliance with

Article 14.5, and b) the rules and selection criteria, management and evaluation of each individual financial instrument within a certain class of assets, has been approved by the Minister and published" (emphasis added).

20

The letter of the referred precept also refers to the provisions of article 14.5, which transcribe *"The Minister presented to the National Parliament a summary of its proposed investment policy of the Petroleum Fund together with the* Petroleum *Fund Annual Report or before decisions that imply changes in the allocation of the main assets."* (emphasis added).

21

However, with the wording of Article 22 (6) of the Law on Petroleum Activities introduced by Law No 1/2019, the Petroleum Fund may be applied **directly** to **Petroleum Operations, in the national territory or abroad,** through the conclusion of **business transactions, through Timor Gap,** in defiance of the general investment rules set out in the Petroleum Fund Law.

22

Thus, Law No. 1/2019 created a special rule in which Petroleum Operations can be directly financed for the purpose of the investment of the Petroleum Fund, **not observing that regulated in the Law of the Petroleum Fund.**

23

Within the definition of *Petroleum Operations* embodied in the Petroleum Activities Law, are included petroleum prospecting activities ; research, development, exploration, sale or export of Petroleum; or construction, installation or operations of any structures, facilities or support for the development, exploitation and export of Petroleum, or the dismantling or removal of any such structures, facilities or support.

24

Well, *Petroleum Operations* is a fairly broad concept.

25

And, when including any *Petroleum Operation*, provided that in the scope of any commercial transaction, as capable of eligible investment by the Petroleum Fund, to create in practice a special open standard and less strict than in the previous law which effectively regulates the investment rules of the Petroleum Fund,

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as far as the Fund's applications are concerned, such rules are defined in the Petroleum Fund Law.

27

Now extends to the object provided by the change of its own law and providing for matters relating to various laws!,

28

and may cover any type of investment in any activity that falls under the definition of *Petroleum Operations*, for the purpose of which it is a commercial transaction (read **any business)!!**

29

But not only, if we consider the definition of *Petroleum Operations* and the criterion of the commercial transaction, the Fund's investments may cover investments in physical and/or financial assets without any return, whether in the short, medium or long term, constituting true public expenditure, with direct implications on the Fund's profitability.

30

In these terms, the wording of Article 22.6 is a *"blank check"* through which the Government may proceed to apply the Petroleum Fund to any Petroleum *Operation,* or in any business, since the object of the contract may not be considered an "eligible investment" under the investment rules in articles 14 and 15 of the Petroleum Fund Law,

31

the State is connected, in matters of genuine national interest, which needs implications for the use of Petroleum Fund capital and, consequently, serious economic and financial repercussions for the country.

32

They are concerned with the importance and legal and socioeconomic value of the Petroleum Fund Law.

33

It is clear from the preamble of the Petroleum Fund Law that it intends to establish the main parameters for the operation and management of the Fund, the management of claims, rules on investments directly by the Fund, rules on transfers to the State Budget, and on the Government's responsibility, in order to comply with the provisions of Article 139 of the CRDTL.

34

The Preamble states that the Petroleum Fund was created with the objective of contributing to the efficient management of petroleum resources and to a sustainable fiscal policy : *"The Petroleum Fund shall contribute for sound management of petroleum resources for the benefit of current and future generations. The Petroleum Fund will be a* tool w*hich will contribute to a good fiscal policy, in which the long-term interests of the citizens of Timor-Leste are duly considered.*"

35

In fact, the Fund was created after more than a year of public debate and extensive consultations with civil society, which in a transparent and inclusive process necessary for the supervision and monitoring of the use of money and accountability of form that revenues from petroleum exploration to benefit future generations.

36

The Petroleum Fund Law establishes the mechanisms for allocating these revenues to the General State Budget, admitting, from the outset, the financing of the State Budget.

37

It being understood that, as is clear from the Petroleum Fund Law, "*The Fund (...) should be integrated coherently in the State Budget*".

38

Thus, it is an undeniable fact that the Petroleum Fund not only allows its revenues to be transferred to the State Budget, but has actually been the practice since its inception, representing almost the entirety of the State Budget financing.

39

For example, in Decree of National Parliament No 4/V - General State Budget for 2019, almost 80% of the financing of the State Budget comes from the Petroleum Fund, which the importance of this in the context of the financing of public policies.

40

Because of its importance in our legal system, the Petroleum Fund Law is **a law of value reinforced or has ordinary law characteristics in the nature of prevalence or pre-eminence of other subsequent ordinary laws with which it conflict** as it is recognized in Article 4, which reads: *"For* the *purposes of this Act, in the case of conflict between the operative provisions of* the *Act and the provisions* of *the law of Timor-Leste on budget and management financial, or between the provisions of this Act and a clause in a Petroleum Authorization, the provisions of this Law shall prevail."* (emphasis added)

41

See also in this sense the Judgment of the Court of Appeal given in Proc. No 4/2008 published in Jornal da República on November 26, 2008, in which it was decided in an abstract inspection constitutionality is as follows *: "Although the Constitution does not recognize the nature of laws* of *"Reinforced value", the wording of Articles 95.2(l) and (m), 96.2, 97.2, 126.1(a), point to such a reinforced value can be recognized in other legislative acts other laws."*

42.

