

# LEGAL AFFAIRS



**OFFICE OF THE PRINCIPAL  
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## **On the establishment of a Commission for Reception, Truth and Reconciliation in East Timor**

UNTAET/REG/2001/10  
13 July 2001

### **REGULATION NO. 2001/10**

#### **ON THE ESTABLISHMENT OF A COMMISSION FOR RECEPTION, TRUTH AND RECONCILIATION IN EAST TIMOR**

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 (hereinafter: UNTAET Regulation No. 1999/1),

Taking into account:

(a) UNTAET Regulation No. 2000/11 of 6 March 2000 on the Organization of Courts in East Timor (hereinafter: UNTAET Regulation No. 2000/11) as amended by UNTAET Regulation No. 2000/14 of 10 May 2000 (hereinafter: UNTAET Regulation No. 2000/14),

(b) UNTAET Regulation No. 2000/15 of 6 June 2000 on the Establishment of Panels with Exclusive Jurisdiction over Serious Criminal Offences (hereinafter: UNTAET Regulation No. 2000/15),

(c) UNTAET Regulation No. 2000/16 of 6 June 2000 on the Organization of the Public Prosecution Service in East Timor (hereinafter: UNTAET Regulation No. 2000/16), and

(d) UNTAET Regulation No 2000/30 of 25 September 2000 on Transitional Rules of Criminal Procedure (hereinafter UNTAET Regulation No. 2000/30),

Recalling the recommendations of the International Commission of Inquiry of East Timor in their report to the Secretary-General of January 2000,

Desiring to promote national reconciliation and healing following the years of political conflict in East Timor and, in particular following the atrocities committed in 1999,

After consultation in the National Council,

For the purpose of establishing a Commission for Reception, Truth and Reconciliation in East Timor,

Promulgates the following:

## **PART I - DEFINITIONS**

### **Section 1** **Definitions**

In the present regulation:

(a) "*Commission*" means the Commission on Reception, Truth and Reconciliation established pursuant to Section 2 and comprised of the National Commissioners appointed pursuant to Section 4 of the present Regulation;

(b) "*Commissioner*" means commissioners appointed under the present Regulation as National Commissioners;

(c) "*Human rights violations*" means:

(i) violations of *international human rights standards*;

(ii) violations of *international humanitarian law*; and

(iii) criminal acts;

committed within the context of the *political conflicts in East Timor* between 25 April 1974 and 25 October 1999;

(d) "*International humanitarian law*" includes the Geneva Conventions of 12 August 1949; the Protocols Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International and non-International Armed Conflict of 8 June 1977; and the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects of 10 October 1980; and the laws and customs of war;

(e) "*International human rights standards*" means the internationally recognised human rights standards outlined under Section 2 of UNTAET Regulation No. 1999/1;

(f) "*International person*" means a person who is not East Timorese;

(g) "*Office of the General Prosecutor*" means the Office established under Section 5 of UNTAET Regulation No. 2000/16;

(h) "*Official bodies of foreign countries*" means organs, bodies or institutions associated with or established by a foreign country;

(i) "*Police*" means members of the International Civilian Police (CivPol) serving in East Timor and other law enforcement officer appointed pursuant to law;

(j) "*Political conflicts in East Timor*" means armed and non-armed struggles and discord related to the sovereignty and political status of East Timor, the organisation or governance of East Timor, the illegal Indonesian invasion and occupation of East Timor, or any combination of the foregoing;

(k) "*Premises*" means any land or building;

(l) "*Prosecutorial authority*" has the meaning ascribed under Section 3 of UNTAET Regulation No. 2000/16;

(m) "*Serious criminal offence*" means an offence against the laws of East Timor as defined under Section 10.1 of UNTAET Regulation No. 2000/11 and Section 1.3 and Sections 4 through 9 of UNTAET Regulation No. 2000/15;

(n) "*Victim*" means a person who, individually or as part of a collective, has

suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of his or her rights as a result of acts or omissions over which the *Commission* has jurisdiction to consider and includes the relatives or dependents of persons who have individually suffered harm;

(o) "*Warrant*" means an order issued by the Investigating Judge upon a lawful request of the *Commission* which empowers law enforcement authorities to execute said order;

(p) "*Witness*" means a person who has knowledge of acts or omissions or the effect of such acts or omissions and includes persons who appear before the *Commission* to provide information or testimony.

