



REGULATION NO. 2001/22

ON THE ESTABLISHMENT OF THE EAST TIMOR POLICE SERVICE

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, as reaffirmed in United Nations Security Council Resolution 1338 (2001) of 31 January 2001,

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

After consultation with the National Council of East Timor,

For the purpose of establishing a statutory framework for the East Timor Police Service,

Promulgates the following:

I - DEFINITION OF TERMS

Section 1
Definitions

For the purposes of this Regulation, the following words or expressions shall have the following meaning:

(a) “*Administrative Instruction*” means a written instrument issued by the Transitional Administrator or his delegate, prescribing or relating to any matter referred to in Section 21 of the present Regulation.

(b) “*Ammunition*” means any implement designed or intended for use in a *Firearm* as a projectile or containing combustible material designed or intended to create an expansion of gases in a *Firearm* to expel a projectile.

(c) “*Cabinet Member*” or “*Cabinet Officer*” means the officer of the Cabinet of the Transitional Administration appointed pursuant to UNTAET Regulation No. 2000/23 who, under the law, has responsibility for the *East Timor Police Service*.

(d) “*East Timor Police Academy*” or “*Police Academy*” is the department of the *East Timor Police Service* responsible for providing training to *Cadets* and *Police Officers* as established in Section 3.

(e) “*East Timor Police Service*” or “*ETPS*” or means the service established by this Regulation as defined in Section 2.1;

(f) “*Efficiency*” means:

(i) the aptitude and special qualifications required for the discharge of the duties associated with the ranks established in Section 4 of the present Regulation; and

(ii) diligence, good conduct, record of service and psychological and physical fitness.

(g) “*Explosive*” means any chemical compound or mechanical mixture containing any oxidizing and combustible components in such proportions, quantities or packing, that ignition by fire, friction, concussion, percussion or detonation of any part thereof may and is intended to cause an explosion. *Explosives* include, by way of illustration and not limitation, gunpowder, powders used for blasting, dynamite, detonating fuses or agents, smokeless powder, grenades, mines or any explosive device. They do not include motor fuels unless incorporated into other mixtures for the purpose of causing an explosion.

(h) “*Firearm*” means any device, whether or not assembled, operable or incomplete, which is designed or adapted or which may readily be converted to discharge a projectile by means of expansion of gases produced in the device by the ignition of combustible material, and including any accessory designed or intended for attachment to such a device.

(i) “*Lethal Force*” is the level of force that is intended, or is likely to cause, death or grievous bodily harm, regardless of whether death or grievous bodily harm actually results.

(j) “*Minor*” is a person who is under the age of eighteen years.

(k) “*Police Cadet*” or “*Cadet*” is a person who has been formally selected to undergo training at the *East Timor Police Academy*.

(l) “*Police Commissioner*” or “*Commissioner*” is the rank assigned to the person appointed to be the head of the *East Timor Police Service* by virtue of this Regulation or a directive made under this Regulation.

(m) “*Police Officer*” is a member of the service established by this Regulation who is not an administrative officer or a member of the technical staff.

(n) “*Resident of East Timor*” is:

(i) a person born in East Timor, or

(ii) a person born outside East Timor but with at least one parent having been born in East Timor, or

(iii) a person whose spouse falls under either of the two categories above.

(o) “*United Nations Police*” or “*CIVPOL*” means the civilian police component contributed by states to UNTAET to provide security and maintain law and order throughout the territory of East Timor, in accordance with Security Council Resolution 1272 (1999).

II – NATURE AND COMPETENCIES

Section 2 **East Timor Police Service**

2.1 The *East Timor Police Service* is hereby established for the purpose of maintaining law and order in the territory of East Timor.

2.2 The *ETPS* shall be comprised of *Police Officers* and administrative officers or technical staff employed in the *ETPS*.

2.3 Members of the *United Nations Police* serving in East Timor shall not be considered as members of the *ETPS*.

Section 3 **East Timor Police Academy**

3.1 The *East Timor Police Academy* is part of the *ETPS* and shall be responsible for:

- (a) the recruitment and training of *Cadets* as prescribed in Section 16;
- (b) training, retraining, updating or upgrading *Police Officers*' skills in relation to their duties;
- (c) specialized training of *Police Officers*.