The Judgment continues, *"these laws cannot be affected by subsequent laws that have not precisely the same function, not doing, because in such cases the principle "lex posterior lex interior derrogat"*

43

"Even without any specific indication in the letter of the Constitution, making an interpretation we understand that the ***Petroleum Fund Law is a "Constitutionally required" law*** *in the sense that it fits to define a legal framework on the use of natural resources virtue of the special function attributed to it by the Constitution and the importance it* represents for the country now and in the future.*" (Emphasis added)*

44

To conclude this decision, *"there is no doubt that the Petroleum Fund law has the nature of a law with "reinforced value"* **or, it may be understood that it has characteristics of prevalence or prominence over ordinary laws in case of conflict between these and that, by the legislative self-linking of the National Parliament,** which considered it within the scope of its legislative powers.

45

It should be noted that the National Parliament itself conferred on the Petroleum Fund Law, by Article 4, the prevalence of character or prominence over other subsequent legislative acts that may contradict it or which conflict (except in case of a law which amends the Petroleum Fund Law itself).

46

Accordingly, since the Petroleum Fund Law is a law with a reinforced value and in the sense of the above, the legislative change provided for in article 2.6, is unlawful, since it establishes a special rule that extends the rules and qualification of investments eligible for investments directly by the Petroleum Fund, which are specifically provided for in Articles 14 and 15 thereof.

47

Also suffering from unconstitutionality by virtue of the provisions of Article 139 of the CRDTL, a since the Petroleum Fund Law aims above all to fulfill and develop it.

48

Thus, if the National Parliament intends to clarify that the Petroleum Functions can invest in Petroleum Operations, by means of commercial transactions and, in addition to the object set forth in the preamble and in Article 1 of Law 1/2019, through the Timor Gap, EP, must do so through an amendment to the Petroleum Fund Law.

49

The Petroleum Activities Act cannot serve as a mechanism to surreptitiously change other provisions of law, especially in the case of a law of reinforced value in the present case of the Petroleum Fund Law, when, in fact, Article 1 of Law no. 1/2019 states that the diploma is to amend the Petroleum Activities Law.

50

The aim with this ploy is to get through the window that which did not come through the door - in basically, what it entails is through a simple amendment to the Law on Petroleum Activities, proceeds to a substantive change to the Petroleum Fund Law, a law of reinforced value whose previous revisions were passed after an extensive prior public consultation process.

51

And, as explained above, the Petroleum Fund Law aims to comply with Article 139 of the CRDTL.

Let's see,

52

The Constitution protects the economic dimension of natural resources because their exploitation and receipts are of great significance for Timor-Leste's economy and development.

53

Because, as we have previously had occasion to mention, the overwhelming majority of the revenues entered in the successive General State Budgets, comes from the Petroleum Fund, an undeniable, well-known statement, and the revenues from the Petroleum Fund are invested with the aim of maximizing revenues, which is the basis for direct applications, through direct authorized transfers.

54

We must, with our natural resources, as CRDTL Article 139.1, *"used* in a *fair and equitable manner, according to the national interest",* providing also in 139.2 that the conditions for the exploitation of

natural resources must "*serve for the constitution of obligatory financial reserves under the law*", which is the case of the Petroleum Fund Law, law of reinforced value as it has already been mentioned.

55

In following, it should be noted that the accumulated capital of the Petroleum Fund should be channeled into eligible fixed income investments such as bonds or debt securities, or variable income, such as quoted shares, and "*other eligible investments*" that meet the demanding conditions and requirements under the Petroleum Fund Law.

56

In view of the foregoing, it is concluded that the new Article 22.6 introduces a greater exposure to risks under the claim of using up to 5% of the accumulated capital of the Petroleum Fund in direct applications without complying with the rules established for the qualification of eligible investments, in the case of "other investments", applications to Petroleum Operations and in the case of a commercial transaction and through Timor Gap, EP,

57

distorting the Petroleum Fund and making this precious and irreplaceable asset of the Timorese People, this path a special rule opens the possibility that the Petroleum Fund can be invested directly in any *Petroleum Operations* and in any of its phases, a vague concept whose meaning is too broad.

58

Investments directly from the Petroleum Fund, pursuant to Article 15.4 of the Petroleum Fund Law, are, as well, subject to well-defined and demanding general investment rules, giving priority to highly liquid financial assets, while also complying with *"objective of maximizing the Fund's financial return",* which is why the investment portfolio should include sufficiently liquid *assets "in order to be able to respond immediately to the transfers required by the State Budget"*, as foreseen by Articles 14.1 and 14.2.

59

However, **any application of the Fund must comply with the qualification provided for by the investment rules under Article 15 of the Petroleum Fund Law**, since the ultimate purpose of the investments is to increase the accumulated capital, in order to respond to the levels of financing requested by the State Budget.

60

It is reiterated that the introduction of Article 22.6 of the Petroleum Activities Law opens the possibility of investing *as "other investments",* as provided for in article 15.4 of the Petroleum Fund Law, in any *Petroleum Operation*, outside of the investment requirements and rules provided for in the Petroleum Fund Law, which, without having to respect the rules of financial return and risk control, will seriously jeopardize the sustainability of the Petroleum Fund by extending its investments.

61

Moreover, it is not just about procedural differences, since the allocation for investment will come directly from the Petroleum Fund, outside the investment eligibility requirements.

