



## THE IMPORTANCE OF REGULATING THE CHARTER OF THE OFFICERS OF THE MILITARY POLICE OF THE STATE OF TOCANTINS IN THE FACE OF STATE OMISSION



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### ABSTRACT

The regulation of the Letters Patent of the Military Police Officers of the State of Tocantins (PMTO) is a relevant issue for the legal security of state military personnel. The Federal Constitution of 1988 guarantees officers the right to the Letters Patent, a public document that formalizes their prerogatives, rights and duties. However, in Tocantins, there is a state omission, as the document has not been issued, compromising the legal security of the officers' careers. The study aimed to analyze the impacts of the absence of regulation of the Patent Letter in the PMTO and propose solutions to ensure the effectiveness of this right. The research was conducted through a qualitative and documentary approach, using legislative analysis and bibliographic review of federal and state regulations on the subject. The results indicate that other states, such as Minas Gerais, Paraná and Goiás, have already regulated the issuance of the Letters Patent, ensuring greater legal stability to their officers. In Tocantins, the absence of regulation creates a normative vacuum that prevents the military from fully enjoying the rights inherent to officership. It is concluded that the standardization of the Letters Patent in the PMTO is essential to ensure the legal security of officers, preventing administrative conflicts and strengthening the hierarchical structure of the corporation. It is recommended that a state decree be issued to regulate the issuance of this document, aligning Tocantins with the other federation units and ensuring full compliance with constitutional and statutory provisions.

**Keywords:** Legal certainty. Normative regulation. Constitutional rights. Administrative management.

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## INTRODUCTION

Military corporations are structured based on the constitutional principles of hierarchy and discipline, which are fundamental for maintaining order and functionality within military institutions. In this context, the hierarchical organization of military corporations is divided into two careers: Officers and Privates, both provided for in the Federal Constitution of 1988 and in the legislation that governs the organization of each military force (Alves-Marreiro, 2019).

The Officers perform Command, Leadership and Direction functions, being responsible for strategic decision-making and the administration of the corporation. The Soldiers, on the other hand, act in operational support and in the execution of institutional missions, directly assisting the Officers in conducting the activities of the corporation. This structure ensures the proper functioning of the military forces and ensures the fulfillment of their duties (Silvestre, 2017).

The Federal Constitution of 1988, in its article 142, § 3, item I, provides that the right to military ranks is guaranteed to Officers, conferring on them prerogatives, rights and duties inherent to officership. The Letters Patent, in this sense, is a public title granted to the Officer as soon as he is promoted to the first rank in his career, formalizing his position in the military hierarchy (Silvestre, 2017).

In the state military corporations, which, by constitutional determination, act as an auxiliary and reserve force of the Army, this structure is maintained. Military Police Officers, when promoted to the initial rank of the career after completing the Officer Training or Qualification Course, are entitled to receive the Letters Patent. However, in the State of Tocantins, it was found that this document has not been issued to the Military Police Officers, generating a legal gap that compromises their institutional security and their acquired rights (Brasil, 1988).

In view of this scenario, the following problem arises: why has the Military Police of the State of Tocantins not issued the title of the Letters Patent to its Officers? The absence of this document represents a state omission, which may generate legal uncertainty, administrative difficulties and possible losses to the military career of PMTO Officers.

To answer this question, the present research adopted the deductive method, based on a bibliographic and documentary research, through a qualitative analysis of the information obtained from the Military Police of the State of Tocantins and the current regulations.

The study was structured in different stages to allow a better understanding of the topic. Initially, the concept of the Letters Patent, its legal and constitutional bases, as well as

its importance for the career of Officers is discussed. Finally, the normative reality of the State of Tocantins is analyzed, contrasting it with the practices adopted by other federative units that have already regulated the issuance of the Letters Patent, in order to identify possible solutions for the regularization of this issue.

Thus, the research sought to highlight the need for regulation of the Letters Patent in the PMTO, ensuring legal certainty and institutional recognition to the Officers, as well as compliance with the applicable constitutional and legal provisions.