## **PART II - ESTABLISHMENT OF THE COMMISSION FOR RECEPTION, TRUTH AND RECONCILIATION**

### **Section 2**

#### **Establishment of a Commission**

2.1 There shall be established a Commission for Reception, Truth and Reconciliation.

2.2 The *Commission* shall operate as an independent authority and not be subject to the control or direction of any member of Cabinet appointed pursuant to UNTAET Regulation No 2000/23 on the Establishment of the Cabinet of the Transitional Government in East Timor or office holder of the East Timor Transitional Administration.

2.3 The *Commission* shall operate for a period of twenty-four months, beginning two months from the date of appointment of the *Commissioners* pursuant to Section 4 of the present Regulation.

2.4 The period of operation of the *Commission* may be extended by up to six months at the discretion of the Transitional Administrator.

### **Section 3**

#### **Objectives and Functions of the Commission**

3.1 The objectives of the *Commission* shall include:

(a) inquiring into *human rights violations* that have taken place in the context of the *political conflicts in East Timor*;

- (b) establishing the truth regarding past *human rights violations*;
- (c) reporting the nature of the *human rights violations* that have occurred and identifying the factors that may have led to such violations;
- (d) identifying practices and policies, whether of State or non-State actors which need to be addressed to prevent future recurrences of *human rights violations*.
- (e) the referral of *human rights violations* to the *Office of the General Prosecutor* with recommendations for the prosecution of offences where appropriate;
  - (f) assisting in restoring the human dignity of *victims*;
  - (g) promoting reconciliation;
  - (h) supporting the reception and reintegration of individuals who have caused harm to their communities through the commission of minor criminal offences and other harmful acts through the facilitation of community based mechanisms for reconciliation; and
  - (i) the promotion of human rights.

3.2 In order to achieve its objectives, the *Commission's* functions shall consist of:

- (a) such functions concerning truth seeking as are conferred by Part III of the present Regulation;
- (b) such functions concerning community reconciliation as are conferred by Part IV of the present Regulation;
- (c) make recommendations to the Transitional Administrator or other relevant person or body relating to matters falling within the present Regulation; and
- (d) any functions given to the *Commission* under any other Regulation.

3.3 The *Commission* may conduct all such activities that are consistent with the fulfillment of its mandate under the present Regulation.

3.4 The *Commission* may determine its own procedures and has power:

- (a) to establish committees and/or units to perform functions of the *Commission* and to delegate powers to such committees and/or units as appropriate;
- (b) to appoint staff in order to achieve the objectives of the *Commission*;

(c) to make guidelines, including gender-aware policies, to be followed by all staff of the *Commission* concerning the performance of its functions.

**Section 4**  
**Composition of the Commission and Selection Procedure**

4.1 The *Commission* shall be composed of five to seven National Commissioners. National Commissioners shall be persons of high moral character, impartiality, and integrity who are competent to deal with the issues under the present Regulation and shall not have a high political profile, and have a demonstrated commitment to human rights principles. No National Commissioner may be the spouse or blood relative in the first degree of any other National Commissioner. At least thirty per cent (30%) of the National Commissioners shall be women.

4.2 The *Commissioners* shall be appointed by the Transitional Administrator on the advice of the Selection Panel created pursuant to the Selection Procedure under Subsection 4.3 of the present Regulation.

4.3 A Selection Procedure, involving broad consultation in the selection of the *Commissioners*, shall consist of the following:

(a) within one month of the promulgation of the present Regulation, a Selection Panel (the "Panel") shall be formed, composed of the Transitional Administrator or his or her appointee, serving as Chair, and one member appointed by each of:

(i) Partido Trabalhista;

(ii) Partido Kota;

(iii) Fretilin;

(iv) UDT;

(v) the Transitional Administrator after consultation with pro-autonomy supporters;

(vi) the NGO Forum;

(vii) Rede;

(viii) Presidium Juventude;

(ix) The Association of Ex-Political Prisoners;

- (x) The Association of Families of Disappeared Persons;
- (xi) A joint nomination, by the Diocese of Baucau and the Diocese of Dili; and
- (xii) The Office of Human Rights Affairs of UNTAET.

(b) Provided that a majority of organisations and persons listed in Subsection (a)(I)-(xi) above have nominated a person for the Panel, the Panel may commence functioning at the end of the period of one month, notwithstanding the failure of any organisation or person to nominate a person to serve on the Panel.