62

Article 22.6, as provided in Law No 1/2019, is characterized as an unduly extensive and widespread rule, which generates legal uncertainty and has implications for sustainability and pursuit of the goals of the Petroleum Fund itself, which clearly violates Article 139 of the CRDTL in that, it unprotects the Fund itself and, in doing so, puts into question how it corresponds to the constitutional rule for a mandatory financial reserve.

63

However, the constitutional rule of the mandatory financial reserve has its concretization and densification through the rules of eligible investment and sustainable income, according to Articles 14 and 15 of the Petroleum Fund Law.

64

With a direct impact on the profitability of the Petroleum Fund and its capacity to finance the General State Budget!

65

In this context, it should be noted that the State Budget relies on transfers from Petroleum Fund, and so in recent years the transfer limit of accumulated capital has been continuously above the Estimated Sustainable Income, since, under the terms of Article 9(d) of the Petroleum Fund Law, it is determined that such transfers should be justified as being in Timor-Leste's overriding interest, in the long term.

66

It is important to consider not only the evolution of annual transfers, but also their relationship as a source of public revenue.

67

The results of the investment of petroleum revenues by the Petroleum Fund constitute the financing base of the State Budget and, therefore, creating exceptions to the rules on "eligible investment", risk control, prudent management and even reinforcement of mandatory constitutional financial reserve, are contrary to the principles inherent in the sustainability of the Petroleum Fund and our own state budget, which depends on that.

68

Incidentally, the wording of Article 22.6 to allow direct investment of the accumulated capital of the Petroleum Fund, outside of the state budget, in Petroleum Operations which do not meet the requirements for *"eligible investment",* leads naturally to the need to find more financing from non-oil revenues with an impact on fiscal policy,

69

in so far as, if the accumulated amount of the Petroleum Fund is lower, the amount of transfers will therefore be variable and also smaller.

70

And it is the law itself that determines that the Petroleum Fund should be coherently integrated into the State Budget, correctly representing the development of public finances for the needs of the current generation and future generations.

71

It should be noted that the same logical reasoning will be drawn from the wording of Article 22 of Law No 1/2019 taken as a whole,

72

therefore, it intends to extend the State's participation in Petroleum Operations to other entities, public entities, legal persons owned or controlled by it,

73

in accordance with paragraph 4, **that the 20% limit** on the participation of the State or other public legal persons owned or controlled by it in Petroleum Operations **does not apply** when it results from a commercial transaction.

74

And, as serious as this exclusion, participations may occur at any stage of Petroleum Operations!!, according to article 22.5 - which may result in an expense with remote **or even zero** financial return on the risks involved in Petroleum Operations, whose estimates are mere forecasts for medium and long term, with oscillating economic-financial variations.

75

Thus, the State or other public legal persons owned or controlled by the State are bound to obligations in activities that do not meet the criteria of maximization of financial return, generating real public expenditure.

76

Therefore, we are faced with a true unconstitutionality and legality, due to the value of the Petroleum Fund Law and the provisions of the constitutional text, under paragraphs 1 and 2 of article 139 of the CRDTL.

b) Exclusion of the prior review by the Chamber of Auditors

77

In order to accentuate the violation of the constitutionally established natural resources level as described above, Article 22.7 of Law No 1/2019 removes the possibility of obtaining prior approval from the Chamber of Auditors of the Superior Administrative, Fiscal and Accounts Court for *"contracts for purchase, sale, acquisition, assignment, transfer, transfer, renewal, merger, encumbrance or any other legal transaction entered into or payments made by Timor-Leste **or by any other Timorese public corporation**, including through entities wholly owned or controlled by these ... "!*

78

This excludes the prior approval of the Chamber of Auditors for the execution of all types of acts and/or contracts, with financial implications and impact on the sustainability of the Petroleum Fund and the State Budget itself, allowing the limited financial resources of the Timorese State to be "applied" for other purposes...

79

In fact, prior visas represent an important guarantee and security, a unique and last-line barrier against acts of mismanagement, which by negligence or criminal intent, preventing the State from being bound by government actions that do not correspond to the available budget, in a sector of major importance for the country,

80

not to mention that the Petroleum Fund excellently finances the State Budget.

81

It should be noted that decisions to participate in Petroleum Operations are always associated with an increase in expenditure or a decrease in revenues.

82

And, by removing the possibility of prior approval, and only subject to *subsequent* inspection, which would have prevented that expenses that may result in a low profitability of the Petroleum Fund,

83

calling into question **principles of transparency** in the financial management of the Petroleum Fund.

84

Moreover, Article 32 of the Petroleum Fund Law prescribes that "The management of the Petroleum Fund shall be carried out and the related duties of all relevant parties shall be complied with, within [words missing] and transparency and access to information should be ensured.

85

In addition, the creation of these risks violates the provisions of the Petroleum Fund Law, which has the purpose of establishing an income fund, from the exploitation in this sector, to meet budgetary needs, with a direct impact on sustainable development, and also, on the fundamental rights of citizens.

86

Infringement, therefore, of Article 139 of the CRDTL.

Without giving up,

c) The change in the definition of "*Treaty*"

87

According to the amendment provided for in Law No 1/2019 on Article 2 of the Law on Petroleum Activities, "*Treaty*" means the "*Treaty between the Democratic Republic of Timor-Leste and Australia establishing the Maritime Boundaries in the Timor Sea, concluded on 6 March 2018*".

88

Article 9.2 of the CRDTL states that *"The rules contained in conventions, treaties and international agreements shall apply in the domestic legal order upon approval, ratification or accession by the respective competent bodies and after publication in the official gazette."* (emphasis added).