## CONSTITUTIONAL ASPECTS OF THE CHARTER

The history of the Brazilian legal system evidences the consolidation of the title "Carta Patent" in the military administration, especially in its constitutional texts, as a public instrument granted exclusively to career military officers. This document formalizes rights, prerogatives and duties inherent to the officership, ensuring legal and hierarchical stability within the military forces (Brasil, 1980).

For a better understanding, it is essential to define the concept of Letters Patent. According to Moraes and Pereira (2014), this title dates back to the monarchical tradition, being a document issued by the sovereign to make official the inauguration of a military officer in the rank of Captain or higher. The authors point out that the Letters Patent is, therefore, a public document representing a title conferred by the State, consolidating the appointment of an agent to the officership within the military structure.

Reinforcing this concept, Castilho (2004, p. 48) defines the Letters Patent as an individual document issued to each officer, containing the rank, the cadre to which he belongs and his attributions, serving as official proof of the rights and duties conferred by military legislation. Thus, it can be stated that the Letters Patent is a legal recognition of the ascension to officership, conferring prerogatives, duties and hierarchical stability to the promoted military.

In Brazil, the issuance of the Letters Patent occurs in two spheres: For Officers of the Armed Forces, the granting is the responsibility of the President of the Republic; for the Officers of the Military Police and State Military Fire Brigades, the document must be issued by the Governors of the States (Brasil, 1988).

Once granted, the title of the Letters Patent can only be removed by judgment in a competent judicial court, guaranteeing legal and institutional protection to the officer.

The Federal Constitution of 1967 already recognized this right, as provided for in article 93, which ensured military ranks and their respective rights in full for both active and reserve and retired officers. This provision also established that the loss of rank could only

occur through a decision of a military court, reinforcing the legal security of the officers' careers.

With the promulgation of the Federal Constitution of 1988, the theme was reaffirmed in articles 42 and 142, highlighting that the Military Police and the Military Fire Brigades are auxiliary forces and reserves of the Army, organized based on hierarchy and discipline. In addition, the Magna Carta establishes that the ranks of the Officers of the state forces must be conferred by the Governors of the respective States, consolidating the Patent as a constitutionally guaranteed right (Brasil, 1988).

Therefore, the Letters Patent is an essential element in the Brazilian military structure, being restricted exclusively to Officers and representing a milestone in the hierarchical progression and legal security of the officership. Its formal concession by the State ensures not only rights and duties, but also the legitimacy and functional stability of the military personnel who make up the organizational structure of the armed forces and public security. However, the absence of the issuance of this document in some states, such as Tocantins, configures an administrative and legal gap, which compromises the institutional security of the Officers and requires normative measures for its effective regulation.

## **THE CHARTER IN THE ARMED FORCES**

The Letters Patent in the Armed Forces represents an official and public document that formalizes the appointment and promotion of Officers of the Armed Forces, guaranteeing them legal certainty and functional stability. Its regulation has already been consolidated by the Federal Legislator, which, through the military and constitutional norms in force, ensures the mandatory nature of its issuance, strengthening the administrative management of the Armed Forces and ensuring the hierarchical recognition of its members. Law No. 6,880, of December 9, 1980, known as the Statute of the Military, expressly establishes the obligation to issue the Letters Patent, determining that the rank of an officer is conferred by an act of the President of the Republic or the Minister of Single Force and confirmed in this document. In addition, the legislation reinforces that the rank must be guaranteed in all its fullness, assuring the Officers advantages, prerogatives and duties inherent to the position (Brasil, 1980).

The Federal Constitution of 1988, in its article 142, paragraph 3, item I, reaffirms the protection of the Letters Patent, establishing that the ranks of officers of the Armed Forces are conferred by the President of the Republic and fully guaranteed to active, reserve and retired military personnel. It also determines that the loss of rank and rank can only occur by

a decision of a permanent Military Court, guaranteeing the Officer a rigorous legal process before any dismissal of his prerogatives (Brasil, 1988). In this way, the Constitution protects officers from undue administrative interference, ensuring them functional stability and hierarchical recognition. Castilho (2014) corroborates this view by stating that the Letters Patent is an essential instrument for protecting the military career, preventing officers from being harmed by arbitrary decisions or illegal administrative actions.