(c) the Panel shall call for nominations from the people of East Timor of persons who wish to serve as National Commissioners, indicating a simple procedure for nominations and a reasonable deadline by which nominations should be submitted;

(d) the Panel may itself nominate persons for consideration as National Commissioners, but only where the Panel have specifically consulted with community groups concerning such persons.

(e) after consultation with a broad sector of society, including representatives of minority groups, the Panel shall select persons to recommend to the Transitional Administrator for appointment as National Commissioners. The Panel shall also make a recommendation concerning the Chair of the *Commission*;

(f) the Panel shall take decisions by consensus, when possible, and in the absence of consensus, by a majority vote of the Panel;

(g) in making its recommendation, the Panel should give special consideration to the representation of a diversity of experiences and views, including attitudes towards the past *political conflicts in East Timor*, and regional and fair gender representation;

(h) if a member of the Panel is nominated as a National Commissioner, and wishes to be considered for appointment to the *Commission*, he or she must resign from the Panel. The organization which appointed such person to the Panel shall be entitled to appoint a substitute.

4.4 The Selection Panel may include one or two *international persons* in their recommendations.

4.5 After appointment, the Transitional Administrator shall publish the names of those appointed as National Commissioners in the Official Gazette of East

Timor. The appointment of the National Commissioners shall take effect from the date of such publication.

4.6 National Commissioners may serve either part time or full time for the *Commission*, with a minimum of 25 percent time committed to the *Commission*. Upon appointment, all National Commissioners shall stipulate the proportion of time that shall be dedicated to *Commission* work.

4.7 The remuneration of National *Commission* members shall be proportionate to the time dedicated to *Commission* work and shall be calculated according to the rate of remuneration specified under a future UNTAET directive.

4.8 Upon appointment, the National Commissioners may choose a Vice-Chair from among themselves.

### **Section 5** **Oath for Commissioners**

5.1 Upon appointment, each National Commissioner shall make the following oath (or solemn declaration) before the Transitional Administrator:

"I swear (solemnly declare) that in carrying out the functions entrusted to me as a member of the *Commission*, I will perform my duties independently and impartially. I will, at all times, act in accordance with the dignity that the performance of my functions requires.

I renounce the unlawful use of violence; and in the performance of my functions will seek to promote reconciliation, national unity and peace.

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 other status."

5.2 After having completed the oath or the solemn declaration orally, each National Commissioner shall submit a signed copy of the above declaration to the Transitional Administrator.

### **Section 6** **Replacement of National Commissioners**



6.1 National Commissioners shall hold office for the duration of the *Commission*.

6.2 A National Commissioner may resign from office by submitting a resignation in writing to the *Commission*.

6.3 The *Commission* may recommend to the Transitional Administrator the removal of a National Commissioner from office, provided that the recommendation is made upon a two-thirds vote of the other *Commissioners*, and further provided that the recommendation is based on evidence indicating incapacity, incompetence, or having undertaken an act which threatens to compromise the credibility of or public trust in the *Commission*.

6.4 In the event of resignation, removal from office or death of a National Commissioner, the Transitional Administrator shall appoint a replacement National Commissioner.

6.5 In the event of the resignation, removal from office or death or other inability to perform duties of the Chair of the *Commission*, the Vice-Chair shall be entitled to perform all functions of the Chair, until such time as the *Commission* chooses a replacement Chair from among its members.

6.6 Where the Chair or the Vice-Chair are absent or unable to perform their duties as Chair or Vice-Chair, the *Commission* may appoint an Acting Chair or Vice-Chair from among its members. The Acting Chair or Vice-Chair shall be entitled to perform all functions of the Chair or Vice-Chair, respectively, while acting in that capacity.

## **Section 7** **Meetings of the Commission**

7.1 The Chair of the *Commission* shall determine the time and venue of meetings of the *Commission* and prepare the agenda for the meetings after consultation with other *Commissioners*.

7.2 The *Commission* shall determine the procedure for its meetings.

7.3 The Transitional Administrator shall convene the first meeting of the *Commission*. Subsequent meetings of the *Commission* shall be convened by the Chair.

7.4 The quorum for meetings of the *Commission* shall be a majority of its members.

7.5 The *Commission* shall take decisions by consensus, when possible. In the absence of consensus, a decision may be taken only by a majority of all *Commissioners*. For purposes of the preceding sentence, "a majority of all *Commissioners*" means a majority of all *Commissioners* who hold office at the time of the vote, and does not mean a majority of those who are present and voting.