89

In the case of matters relating to maritime Boundaries, the provision referred to in the previous article must be analyzed in conjunction with the provisions of CRDTL Article 95.2(a) and 95.3(f).

90

Thus, the Constitution provides that it is the exclusive mandate of the National Parliament to deliberate concerning maritime borders and also the approval and/or ratification of international treaties and conventions.

91

The Treaty concluded on March 6, 2018 between the Democratic Republic of Timor-Leste and Australia has not yet been ratified as provided for in the Constitution.

92

In these terms, a treaty or international agreement is only integrated into the Timorese domestic legal system when it has been subject to ratification by the mandated body - the National Parliament - and after it has been published in the official gazette.

93

It is not clear how this provision could include, as if it were already part of the Timorese domestic legal system, a definition of a treaty not ratified by the National Parliament!

94

In the light of the provisions of the CRDTL, an international treaty or agreement may not be in force in the internal law, which is already contained in a legislative instrument or ordinary law, without having been ratified by the mandated body, since, without complying with these constitutionally agreed procedures and instruments, it is not included in the internal legal system.

95

It should be stressed that the Treaty has no validity in the internal legal system since it has not been subject to the exercise of the constitutionally consecrated exclusive power of the Parliament.

96

Although it can be argued that this is a definition, it must be considered that, in the light what was mentioned above, it cannot be a constant definition of a legal instrument having an object which does not exist in the domestic legal system and therefore cannot produce any legal effect.

97

Accordingly, the amendment of Article 2 of the Petroleum Activities Law with respect to the definition of the Treaty will apply to the rules on petroleum operations and contained in the law to the definition of an established area (as well as being subject to changes in relation to the above)

through an international agreement that has not been ratified and is therefore not part of the Timorese domestic legal system.

98

Ordinary law cannot treat concepts as if they were part of the internal legal system, beyond the exclusive and specific powers of the National Parliament in this matter, especially when it comes to matters of national interest,

99

under penalty of violation of the constitutional norm that refers to the exclusivity of the National Parliament *"to legislate on: a) The borders of the Democratic Republic of Timor-Leste (...)"* and "*approve and denounce agreements and ratify international treaties and conventions*", as provided for in Article 95.2(a).

100

This legislative amendment is still deeply unfortunate in that it influences the definition of Territory contained in the Petroleum Activities Law, introducing unnecessary legal uncertainty into an element of supreme magnitude in our Legal System.

101

In fact, under Article 2 of that law, the *Territory of Timor-Leste* "*consists of the territory of Timor-Leste, **including its territorial sea, together with its exclusive economic zone and continental shelf**, under which, under international law, Timor-Leste enjoys sovereign rights for the purposes of research and exploitation of its natural resources*".

102

This geographical limitation is not identical with reference to the Timor Sea Treaty concluded on 20 May 2002 between the Government of Timor-Leste and the Government of Australia or the Treaty between the Democratic Republic of Timor-Leste and the Australia Agreement establishing the respective Maritime Borders in the Timor Sea, concluded on March 6, 2018.

103

By virtue of this legislative amendment, the geographical scope of application of the Petroleum Activities Law will extend, retroactively to September 27, 2018 (!), to a territorial portion that is not yet part of the national territory, considering that the Treaty concluded on 6 March 2018 has not been ratified by the National Parliament.

104

More, it should only have this treatment after ratification of the Treaty!

105

Thus, in the light of Law, the Treaty does not exist in the domestic legal system, and Parliament cannot treat it without prior instrument of ratification, under penalty of violation of the applicable constitutional rules, as explained above.

Always without giving up,

d) Delegation of authority to the Prime Minister

106

With regard to the redrafting of Article 22.1, it should be clarified that the possibility of delegation to the Prime Minister of the Council of Ministers' own powers in respect of participation in Petroleum Operations is maintained.

107

Since, under Law No 1/2019, the State's participation in Petroleum Operations was extended to *"other Timorese public legal persons, including through entities wholly owned or controlled by them."*

108

However, the powers of the Council of Ministers and the Prime Minister are constitutional through Articles 116 and 117, respectively, of the CRDTL.

109

With relevance to the present, it is evident from the outset what is established in Article 116(e), and it is the responsibility of the Council of Ministers to "Approve the acts of the Government involving increases or decreases in public revenues or expenditures",

110

being a **competence effectively attributed constitutionally to this collegial organ.**

111

However, the decision to participate in Petroleum Operations is, unquestionably, in itself associated with the increase or decrease of public revenues or expenditures,

112

it is a necessary consequence of that decision.

113

Bearing in mind the letter and spirit of Article 116 of the CRDTL, it is the Constitution itself which assigns and defines the powers of the Council of Ministers.

114

In a first line of legal analysis, the powers of the Council of Ministers ensure the principle of collegiality and are justified because the collective decision is, at heart, an instrument of the Government that lets allows execution of political objectives with economic and financial consequences - matters of utmost importance.

115

But much more, the Constitution expressly defines the powers of the Council of Ministers, *"creating here a constitutional reserve of power that allows to extract a certain institutional balance of powers"* (emphasis added), as understood by Professor Doctor Paulo Otero in Portuguese Constitutional Law, Vol. II, Principles of Organization and Functioning of Political Power, p. 49-53.