To regulate the process of issuing this document, Decree No. 2,144, of December 7, 1997, was published, which defines the rules for the drafting and signing of Letters Patent in the Armed Forces. This decree establishes that each Armed Forces – Navy, Army and Air Force – must regulate the specifics of the title, ensuring that the Letters Patent of Officer, Senior Officer and General Officer are issued in accordance with the mandatory requirements of the current legislation. The existence of this decree proves that the Union has fulfilled its legal obligation to guarantee the confirmation of the ranks of its Officers, promoting administrative transparency and strengthening military management (Brasil, 1997).

The issuance of the Letters Patent is not a mere administrative formality, but a constitutional and legal duty of the State. Being a document that confirms the position of the Officer within the military hierarchy, its non-issuance can be considered a serious administrative omission, subject to legal questioning and the accountability of public managers. The obligation of this document derives directly from the Federal Constitution and infra-constitutional legislation, and the public administrator is not entitled to the discretion of its granting or omission in its issuance. The President of the Republic, in the case of the Armed Forces, and the Governors of the States, in the case of the Military Police and the Military Fire Brigades, have the inalienable duty to ensure the issuance of this document, under penalty of violating the principles of legality and impersonality (Brasil, 1988).

The non-issuance of the Letters Patent compromises the legal security of Officers, hindering their career progression, the guarantee of functional rights and the institutional recognition of their hierarchical position. In addition, it can generate administrative consequences, such as obstacles to functional mobility and retirement, and even legal implications against the public administration. In this context, it is essential that the military public administration, both at the federal and state levels, adopt measures to ensure the issuance of this document in a standardized and fast manner, ensuring that all officers have their ranks duly recognized.

The Letters Patent is an essential element in the military hierarchical structure, being responsible for formalizing the recognition of the functional ascension of Officers and for ensuring the legal security of their careers. Its regulation by Law No. 6,880/1980 and Decree No. 2,144/1997 reaffirms the obligation to issue it, consolidating the inalienable right of the military to the document that officializes their position within the Armed Forces. The fulfillment of this obligation by the Federal Government strengthens military administrative management, ensuring that all Officers have their ranks duly recognized. However, this obligation also extends to state forces, and it is the duty of the Governors to ensure that the Military Police and the Military Fire Brigades issue the Letters Patent to their Officers, in accordance with the constitutional determination. Thus, any omission in the issuance of this document may constitute a serious administrative violation, compromising the legal security of the Officers' careers and the functional organization of the military corporations. It is therefore recommended that military public administrations adopt effective normative and administrative measures to ensure that the Letters Patent is issued quickly and uniformly, ensuring the valorization of the military career and compliance with the constitutional and legal provisions in force.

## **THE REGULATION OF THE PUBLIC TITLE "LETTERS PATENT" IN OTHER MILITARY POLICE FORCES IN BRAZIL**

The analysis of the regulation of the Letters Patent in different state Military Police shows that some states have already institutionalized specific regulations for the issuance of this public title, ensuring legal certainty and formal recognition to Military Officers. Among the states that have already regulated the issuance of the document, Minas Gerais, Paraná and Goiás stand out, which have established detailed rules for the granting of the Letters Patent, delimiting its definition, the mandatory requirements and the issuance process.

In the State of Minas Gerais, Decree No. 42,827, of August 6, 2002, issued by the Governor of the State, defined the Letters Patent as an official document recognizing the rank of Officers, establishing the necessary criteria for its granting, the minimum elements that must be included in the public document and delegating to the Commander-General of the Military Police the responsibility for issuing the complementary acts for its implementation. (MINAS GERAIS, 2002).

In the State of Paraná, the regulation was made through Decree No. 3,985, of December 2, 2004, in which the Head of the State Executive Branch established the obligation to issue the Letters Patent to the State military, specifying its definition, the

requirements for its issuance and the administrative procedures for the process of issuing and delivering the document. (PARANÁ, 2004).

In the State of Goiás, the Letters Patent was regulated by Decree No. 7,164, of October 1, 2010, which delimited the definition of the public title, established the basic criteria for its granting and determined to whom the document should be issued. (GOIÁS, 2010).