Section 4 **Ranks in the ETPS**

4.1 *Police Officers* shall be classified according to the following ranks in descending order of authority:

- (a) *Commissioner*
- (b) *Sub Commissioner*
- (c) *Superintendent*
- (d) *Inspector*

- (e) Sub Inspector
 - (f) Senior Agent
 - (g) Agent
- 4.2 The amending or restructuring of the ranks in Section 4.1 may be done by a directive.

Section 5 **Cabinet Member**

Subject to Section 13 of UNTAET Regulation No. 2000/23, the *Police Commissioner* shall be bound by any instructions issued by the *Cabinet Member* in relation to general policy on matters relating to the police service.

Section 6 **General duties and Competencies**

6.1 *ETPS* shall do the following:

- (a) Promote and maintain law and order conditions that will allow the normal functioning of democratic institutions and the exercise by citizens of their legal and constitutional rights;
- (b) Prevent, detect and investigate crime and other infraction of the law;
- (c) Take, serve and execute all processes, including warrants, summons, orders or instructions given by a competent authority, including judicial authorities and prosecutors as specified in this Regulation, in UNTAET Regulation No. 2000/30 or other applicable law, within the limits specified therein;
- (d) Arrest or detain any person where there are reasonable grounds to believe that such person has committed a criminal offence that renders such person liable to arrest. Arrest and detentions will be made in compliance with UNTAET Regulation No. 2000/30 or other applicable law and with full respect for the legal rights of detainees;
- (e) Keep order in and within the precincts and in the vicinity of all courts during all sittings of such courts;
- (f) Direct road traffic and exercise all other duties and competencies in relation to road traffic;
- (g) Inform the population on matters that may affect general security and safety and assist them in times of distress, disaster or emergency;
- (h) Protect and respect human dignity and maintain and uphold the human rights of all persons;
- (i) Generally, exercise all other duties and competencies given to the *ETPS* under the law.

6.2 No *Police Officer* shall be liable, either criminally or civilly, for any act of commission or omission, if the matter or thing was done in good faith for the purpose of executing any provisions of any law. Such privilege shall not extend to acts of commission or omission arising out of intentional wrongful conduct or gross negligence.

6.3 Subject to such limits as may be imposed by law, every *Police Officer* shall be entitled to exercise all of the powers, rights, duties, responsibilities, and immunities of a member of the *ETPS* throughout the territory of East Timor, and shall be subject to the duties and responsibilities conferred on a *Police Officer* by this Regulation or any other law.

Section 7

Power to stop and question persons

7.1 When a *Police Officer* is investigating the commission of any crime he or she is authorized to stop and question any person when there are reasonable grounds to believe that information with respect to the crime can be obtained from that person. Reasonable stopping and questioning of persons shall not constitute an arrest or detention under UNTAET Regulation No. 2000/30.

7.2 As soon as a *Police Officer* has evidence to believe that the person being questioned is a suspect, then the person must be informed of his or her rights under UNTAET Regulation No. 2000/30.

Section 8

Taking identification of suspects

8.1 A *Police Officer* may, for the purpose of record and identification, take the following of any person who is in legal custody, or who appears before the court after being indicted for a crime:

- (a) Name and address
- (b) Nationality
- (c) Prints (fingers, palm, toes, foot)
- (d) Photographs
- (e) Measurements (weight, height)

8.2 A person who refuses to submit to the taking and recording of the information stated in Section 8.1 shall be taken before the competent Judge who shall decide if the legal requirements have been met and if the person must submit to the taking of the required information.

III - ORGANIZATION AND RESPONSIBILITIES

Section 9 **Use of force**

9.1 Within the scope of *ETPS*'s powers and competencies, *Police Officers* may only use the police measures provided under the law, in strict compliance with the conditions and limits therein stipulated.