116

And so, this constitutional cut of powers enshrines the principle of immobility of decisions.

117

therefore, and according to this author, if it is the Constitution itself that defines the mandates of certain decision-making structures *"The delegation of powers cannot* be *done under implicit rules: a Constitution requires delegation to the existence of an explicit enabling legislative provision; (...) The powers conferred by the Constitution on an organ can only be delegated by that body to a another body if there is an enabling constitutional norm: the lack of express constitutional delegation renders the delegation unconstitutional (...)"* (emphasis added)

118

Thus, the Constitution itself expresses the understanding that the delegation of power leads to a total evisceration of the principle of immobility of mandates, of the principle of specialization of the sovereign bodies and of the very principle of collegiality.

119

Still, it does not prohibit the existence of rules to allow modification or enlarging the number of powers defined by the Constitution, however, it is always necessary to have normative constitutional authorization to carry out,

120

but the normative delegation conferred by the Constitution does not exist.

121

It should be noted that the constitutional power conferred by Article 116(e) has special relevance when facing decisions on increase or decrease of expenditure, since, in this way, we enter the economic-financial field,

122

being certain that, as the constituent legislator understood it.

123

A decision on the participation of Timor-Leste or other Timorese public corporations, including those wholly owned or controlled by it, in Petroleum Operations, has, in any event, a financial impact!

124

Thus, the ordinary law cannot establish a delegation of powers constitutionally without there being a constitutional enabling rule, or in other words, there is no enabling constitutional rule that makes possible the realization of this delegation of powers!

125

Accordingly, it is considered that the proposed delegation of powers conflicts with the provisions of Article 116(e) of the CRDTL, as well as violating the principles of the specialty of bodies of sovereignty and of immobility of mandates and, therefore, is wounded by unconstitutionality.

(e) the entry into force and effect

126

The Law no. 1/2019, in its Article 3, further provides that *"This Law shall enter into force the day after its publication and shall take effect from 27 September 2018."*

127

The determination of retroactive application of the law to this very specific date cannot be understood.

128

However, taking into account the changed meaning of "*Treaty",* which will be in accordance with Law n. 1/ 2019 "*the Treaty between the Democratic Republic of Timor-Leste and Australia establishing their respective Maritime Borders in the Timor Sea, signed on 6 March 2018,"*

129

the date of coming into force seems to be associated with the signing, on 28 September 2018, of the Agreements approved, later, by Government Resolution No. 20/2018 of October 24 and published in *Jornal da República* as "*Approval of an acquisition contract and Participatory Interests and rights in the Greater Sunrise Field, Participation of Timor-Leste in Petroleum Operations and Transfer of Referred Participatory Interests and rights to the favor of Timor Gap, EP or its subsidiaries to the holding and management thereof on behalf and representation of the State of Timor-Leste"*

130

If it is so understood, it should be clarified that it is up to the Government or the Council of Ministers to define the terms of retroactivity of the approval of such Contracts, insofar as their approval is not a competence not attributed to the National Parliament, according to Articles 115.1(t) and 116(d) of the CRDTL.

131

In this sense, the competence to establish retroactivity by virtue of the conclusion of the Agreement must result from its approval by the body that discussed it and effectively approved it.

132

In light of the foregoing, the retroactivity provided for in the law is in disregard of the principle of the specialization of the organs of sovereignty and the constitutionally consecrated separation of powers.

133

In other words, the legislative process cannot be a vehicle to be used after the fact as a form of certain acts and/or contracts entered into if they can be made compatible and harmonized with the legislation in force at the time of their signing!

Still without giving up,

(f) Violation of Article 95.2(q) and (p).

134

Given all the above, should be subject to analysis the fact of Law n. 1/2019 was enacted by the National Parliament in accordance with paragraph 1 of Article 95 of CRDTL which states that "*It is the Pa r National regret legislate on the basic questions of domestic and foreign policy of the country.*"

135

This is a general provision which enshrines a principle of preeminence in the exercise of the legislative function by the National Parliament.

136

However, there are basic questions of the internal and external policies of the country that may be within the scope of the Government's powers, which is why Article 95.2 clearly covers matters of legislative intervention, as a form to develop and duly specify the generic concept which is provided for in paragraph 1 of the same article.

137

That is to say, and in the list provided for in paragraph 2 of that article, the constitutional text defines the specific substantive matters on which the National Parliament has exclusive legislative competence.

138

Among the matters listed, see article 95.2(q) and (p), in which matters of fiscal policy and the budget system, respectively, are absolutely reserved for the National Parliament.

139

Given the foregoing, it is considered that the amendments to the Petroleum Activities Law has implications and direct consequences on fiscal policy and budget matters, as explained.

140

Above all, because these changes are directly in line with the Petroleum Fund forecasts, which may imply an increase in expenditure or a decrease in revenue from the primary financer of the State Budget,

141

which will lead, as a consequence, to the development of fiscal policies that can be harmonized with those policies,

142

both being exclusive or absolute matters reserved for the National Parliament.

143

On the other hand, Law No. 1/2019 does not observe the rules established by the Petroleum Fund Law, moreover, contrary to the general rules of investment envisaged therein and all its principles.

144

As it has been noted, the Petroleum Fund Law has a constitutionally referenced and relevant value, since it defines the constitutional framework for the use and conservation of natural resources and

the constitution of mandatory financial reserves, which must be carried out through ordinary law and has its own expression.