The analysis of these states demonstrates that the regulation of the Letters Patent is a consolidated practice in several federative units of Brazil, ensuring legal certainty and formal support for the career of Military Officers of the state Military Police. The choice of Minas Gerais, Paraná and Goiás as a representative sample reinforces the importance of regulating this document, showing that its implementation strengthens the administrative organization of state military corporations and ensures compliance with the constitutional provisions that govern the career of Officers. Thus, the regulation of the Letters Patent through state decrees is essential to ensure transparency, professional appreciation and functional stability to military personnel who exercise command, leadership and direction functions in the Military Police and Military Fire Brigades of Brazil.

## **THE CONSTITUTIONAL AND LEGAL ASPECTS OF THE CHARTER IN TOCANTINS AND THE STATE'S OMISSION REGARDING REGULATION**

The constitutional and legal framework of the State of Tocantins clearly establishes that the Letters Patent must be issued to the Military Officers of the State Military Corporations, ensuring them legal certainty, institutional recognition and the fullness of their rights and prerogatives. However, there is a gap in the regulation and in the effective delivery of this document to the Officers, configuring an omission on the part of the State, which, by not complying with its legal obligation, compromises the hierarchical structure and functional stability of the state military.

The Constitution of the State of Tocantins reinforces the obligation to issue the Letters Patent, as can be seen in the following legal provision:

Article 13 – The members of the Military Police and the Military Fire Brigade are State military personnel, governed by their own statute, established by law. §1 – Ranks, with prerogatives, rights and duties inherent to them, are fully assured to active, reserve or retired Officers, and military titles, ranks and uniforms are deprived of them. (TOCANTINS, 2019).

The state constitutional provision reflects the provision contained in the Federal Constitution, replicating the right to the Letters Patent and ensuring to Officers, both active and inactive, the entirety of their prerogatives. In this way, the recognition of rank and rank



not only confers functional rights, but also guarantees the legal and institutional stability of state military personnel, in line with the guidelines already established in other units of the federation.

In addition to the constitutional provision, the Statute of the Military of the State of Tocantins, instituted by Law No. 2,578, of April 20, 2012, also establishes the guarantee of rank and rank as a fundamental right of Officers, as provided for in Article 68:

Article 68 – The rights of the military are:  
I – Guarantee of rank and rank in all its fullness, with the advantages, prerogatives and duties inherent to it, when Officer. (TOCANTINS, 2012).

It is evident, therefore, that the state legislation explicitly guarantees Military Officers the right to the Letters Patent, which is an essential public document for the formalization of their hierarchical position within the corporation. Thus, it is up to the State Executive Branch to regulate and ensure the effective issuance of this title, ensuring that its Officers are not harmed by administrative omissions that may generate functional and legal uncertainty.

In addition, it is important to highlight that the Letters Patent, once granted, can only be withdrawn by judicial decision, which reinforces its importance as a consolidated right of Officers. This principle is in accordance with the Federal Constitution of 1988, which, in its Article 142, paragraph 3, item VI, determines that the loss of rank and rank can only occur by means of a decision of a permanent Military Court, in peacetime, or of a Special Court, in time of war (Brasil, 1988).

In the same sense, the Disciplinary Regulation of the Military of the State of Tocantins, published in 2014, establishes in its Article 161 that the loss of rank and rank can only be determined by the Court of Justice, reinforcing the need for a specific judicial process for any hierarchical dismissal:

Art. 161 – [...] §2 – When the decision is for the dismissal of the accused, who is an Officer, the case files are forwarded to the Court of Justice to decide on the loss of the post, in accordance with the provisions contained in article 42 and article 142, paragraph 3, item VI, of the Federal Constitution of 1988. (TOCANTINS, 2014).

In view of this, it is observed that the State of Tocantins has a consolidated legal framework that guarantees Military Officers the right to the Letters Patent and establishes strict criteria for their eventual loss. However, the absence of specific regulations for its issuance evidences an administrative omission, which places the State in breach of its own constitutional and statutory norms (Melo; Dias, 2025).

The lack of this document compromises not only the legal security of the Officers, but also the institutional credibility of the Military Police and the Military Fire Brigade of



Tocantins, generating instability in the management of the military career and possible legal questions. Thus, it is imperative that the State Executive Branch issue a decree regulating the issuance of the Letters Patent, ensuring that active, reserve and retired Officers have their rights fully recognized. This measure would not only correct the existing omission, but would also strengthen the military public administration, promoting transparency, legality and valuing the career of Military Officers in the State of Tocantins.