9.2 Force may only be used:

- (a) to carry out a lawful arrest, legal process or other duty where the use of force is permitted;
- (b) where a person refuses to comply with a lawful order or instruction issued by a *Police Officer* or a competent authority;
- (c) to defend oneself or others against the imminent threat of death or serious injury;
- (d) to prevent a particularly serious crime that involves a great threat to life;
- (e) to prevent the escape of someone who is causing a serious threat to life;
- (f) to protect installations, areas or goods from unlawful destruction or other hostile acts.

9.3 The use of force shall be proportional to the threat and as absolutely necessary under the circumstances. Notwithstanding the generality of Section 9.2, *Lethal Force* should only be used when other non-lethal means would be clearly inappropriate in the given circumstances.

9.4 Where during the use of force by a *Police Officer* injury or death is caused to any person, *Police Officers* have a duty to ensure that:

- (a) assistance and medical aid are rendered to any injured person as soon as possible;
- (b) relatives of the injured or dead person are notified as soon as possible.

Section 10 **International Standards**

All *Police Officers* shall, in the performance of their duties, be subject to and shall comply with the laws applicable in East Timor, and shall comply with all internationally recognized standards, including but not limited to the standards stated in Section 2 of UNTAET Regulation No. 1999/1.

Section 11
The Police Commissioner

11.1 The *Commissioner* is the head of the *ETPS* and shall be responsible for the day-to-day administration, control, and efficient management of the *ETPS*, including decisions regarding the deployment of personnel. He or she shall have operational command of the *ETPS* and may exercise any other powers given by law.

11.2 The person serving as Commissioner of the *United Nations Police* shall perform the functions of *Commissioner* of the *ETPS* until otherwise determined by the Transitional Administrator. The Transitional Administrator shall appoint any other person as the *Commissioner* of the *ETPS*, in consultation with the *Cabinet Member*, on the basis of criteria established in a directive.

11.3 The *Commissioner* shall consult with, take directions from and shall be bound by any instructions issued by the *Cabinet Member* in matters relating to the general administration of the service.

11.4 The *Commissioner* shall have authority over all members of the *ETPS*.

11.5 The *Commissioner* shall prepare and submit an annual report to the *Cabinet Member* setting out the activities and operations of the service for the particular year, together with any recommendations he or she thinks is necessary for the improvement of the service. Such annual report shall be submitted no later than 1 March of the year following the one for which the report is due.

Section 12
The Sub Commissioner

12.1 The Sub Commissioner shall assist the *Commissioner* in the performance of his or her duties, and shall perform such other duties as may be delegated by the *Commissioner* or as may be provided in any other law.

12.2 The Sub Commissioner shall act in the absence of the *Commissioner* and shall perform all of the duties of the rank of *Commissioner*.

IV- INTERNAL ADMINISTRATION PROVISIONS

Section 13
Territorial Organization

13.1 The *Commissioner* may, with the approval of the *Cabinet Member*, divide the territory into police districts and set the boundaries of each district. The boundaries of each police district shall, if and wherever practicable, coincide with the administrative district boundaries. The police district boundaries and any changes thereto shall be communicated to the public.

13.3 The *Commissioner* shall, with the approval of the *Cabinet Member*, determine the location of stations and sub stations in each district and these locations and any changes thereto shall be communicated to the public.

13.4 The *ETPS* shall consist of such sections, branches, or other administrative or operational units as deemed necessary by the *Commissioner* with the approval of the *Cabinet Member*.

13.5 The *Commissioner* may assign *Police Officers* to districts, branches, sections or other administrative or operational units, as may be necessary for the efficient functioning of the service.

13.6 Every police station shall be deemed to be a lock up for the temporary confinement of persons arrested in accordance with the law. In all such stations a secure place of confinement should be provided. There shall be separate cells for males and females and *Minors* shall be kept separate from adults. The cells shall comply with the Standard Minimum Rules for the Treatment of Prisoners adopted by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, and other international standards.

Section 14 **Firearms, Ammunition and Explosives**

14.1 The *Cabinet Member* may, on the recommendation of the *Commissioner*, authorize the purchase of *Firearms, Ammunition or Explosives* for the *ETPS*. All such *Firearms, Ammunition or Explosives* shall remain the property of the government.

