



REGULATION 2000/14

AMENDING REGULATION NO. 2000/11

The Special Representative of the Secretary-General (hereinafter: Transitional Administrator),

Pursuant to the authority given to him under United Nations Security Council resolution 1272 (1999) of 25 October 1999,

Taking into account United Nations Administration in East Timor (UNTAET) Regulation No. 1999/1 of 27 November 1999 on the Authority of the Transitional Administration in East Timor and UNTAET Regulation No. 2000/11,

After consultation in the National Consultative Council

In the interest of the effective functioning of the judiciary in East Timor,

Promulgates the following,

Section 1
Amendments

Regulation No. 2000/11 is hereby amended in the following terms.

Section 2
Territorial jurisdiction of the District Courts

Section 7.1 of Regulation 2000/11 is amended as follows:

"Until such time as additional District Courts are established in East Timor, District Courts shall be established in the following locations:

- (a) Baucau, with jurisdiction for the districts of Baucau, Lautem, Viqueque and Manatuto;
- (b) Suai, with jurisdiction for Cova Lima, Bobonaro, Ainaro and Manufahi;
- (c) Oecussi, with jurisdiction for Oecussi;
- (d) Dili, with jurisdiction for the districts of Dili, Liquica, Ermera and Aileu.

Until such time as conditions are met for the establishment of additional District Courts, the territorial jurisdiction of existing District Courts may be re-defined by administrative directive.”

Section 3 Individual judge

Section 11 is amended by inserting the following paragraphs:

" 11.3 Unless otherwise provided in this or other UNTAET Regulations, an Individual Judge may hear and determine any criminal matter that does not carry a sentence of imprisonment exceeding 5 years as provided by law.

11.4 Within 21 days of the date of the arrest, the Public Prosecutor shall indict the suspect and submit the case to the Court.

11.5 Within 24 hours after the submission of the case the Presidency of the Respective District Court shall assign the case to an individual judge.

11.6 As soon as the case has been assigned to the Individual Judge, the latter shall hold a hearing.

11.7 The court hearing shall be held in one session. In the interest of the defense, the judge, at the request of the defendant or his or her legal representative, may postpone the hearing for up to five days.

11.8 The judge shall announce the written verdict in public within 24 hours after the closure of the hearing.

11.9 An appeal against the judgement of an individual judge shall be filed with the Court of Appeal within five days of the pronouncement of the verdict."

Section 4 Investigating Judge

Section 12.2 is amended as follows:

" The Investigating Judge shall have the following powers until the promulgation of the Regulation on Criminal Procedure:

12.2.1 Take all necessary procedural measures to ensure that the rights of every person subjected to criminal investigations and the rights of the victim shall be safeguarded.

12.2.2 Issue the warrants lawfully requested by the Public Prosecutor and prohibit any unlawful actions of the investigating authorities.

12.2.3 May summon witnesses to appear.

12.2.4 May appoint experts for the duration of the investigation at his or her initiative or at the request of the Public Prosecutor. The Investigating Judge may also appoint experts as Court experts. The experts shall take an oath before the Investigating Judge upon appointment.

12.3 A warrant from the Investigating Judge shall be obtained for the following measures:

- (a) arrest of a suspect;
- (b) detention or continued detention of a suspect;
- (c) exhumation;
- (d) forensic examination;
- (e) search of locations and buildings;
- (f) seizure of goods or items;
- (g) intrusive body search;
- (h) physical examination, including the taking and examination of blood and DNA samples;
- (i) interception of telecommunication and electronic data transfer;
- (j) other warrants involving measures of a coercive character in accordance with applicable law.

12.4 Where the suspect is apprehended in the act, and in cases of hot pursuit, police can proceed without a warrant from the Investigating Judge.

12.5 In other cases of urgency where permission by the Investigating Judge cannot be obtained, and if evidence is likely to be destroyed, tampered with or to disappear or if there is an immediate danger to the safety or security of persons, police can proceed without a warrant from the Investigating Judge.

12.6 Where a person is arrested without warrant under circumstances referred to in sections 12.4 and 12.5, the police officer shall at the earliest possible opportunity submit a report to the Public Prosecutor, who shall obtain the warrant of the Investigating Judge without delay.

12.6.1 Within 48 hours of arrest, the suspect shall be brought before the Investigating Judge. The Investigating Judge may order the release of the suspect, with or without conditions, or order his or her detention. In accordance with section 27.1 of UNTAET Regulation No. 2000/11, a suspect has the right to have legal representation at the hearing."

Section 5
Detention

The following Section is inserted after Section 12:

"Section 12 a
Detention

12a.1 Pre-trial detention shall only be ordered for crimes that carry more than one year of imprisonment under the law.

12a.2 In ordinary circumstances, a person suspected of having committed a crime may be held for questioning for an initial period of up to 48 hours within which the person shall be brought before a judge or released.

12a.3 The Investigating Judge shall review the detention of a suspect every 30 days and issue orders for the further detention or for the release of the suspect.

12a.4 Unless otherwise provided in UNTAET Regulations, a suspect may be kept in detention for a period of up to six months from the date of arrest.

12a.5 A request of the Public Prosecutor for further detention may be granted by the Investigating Judge where there is evidence of the suspect's participation in a crime, and if there is reason to believe that the suspect may abscond, or to protect the safety of a witness or a victim, or to prevent the tainting or loss of evidence, or if there is a risk that the suspect may repeat the criminal act, or on grounds of public safety or security.

12a.6 A suspect or his or her representative may request the District Court a review of the decision of the Investigating Judge made pursuant to section 12a.3. A panel of the District Court shall decide on the review.

12a.7 Taking into consideration the prevailing circumstances in East Timor, in the case of a crime carrying imprisonment for more than five years under the law, a panel of the District Court may, at the request of the Public Prosecutor and if the interest of justice so requires, and based on compelling grounds, extend the detention by an additional three months.

12a.8 On exceptional grounds, and taking into account the prevailing circumstances in East Timor, for particularly complex cases of crimes carrying an imprisonment sentence of ten years or more under the law, a panel of the District Court may, at the request of the Public Prosecutor, order the continued detention of a suspect, if the interest of justice so requires, and as long as the length of pre-trial detention is reasonable in the circumstances and having due regard to international standards of fair trial.

12a.9 A request for continued detention must contain the reasons justifying further detention.

12a.10 Pursuant to Security Council resolutions 1264 (1999) and 1272 (1999) and taking into consideration the prevailing circumstances in East Timor, all warrants for detention issued by the Investigating Judge or Public Prosecutor prior to the coming into force of the present Regulation shall be deemed valid and in accordance with the present Regulation.

12a.11 The period spent in detention in relation to the alleged crime, shall be taken into account when ordering subsequent detention.

12a.12 A suspect or his representative may lodge an appeal with the Court of Appeal against the decision of the panel of the District Court taken in accordance with 12a.7 or 12a.8. The President may assign a single judge to hear and determine the appeal."

Section 6 Entry into Force

The present Regulation enters into force on 10 May 2000.

Sergio Vieira de Mello
Transitional Administrator