7.6 The *Commission* shall hold meetings in open or closed sessions at its discretion and shall make a written record of such meetings.

## **Section 8** **Exercise and Delegation of Powers**

8.1 Subject to Subsection 8.2, powers conferred on the *Commission* in the present Regulation are exercisable by the National Commissioners acting jointly.

8.2 The *Commission* may delegate the exercise of any of its powers under this Regulation to individual National Commissioners.

## **Section 9** **Financial Matters**

9.1 The *Commission* shall ensure that all funds acquired or raised are expended in accordance with a pre-determined budget.

9.2 The *Commission* shall keep books of accounts and other financial records and shall prepare quarterly statements of accounts showing monthly expenditures. The quarterly accounts shall be audited by an auditor, who shall be a professional accountant of high standing appointed by the Transitional Administrator. The statements of accounts together with the auditor's report shall be submitted to the Transitional Administrator.

9.3 The *Commission* shall have the power to enter into an agreement with any person, including any department of UNTAET or ETTA, in terms of which the *Commission* will be authorized to make use of any of the facilities, equipment or personnel belonging to or under the control or in the employment of such person or department.

9.4 The *Commission* shall have such powers to raise funds to support its functioning as are prescribed by future Directive.

## **Section 10** **Regional Offices of the Commission**

10.1 The *Commission* shall establish up to six Regional Offices of the *Commission*. The details of each Regional Office, including location and areas of responsibility, are to be published in the Official Gazette of East Timor.

10.2 Each Regional Office shall make written records of meetings, hearings and statements and shall present quarterly, a written record of its activities to the National *Commission*.

10.3 A Regional Office may refer a matter to or request the assistance of the National *Commission* with respect to any matters under the present Regulation.

## **Section 11** **Regional Commissioners**

11.1 The Transitional Administrator on the advice of the *Commission* shall appoint a minimum of 25 and a maximum of 30 Regional Commissioners to act on behalf of the *Commission* in the Regional Offices. Regional Commissioners shall be persons of high moral character, impartiality and integrity who are competent to deal with the issues under the present Regulation, shall not have a high political profile, and have a demonstrated commitment to human rights principles. No Regional Commissioner may be the spouse or blood relative in the first degree of any other Regional Commissioner. A minimum of thirty per cent (30%) of the Regional Commissioners, in the aggregate and not region by region, shall be women.

11.2 The Panel constituted under Section 4 shall call for nominations from the people of East Timor of persons who wish to serve as Regional Commissioners, indicating a simple procedure for nominations and a reasonable deadline by which nominations should be submitted. Such a call for nominations may be undertaken at the same time as the call for nominations for National Commissioners under Section 4.

11.3 Following the appointment of the National Commissioners, the Panel shall refer the names of nominated persons to the *Commission*. Before making its recommendations to the Transitional Administrator, the *Commission* may carry out further consultations. The *Commission* may consider including in their list

of recommended persons, persons who were not nominated to the Panel, but only where the *Commission* has consulted with community groups concerning such persons.

11.4 In making their recommendations, the *Commission* should give special consideration to the representation of a diversity of experiences and views including attitudes towards the past *political conflicts in East Timor*, and regional and gender representation.

11.5 Upon appointment, each Regional Commissioner shall make the following oath (or solemn declaration) before the Transitional Administrator:

"I swear (solemnly declare) that in carrying out the functions entrusted to me as a member of the *Commission*, I will perform my duties independently and impartially. I will, at all times, act in accordance with the dignity that the performance of my functions requires.

I renounce the unlawful use of violence and in the performance of my functions will seek to promote reconciliation, national unity and peace.

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 other status."

11.6 After having completed the oath or the solemn declaration orally, each Regional Commissioner shall submit a signed copy of the above declaration to the Transitional Administrator.

11.7 The *Commission* shall have the power to determine in which Regional Office a Regional Commissioner shall perform his or her functions. In making this determination, the *Commission* shall have due regard to the particular knowledge and experience of regional affairs possessed by Regional Commissioners.

11.8 The *Commission* retains the power to transfer Regional Commissioners on a permanent or short term basis to another Regional Office should such transfer be in the interests of the *Commission's* performance of its functions.