14.2 A *Police Officer* may possess and use the *Firearms, Ammunition or Explosives* stated in Section 14.1 in the lawful execution of duties and within the limits placed by the law.

14.3 The *Commissioner* shall decide the quantities of *Firearms, Ammunition or Explosives* issued to *Police Officers*, districts, stations, branches, sections or units, and the duties for which such *Firearms, Ammunition or Explosives* may be issued.

14.4 The *Commissioner* may allocate or reallocate any *Firearms, Ammunition or Explosives* issued under this Section to meet operational needs.

14.5 The *Commissioner* shall do the following:

(a) ensure a detailed account of all *Firearms, Ammunition or Explosives* received from the government and issued to *Police Officers* ;

(b) regulate the control, storage and issuing of such *Firearms, Ammunition or Explosives*, including procedures for ensuring that *Police Officers* are accountable for all *Firearms, Ammunition or Explosives* issued to them;

(c) establish effective systems for reporting and review whenever a *Police Officer* discharges a *Firearm, Ammunition or Explosives* in the performance of his or her duty.

14.6 Whenever any *Firearm or Ammunition* is discharged or lost, a report shall immediately be made by the *Police Officer* involved in the incident and sent to the *Commissioner* through the officer in charge of the division, branch or unit where the incident took place, setting out the quantity and circumstances relating to the discharge or loss. In

cases of death or serious injury arising from the discharge of a *Firearm, Ammunition or Explosives*, the detailed report shall be sent promptly, through the *Commissioner*, to the *Cabinet Member* and other lawful authority.

Section 15 **Tenure and Status of office**

15.1 Members of the *ETPS* shall hold office subject to the law. The terms and conditions of service for members of the *ETPS* shall be stated in a directive.

15.2 A *Police Officer* may resign his office by giving such period of notice as may be prescribed in a directive.

15.3 A person appointed or promoted to a rank in the *ETPS* will be required to undergo a probationary period and to satisfy the requirements of such probationary period as stated in a directive.

15.4 A *Police Officer* on probation under Section 15.3 remains a probationer until his appointment or promotion is confirmed or rescinded in accordance with the rules as may be set down in a directive.

15.5 In the promotion of a *Police Officer* to a higher rank, consideration shall be given to the *Efficiency* of the candidates. Where a *Police Officer* is considered for promotion to the rank of Inspector, Superintendent or Sub Commissioner, consideration shall also be given to the candidate's potential to develop leadership and executive management skills.

Section 16 **Recruitment**

16.1 A person selected for initial appointment to the *ETPS* shall undergo and pass a training course at the *Police Academy*, or other training course approved by the *Cabinet Member* on the recommendation of the *Commissioner*.

16.2 Candidates for appointment to the *ETPS* shall be selected on a transparent competitive basis, and all such vacancies will be advertised.

16.3 Candidates for appointment into the *ETPS* shall:

- (a) be of good character and be *Residents of East Timor*;
- (b) be not less than eighteen years of age by the date of entry into the *Police Academy*;
- (c) be able to speak, write and understand one or more of the languages of East Timor;
- (d) pass the required physical and medical examinations;
- (e) pass a selection interview.

16.4 A candidate who fulfills the requirements stipulated in Section 16.3 and other requirements prescribed by law and is selected, shall sign an agreement and enter the *Police Academy* as a *Cadet*.

16.5 *Cadets* shall abide by the terms and conditions set for *Cadets* by the *Cabinet Member* on the recommendation of the *Commissioner*.

16.6 *Cadets* who fail to meet the required standards or to fulfill any other essential requirement shall be dismissed from the academy in accordance with the agreement and conditions set for *Cadets*.

16.7 *Cadets* shall not be considered as members of the *ETPS* and shall not enjoy the rights and responsibilities of a member of the *ETPS*.

16.8 Notwithstanding Section 16.7, where the *Commissioner* determines that it is necessary to call out *Police Cadets* to perform certain police duties, the *Police Cadets* so called out shall exercise all the rights and responsibilities of a member of the *ETPS* when lawfully performing such duties.