145

But more, as is clear from the preamble of the Petroleum Fund Law, it "*establishes the main parameters for the operation and management of the Petroleum Fund. It governs the collection and management of revenues associated with petroleum wealth, regulates transfers to the State Budget...," in fact, "should be integrated coherently in the State Budget."*

146

The National Parliament attached particular importance to the protection of natural resources, recognizing the importance of allocating revenues from these resources to the financing of the State Budget.

147

In fact, it is reiterated that, in practice, the Petroleum Fund is financing the Budget excellently.

148

Accordingly, it is understood that legislating matters inherent to the Petroleum Fund's own investments, which generate an increase in public expenditure, without the amount of budget allocation, including the possibility of activities of the extremely important nature of the oil sector, is to allow a duality of ways to allocate public funds,

149

which is directly linked to budgetary matters, in particular with the principle of budgetary unity, since these should be dealt with in budgetary terms.

150

Accordingly, it is considered that the constitutionally consecrated is violated for the purposes of matters of absolute competence of the National Parliament, in particular in the provisions of article 95 (2) (q) and (p), since Law No 1 2019 should have been enacted on the basis of the aforementioned provision.

III - The parliamentary process for the approval of Law No 1/2019

151

Pursuant to section 95.1 of the CRDTL, *"It is for the National Parliament to legislate on the basic issues of the domestic and foreign policy of the country",* which is a general provision developed in the following paragraphs, according to which the National Parliament approved Law no. 1/2019.

152

The bill that led to the enactment of Law no. 1/2019 was the initiative of the Deputies in the Party Benches of the Parliamentary Majority Alliance (CNRT, PLP, KHUNTO), UDT and Frente Mudança, having been debated and approved in Plenary of the National Parliament and sent to the President of the Republic for the purpose of promulgation as Decree No. 3/V of the National Parliament,

153

which was vetoed in accordance with Article 88.1 of the CRDTL and under the constitutional powers of the President of the Republic (Article 85(c) CRDTL).

154

Pursuant to the provisions of article 88.1, final part, the diploma was returned to National Parliament for re-assessment.

155

For the National Parliament to overcome the presidential veto, would be necessary here to support and fulfill ("for confirmation of diplomas that deal with matters foreseen in Article 95) which is provided for in Article 88.3 of CRDTL, which requires "*a two-thirds majority of the Members present; provided that it is more than an absolute majority of the Deputies in the exercise of their functions".*

156

In fact, the CRDTL considers that, since these are matters of absolute legislative mandate reserved to the National Parliament, overcoming the veto must comply with more stringent requirements than those foreseen for other matters which are not included in the provisions of Article 95, as required by Article 88.2.

157

The procedure adopted by the National Parliament for the purpose of overcoming the presidential veto is based on Article 88.2, according to the document sent for promulgation - **Doc. 1.**

158

And, since Law No 1/2019 was enacted under Article 95.1, it is not possible to override the presidential veto under the provisions of article 88.2, which requires only the vote of the absolute majority of the Deputies in the exercise of their functions.

159

Thus, there is a formal error in the classification of the procedure for overcoming the presidential veto.

160

For these reasons, should be considered a nullity of the legislative act which was based on a true error of law, in particular because the veto override fails to comply with the constitutional requirements set forth in paragraph 3 of said article, given that the Law n. 1/2019 is decreed under the formal law reserved to the National Parliament, according to article 95 of the CRDTL.

IV - CONCLUSIONS

A. Law No. 1/2019 is found to be unconstitutional and unlawful as a result of breach of the constitutional provisions of Articles 88.3, 95.1, 95.2(a), (q) and 95.3(f), 115.1(i), 116(e) and 139.1 and 139.2, all of the CRDTL, and of Law No 9/2005 of 3 August, republished as Law No. 12/2011, of 28 September, the Petroleum Fund Law.

B. Law No 1/2019 intends to amend the Law on Petroleum Activities, as is clear from Article 1 thereof; however, it goes well beyond its object, violating the provisions of the Petroleum

Fund Law - a law of enhanced value or a law of a prevalence or preeminent nature over ordinary laws that contradict it - as well as the provisions of articles 139.1 and 139.2 of the CRDTL.

C. As explained above, Law No. 1/2019 extends State Participation in Petroleum Operations to other Timorese public corporations, including entities wholly owned or controlled by them, at any stage of such operations (with the broad meaning that the law concept and meaning of Petroleum Operations),

D. increasing the quota limit up to 20% and excluding the prior approval of the Chamber of Auditors.

E. Moreover, it allows the Petroleum Fund to make direct investments in Petroleum Operations, in the national territory, through the Timor Gap, EP., through the conclusion of commercial transactions.

F. Law No. 1/2019 allows the State to be tied to Petroleum Fund investments in Petroleum Operations, provided for by a Law which precisely regulates the matter on direct investment of the Petroleum Fund, the management, supervision and accountability of natural resources - in this case, the revenues of the Petroleum Fund.

G. It being understood that the Petroleum Fund Law itself removes any regime or diploma which conflicts with it under Article 4 of that Law.

H. [missing text] by the Petroleum Fund, regardless of the eligibility criteria, there is no prior control of the risks associated with assumed obligations and with clear limitations to the principle of transparency, minimizing risks and maximizing profitability and, consequently, negatively affecting the sustainability of the Petroleum Fund.