## ANALYSIS AND DISCUSSION

The Letters Patent is a public title that formalizes the recognition of the rank of Military Officers, being a constitutionally guaranteed right. However, the absence of specific regulation in the State of Tocantins highlights a normative gap that directly impacts the administrative structure of the Military Police of the State of Tocantins (PMTO), compromising the legal and functional security of the Officers.

The analysis carried out with the legislative collection of the Civil House and the Military Police of the State of Tocantins confirmed that, since 1989, there has been no regulatory Decree that regulates the issuance and delivery of the Letters Patent to the Military Officers of Tocantins. In addition, information obtained from the PM/1 (First Section of the PMTO General Staff) and the Directorate of Personnel Management (DGP) reinforces this finding, showing that the lack of regulation prevents Officers from receiving an essential document for the formalization of their career within the corporation.

This omission is configured as a disrespect for the rights of Officers, since the Federal Constitution of 1988 already ensures the full ownership of ranks to state military personnel, as provided for in article 42, which equates the rights of state military personnel to the prerogatives guaranteed to the Armed Forces, especially with regard to the formal recognition of ranks and ranks. At the state level, the Constitution of Tocantins, in its article 13, paragraph 1, reiterates this guarantee by establishing that the ranks conferred on active, reserve and retired officers are fully assured, with titles, ranks and military uniforms being deprived of them (Brasil, 1988).

In addition, Law No. 2,578/2012, which institutes the Statute of the Military of the State of Tocantins, also reinforces this prerogative, establishing in article 68 that the guarantee of rank and rank in its entirety is an inalienable right of Officers, and must be accompanied by all the prerogatives inherent to it (Tocantins, 2012). However, the lack of practical regulation for the issuance of the Letters Patent compromises the effectiveness of this right, demonstrating inertia on the part of the State and failure in the management of

the Military Police, which, despite recognizing the absence of standardization, does not adopt measures for its implementation.

Comparing the situation of Tocantins with other states that have already regulated the Letters Patent, such as Minas Gerais, Paraná and Goiás, it is observed that these federative units already have specific decrees that regulate the issuance of this document, guaranteeing Military Officers the full recognition of their hierarchical positions. In Minas Gerais, for example, Decree No. 42,827/2002 defines the criteria and requirements of the Letters Patent, delegating to the Commander-General of the PMMG the responsibility for issuing complementary acts (Minas Gerais, 2002). In Paraná, Decree No. 3,985/2004 details the process of issuing and delivering the document, while in Goiás, Decree No. 7,164/2010 specifies the basic requirements for the granting of this public title (Goiás, 2010; Paraná, 2004).

This comparison demonstrates that the lack of a regulatory Decree in Tocantins is not a technical or bureaucratic issue, but rather a failure in public governance. The non-issuance of the Letters Patent represents a direct violation of the principle of legality, as the State is omitting its duty to comply with a constitutional and statutory obligation. The Letters Patent cannot be treated as an optional document, as its issuance is an inalienable right of Military Officers, as already consolidated by the Brazilian legal system.

In addition to the legal implications, the omission of the State of Tocantins in the regulation of the Letters Patent generates administrative and institutional consequences, as it prevents the Officers from having the proper recognition of their positions, affecting issues such as career progression, functional recognition and retirement. Without the formal issuance of this document, the PMTO Officers are in a situation of legal uncertainty, without a title that proves and reinforces their hierarchical position within the state military structure.

Therefore, the issuance of a Decree regulating the Letters Patent in the State of Tocantins is an urgent and necessary measure, not only to correct an administrative failure, but to ensure compliance with the constitutional and statutory rights of Military Officers. The implementation of this regulation would ensure greater transparency in the management of the PMTO, strengthen the hierarchical structure of the corporation and ensure legal certainty for its members. Thus, it is recommended that the State Executive Branch adopt immediate measures to issue the respective decree, in order to regularize the issuance of the Letters Patent and ensure that the Military Officers of Tocantins have their rights fully recognized and respected.