Section 17 **Oath of office**

17.1 Every person who has successfully completed the requirements to become a *Police Officer* in the *ETPS*, shall at a designated place and time, on his or her appointment as a *Police Officer*, take and subscribe to the following oath or affirmation of office:

“I do swear/do solemnly and sincerely declare that in carrying out the functions entrusted to me as a member of the *East Timor Police Service*, I will carry out my duties without fear or favor, malice or ill will, and that I will cause the peace to be kept and preserved in East Timor, and that I will prevent to the best of my abilities, all offences against the same; and will discharge all the duties thereof faithfully according to law.

I will carry out my functions without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or all other status.”

17.2 Upon completion of the oath the *Police Officer* shall submit a signed copy of the oath or declaration to the *Cabinet Member*. A copy of the signed oath or declaration shall be kept in the service record of the *Police Officer*.

Section 18 **Vicarious liability**

18.1 The East Timor Transitional Administration (hereinafter: *ETTA*) is liable in respect of a tort committed by a *Police Officer* in the performance of his or her duties. Any legal action to enforce such a claim shall be defended by and in the name of *ETTA*.

18.2 Nothing in this Section shall exempt a *Police Officer* from liability, including liability towards *ETTA*, in relation to torts for which such officer would be liable under Section 6.2.

18.3 The procedures and conditions for determining the extent and scope of such liability may be stated in a directive.

Section 19
Legal Assistance

19.1 Where a *Police Officer* is charged before a court with an offence arising out of or in the course of the execution of his duty, and the *Commissioner* is satisfied that such officer acted in good faith in the execution of his duty and recommends to the *Cabinet Member*, the officer charged shall be granted legal assistance in the conduct of his defense.

19.2 The legal assistance referred to in Section 19.1 shall consist of the reasonable costs of the officer's legal representative, subject to such limits as may be set by law.

V- GENERAL PROVISIONS

Section 20
Issuing of directives

The Transitional Administrator may issue such directives as are necessary for carrying out or giving effect to this Regulation, and in particular for the following matters:

- (a) for prescribing classifications for officers in the *ETPS*, including qualifications, duties and remuneration;
- (b) for prescribing the procedure for appointment from within the *ETPS*;
- (c) for prescribing the probationary period on first appointment and for the procedures and criteria related thereto;
- (d) for prescribing conditions for the termination of first appointments and other procedures for leaving the service;
- (e) the criteria and procedures for the appointment or promotion of *Police Officers*;
- (f) for prescribing the procedures for discipline and for the recovery of penalties from a *Police Officer*;
- (g) for regulating generally, the terms and conditions of employment of *Police Officers*;

Section 21
Administrative Instructions

The Transitional Administrator may issue *Administrative Instructions*, consistent with this Regulation, prescribing all matters that are necessary or convenient to be prescribed for giving effect to or carrying out the purposes of this Regulation, and in particular with respect to:

- (a) regulating the hours of attendance of *Police Officers* and the keeping and signing of records of attendance or for prescribing other methods of recording attendance;
- (b) regulating the duties to be performed by *Police Officers*;
- (c) regulating the granting of leave to *Police Officers*;
- (d) prescribing arrangements and procedures for providing, assisting in, or coordinating staff development programs;
- (e) the requirements for recruitment of *Cadets* in addition to the ones listed in Section 16.3;
- (f) the enlistment, training, discipline and other conditions for *Cadets*;
- (g) the transfer of members of the *ETPS*;
- (h) the description and issue of arms, *Ammunition*, accoutrements, uniform and other necessities to be supplied to the *ETPS*;
- (i) prescribing and providing for the use or powers under this Regulation or any directive;
- (j) Generally, for the good order and internal government of the *ETPS*.

Section 22
Delegation of authority

The Transitional Administrator may delegate his power to issue *Administrative Instructions* under Section 21 to the *Cabinet Member* or the *Commissioner*.

Section 23
Entry into force

23.1 This Regulation will come into force on 10 August 2001.

23.2 Any act done by a person in accordance with this Regulation prior to the date of commencement shall be deemed to be valid.

Sergio Vieira de Mello
Transitional Administrator