I. I. The rule thus violates the essential core of protection rules of the Petroleum Fund, the provisions of the Petroleum Fund Law and, consequently, what constitutes the mandatory financial reserve generated from natural resources, as provided in paragraphs 139.1 and 139.2 of the CRDTL, because it uses a legal instrument whose object is to establish Petroleum Activities in order to create a special rule in relation to the rule regime approved by the Law of the Fund and that contradicts all the principles that its creation was based on, as well as the management principles and norms inherent thereto.

J. By allowing for the creation of this special rule, there will be no prior review of the investment of the Petroleum Fund which thus do not have to meet the exacting eligibility requirements that the rules of the Petroleum Fund Law require,

K. transforming petroleum reserves and revenues into a "blank check" given to the Government (in its powers as the manager of the Petroleum Fund) to make any applications/investments, no matter how ruinous, jeopardizing the sustainability of the Petroleum Fund.

L. These changes basically create a duality of investment mechanisms that would contravene the purposes of the Petroleum Fund and the rules of budgetary unity and, as a consequence, call into question the Petroleum Fund as the financer of the General State Budget, with direct repercussions on fiscal policy, which will have economic, financial and socio-economic implications.

M. In addition to this scenario, the exclusion of prior approval by the Chamber of Auditors of any purchase, sale, acquisition, merger, assignment, transfer, transfer, novation, encumbrance or any other legal transaction executed or carried out by Timor-Leste or any other Timorese public legal person, to allow the participation of Timor-Leste, a mechanism

of extreme importance in the prior verification of the legality of acts that will bind the State or legal entities as referred to in obligations with economic and financial repercussions.

N. [Missing line] by Law n. 1/2019, which reports to a Treaty not approved and/or ratified by the constitutionally competent body, results in violation of the provisions of subparagraphs 2(a) and 3(f) of Article 95, in conjunction with Article 9.2 of the CRDTL.

O. Before ratification, which has a constitutional process, the Treaty has no existence in the domestic legal system, and cannot be a basis for amending a legislative act or even be included as a reference, under penalty of violation of the rules and conditions of effectiveness inherent in the constitutional need for its ratification.

P. In the light of the law, the Treaty does not exist in the domestic legal system, and the Parliament cannot deal with it without prior ratification, in accordance with the legal and constitutional terms established in the CRDTL and also in Law No. 1/2002 of 7 August.

Q. Law No 1/2019, Article 22.1, also violates the provisions of Article 116 of the CRDTL, since this rule establishes a delegation of constitutional powers and provides that it is the collegiate body - Council of Ministers - to approve *matters "involving increases or decreases in public revenues or expenditures".*

R. The matters provided for in Law No. 1/2019, as they are decisions on the participation of the State and other legal entities in Petroleum Operations or Petroleum Fund investments, clearly fall within the concept of decisions involving increases or decreases in revenues or expenditure.

S. Article 22.1 of Law n. 1/2019 is unconstitutional in that it violates the provisions concerning collegial powers of the Council of Ministers and/or the Government, in particular the principle that decisions may not be modified.

T. Such delegation of powers thus deprives the principles of the specialization of organs of sovereignty and collegiality as provided for in Article 116 (e).

U. Moreover, Law No 1/2019 is unconstitutional because it makes it retroactive, by Article 3, to take effect on a specific date which coincides with the conclusion of Contracts in which the State is bound by obligations in certain Petroleum Operations and may even be linked to other obligations unknown to Deputies on the date of approval of the diploma.

V. [Missing line] powers of the National Parliament, with a further legislative introduction of powers constitutionally attributed to another body, according to article 115.1(i) of the CRDTL.

W. In addition, the procedure for overriding the Presidential veto of the Diploma did not comply with the constitutionally established formalities, since it was approved on the basis of article 88.2 of the CRDTL, when paragraph 3 of that article should be applied in view of the matter on which the diploma is concerned, and there is a verified error of law in the qualification of the rule governing the procedure for overcoming the presidential veto.

X. Finally, in view of the fact that the envisaged changes have direct implications for the budget system and fiscal policy, they should have been approved in accordance with Article 95.2(q) and (p) and cannot be considered as only *"basic questions of domestic and foreign policy of the country".*

Y. Law No. 1/2019, in addition to violating the approval procedure for failure to comply with the provisions of article 88.3, also violates the provision on which it is based - Article 95.2 of CRDTL.

Z. Therefore, considering the above assessment of the terms of Law No. 1/2019, we request Your Excellencies to declare the unconstitutionality and illegality that the same claims and well, therefore, comply with the Constitution !!

V - OF THE PETITION

For the above reasons, the undersigned Deputies of the National Parliament, numbering more than one-fifth of the deputies who are in office, under article 150(e) of the CRDTL, request the Court of Appeal to consider in a successive abstract review, to obtain a declaration of unconstitutionality and illegality, with general obligatory force, of Law no. 1/2019 of 18 January, considered in its entirety, and if this is not understood, which is not conceded, in the declaration of unconstitutionality and illegality, with general binding force, of the following rules: Article 2 and numbers 1, 6 and [missing] of Law no. 1/2019, of 18 January.

P.E.D.

Dili, 30 January 2019

The Deputies,

[23 signatures and names]

Doc. 1 is the Parliamentary decree, with a cover letter from the President of Parliament, attached.