## METHODOLOGY

The research was conducted through a literature review, using the deductive argumentation method, which allows starting from general premises based on relevant theoretical sources to deduce practical implications about the regulation of the Patent Letter and its legal and institutional consequences. This method makes it possible to analyze the current legislation, identifying normative gaps and state omission, in addition to allowing comparison with other states that have already regulated the issuance of this public title for Military Officers.

The main methodological strategy consisted of documentary research, complemented by the analysis of normative acts, state constitutions, decrees, military statutes and disciplinary regulations, as well as academic and technical articles. Primary and secondary sources were consulted, including the Federal Constitution of 1988, the Constitution of the State of Tocantins, the Statute of the Military of the State of Tocantins (Law No. 2,578/2012), the Disciplinary Regulation of the PMTO, and records of the Civil House and the Military Police of Tocantins.

To ensure the credibility of the information, the research resorted to recognized academic databases, such as the CAPES Portal, SciELO and Science Direct, as well as institutional collections, administrative acts of the Military Police and consultations with the personnel management sector (DGP) and the PMTO General Staff (PM/1). The systematic survey of these sources allowed us to analyze how other states, such as Minas Gerais, Paraná and Goiás, regulated the issuance of the Letters Patent, identifying normative standards and challenges in the implementation of the document.

The literature review played an essential role in contextualizing the problem, enabling the understanding of the constitutional and legal aspects that involve the regulation of the Letters Patent. According to Marconi and Lakatos (2017), bibliographic research is essential to analyze legal and administrative phenomena, as it allows access to different theoretical perspectives and to evaluate how certain public policies impact the organizational structure of institutions. In addition, technological advances and the availability of online regulations have facilitated access to official documents, ensuring a broad and up-to-date analysis of current legislation.

The research also adopted theoretical triangulation, a methodology that allows comparing different approaches to the regulation of the Patent Letter, confronting the normative provisions of the Constitution, the Statute of the Military and the disciplinary regulations with the practices adopted in other federative units. According to Brito, Oliveira and Silva (2021), triangulation reduces interpretative biases and strengthens the validity of

conclusions by identifying convergences and divergences in the application of military and administrative law. This strategy allowed for a more robust analysis of the consequences of the absence of regulation in Tocantins and the impacts of this omission on the career of state Military Officers.

The data analysis followed a qualitative approach, in which the information was interpreted in the light of the research objectives, considering the principles of legal certainty, military hierarchy and administrative efficiency. The deductive method was used to infer practical solutions from the normative analysis, enabling reflections on the need to issue a state decree to ensure the issuance of the Letters Patent in the PMTO.

Finally, the methodological structure adopted ensures the validity of the findings, allowing the results to contribute to the formulation of public policies and institutional guidelines aimed at the formal recognition of the hierarchical positions of the Military Officers of Tocantins. The research reinforces the importance of the regulation of the Letters Patent as an essential instrument to ensure functional rights, ensure the valorization of the military career and strengthen the administrative organization of the PMTO.

## CONCLUSION

The research showed that the Letters Patent is a constitutional and statutory right of the Military Officers of Tocantins, guaranteed by the Federal Constitution, the State Constitution and the Statute of the Military. However, it was found that, since 1989, the State of Tocantins has not regulated the issuance of this public title, configuring an administrative omission that compromises the legal and functional security of the Officers of the Military Police and the Military Fire Department of the State.

The study showed that other states, such as Minas Gerais, Paraná and Goiás, have already regulated the issuance of the Letters Patent through state decrees, ensuring transparency, institutional recognition and stability in the military career. The absence of this document in Tocantins undermines the formal recognition of hierarchical positions, career progression and the appreciation of Officers, in addition to violating the principles of legality and impersonality in public administration.

Thus, it is concluded that the regulation of the Letters Patent in the PMTO is an urgent need, and it is imperative that the State issue a regulatory decree to ensure the issuance of this document to the Officers, correcting the normative gap and ensuring compliance with the constitutional and legal provisions in force. This measure will strengthen the organizational structure of the corporation, provide greater legal certainty and consolidate the functional rights of the Military Officers of Tocantins.

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