Unofficial English translation by La'o Hamutuk.
For more information, see http://www.laohamutuk.org/Oil/Sunrise/18SunriseBuyout.htm#weaken

Decree no. 3/V

FIRST AMENDMENT TO LAW NO. 13/2005 OF 2 SEPTEMBER, PETROLEUM ACTIVITIES LAW

The Constitution of the Republic gives the responsibility to the State to ensure the promote the harmonious development of regions.

In order to achieve these constitutional objectives, the State approved, and is implementing the Strategic Development Plan 2011-2030, in which are identified three strategic development pillars, namely: social capital, development of infrastructure and economic development.

In the field of economic development, the objective was to build a modern and diversified economy based on agriculture, tourism and the petroleum industry, with an emerging private sector and generating opportunities for all our people.

As far as the development of the petroleum industry is concerned, the Strategic Development Plan foresees the establishment of a national petroleum company and the development of the *Tasi Mane* project on the south coast, in order to facilitate for our citizens the qualifications and experience they need to lead and manage the desired development of a petroleum industry.

According to the strategy approved in 2011, the industry's "backbone" of Timor-Leste's petroleum industry will be formed by three industrial poles to be implemented in the South Coast, namely: one group to support the Suai supply base, one group for the refinery and petrochemical industry in Betano and one group for the Beaço LNG plant.

The feasibility of the installation and operations of the future group of LNG Plant installations in Beaçu is, to a large extent, dependent on connecting to the gas pipeline from the *Greater Sunrise* fields.

Over the last few years, some public resistance has opposed, by some of the Companies holding exploration rights of *Greater Sunrise* fields, linking these fields through a pipeline to the South Coast of Timor-Leste, namely Beaço. After lengthy negotiations, the Timorese State managed to reach an agreement with one of the companies holding exploration rights to the Greater Sunrise fields for participation in the field.

The agreement reached by the State mentioned above is a good opportunity to update the legal framework for State participation in petroleum operations, established by article 22 of Law no. 13/2005, of 2 September.

The legislative amendment adopted by this law aims to make it clear that the participation of the State, of public corporations and any other persons collective wholly owned or controlled by them is not limited to a maximum participation of 20% where such participation is based on a commercial transaction or an award under the law. Through this law is introduced, also, an exception to the prior inspection regime of the Audit Chamber of the Superior Administrative, Tax and Accounts Court, prior to any contracts related to the acquisition of rights, for the State or to any other public

corporate body, including entities of a commercial nature created by them, for participation in petroleum operations.

The exception now introduced to the prior inspection regime of the Chamber of Auditors of the High Administrative, Tax and Audit Court is justified by the nature of the contracts to be concluded with a view to the acquisition of exploration rights.

Therefore,

The National Parliament decrees, under the provisions of Article 95.1 of the Constitution of the Republic, with the force of law, the following:

Article 1
Object

The present law approves the first amendment to Law no. 13/2005, of September 2, on Petroleum Activities.

Article 2
Amendment to Law no. 13/2005, of 2 September

Articles 2 and 22 of Law no. 13/2005, of September 2, are replaced by the following revisions:

"Article 2
(…)

"Treaty" means the Treaty between the Democratic Republic of Timor-Leste and Australia establishing their respective Maritime Boundaries in the Timor Sea, concluded on 6 March 2018.

Article 22
Participation of the State and other public corporations in Petroleum Operations

1. The decision on the participation of Timor-Leste or other Timorese public corporation, including through entities wholly owned or controlled by them, in Petroleum Operations is approved by the Board of Ministers, who may delegate this power to the Prime Minister.

2. This Law applies to the State Contractor on the same terms as are applicable to any other Contracting Party, with the necessary adjustments.

3. Each Authorization (contract) shall stipulate the right of Timor-Leste or any other Timorese public corporation, including entities wholly owned or controlled by controlled by them, to participate in petroleum operations, up to a maximum share of twenty percent (20%) of the assets.

4. The limit of twenty percent (20%), provided in the previous number, is not applicable in cases where the participation of Timor-Leste or any other Timorese public corporation, including entities wholly owned or controlled by controlled by them, results from a commercial transaction or from an award under the law.

5. The participation of Timor-Leste or any other Timorese public corporation, including entities wholly owned or controlled by controlled by them, may take place at any stage of the Petroleum Operations, in accordance with the terms and conditions to be established by contract.

6. The Petroleum Fund may be applied directly in Petroleum Operations, in the national territory or abroad, through the execution of commercial transactions, through Timor Gap, EP, pursuant to Article 15.4 of Law no. 9/2005, of 3 August, republished by Law no. 12/2011, of 28 September.

7. Contracts for purchase and sale, acquisition, assignment, transfer, transfer, novation, merger, encumbrance or any other legal transaction entered into or payments made by Timor-Leste or any other Timorese public corporation, including entities wholly owned or controlled by controlled by them, is designed to allow the participation of Timor-Leste or any other Timorese public legal person, including through entities fully owned or controlled by them, or of the Petroleum Fund, in Petroleum Operations and, as well as for the conduct of these, are not subject to prior inspection by the Audit Chamber of the High Administrative, Tax and Audit Court."

Article 3
Entry into force and effectivity

This Law shall enter into force on the day following its publication and have effect since 27 September 2018.

Approved on 10 January 2019.

The President of the National Parliament,

Arão Noé de Jesus da Costa Amaral

Promulgated on 17 January 2019.

To be published.

The President of the Republic

/s/

Francisco Guterres Lú Olo