11.9 A Regional Commissioner may be removed from office by a two-thirds vote of the *Commission*, based on evidence indicating incapacity, incompetence

or the commission of an act which threatens to compromise the credibility of or public trust in the *Commission*.

11.10 Regional Commissioners shall serve full time for the *Commission*. The remuneration of Regional Commissioners shall be calculated according to the rate of remuneration specified under a future UNTAET directive.

## **Section 12** **Preparatory Activities**

12.1 In the two months after the appointment of its members under Section 4, the *Commission* shall undertake the following preparatory activities to ensure its effective functioning during the period of its operation:

- (a) identify office space;
- (b) prepare a budget;
  
- (c) communicate with donors;
  
- (d) employ staff, including those with gender, human rights and legal expertise;
  
- (e) discuss issues of methodology;
  
- (f) prepare a public education campaign on the *Commission*;
  
- (g) establish a database;
  
- (h) undertake preliminary research;
  
- (i) collect relevant books, articles and other materials;
  
- (j) establish policies and priorities in respect of the conduct of work, also to include gender considerations; and
  
- (k) conduct any other activities which it considers to be necessary.

## **PART III - TRUTH SEEKING**

### **Section 13** **Truth**

13.1 In carrying out its objective to seek to establish the truth regarding the commission of *human rights violations* in East Timor, the *Commission* shall have the following functions:

(a) initiating, facilitating or coordinating inquiries into:

(i) the extent of *human rights violations*, including violations which were part of a systematic pattern of abuse;

(ii) the nature, causes and extent of *human rights violations*, including the antecedents, circumstances, factors, context, motives and perspectives which led to such violations;

(iii) which persons, authorities, institutions and organisations were involved in *human rights violations*;

(iv) whether *human rights violations* were the result of deliberate planning, policy or authorisation on the part of a state or any of its organs, or of any political organisation, militia group, liberation movement, or other group or individual;

(v) the role of both internal and external factors in the conflict; and

(vi) accountability, political or otherwise, for *human rights violations*,

(b) initiating, facilitating or coordinating the gathering of information and receipt of evidence from any person,

(c) preparing a comprehensive report which sets out its activities and findings, based on factual and objective information and evidence collected or received by it or placed at its disposal, and

(d) making recommendations regarding reforms and initiatives designed to prevent *human rights violations* in the future.

13.2 In carrying out its functions under Part III, the *Commission* may consider *human rights violations* which took place between 25 April 1974 and 25 October 1999 and shall take into particular consideration:

(a) the events before, during and after the popular consultation of 30 August 1999 which resulted in a loss of life, injury, destruction of property, the commission of sexual offences and the forcible deportations of persons; and

(b) the events and experiences of all parties immediately preceding, during and after the entry of Indonesia into East Timor on 7 December 1975, and the effect

of the policies and practices of Indonesia and its forces present in East Timor between 7 December 1975 and 25 October 1999.

13.3 Once it is established, the *Commission* shall publicize the fact that it has been established and make the scope of its inquiries known by all possible means. Where appropriate, it shall invite interested parties to make statements or submit information to the *Commission* and provide assistance to persons wishing to provide statements to the *Commission*.

#### **Section 14** **Inquiry Related Powers**

14.1 In the fulfillment of its functions under Section 13, the *Commission* shall have the following powers:

- (a) to convene a hearing for any purpose associated with an inquiry of the *Commission*;
- (b) to invite persons to attend a hearing of the *Commission* where it appears that such persons have information relevant to any inquiry of the *Commission*;
- (c) to order a person to appear before a *Commission* hearing to answer questions where it appears that person may have information relevant to a *Commission* inquiry;
- (d) to require that a person attending a hearing of the *Commission* give their statement or answer under oath or affirmation and to administer such oath or affirmation;
- (e) to request that a person in possession of, or who has custody or control over, any object or item (including documents) that the *Commission* considers is relevant to any inquiry of the *Commission*, produce such object or item to allow the *Commission* to inspect it or retain custody over it for a reasonable period of time;
- (f) to order that a person in possession of, or who has custody or control over, any object or item (including documents) that the *Commission* considers is relevant to any inquiry of the *Commission*, produce such object or item to allow the *Commission* to inspect it or retain custody over it for a reasonable period of time; provided that any object or item that has been so removed, shall be returned as soon as possible after the purpose of such removal has been accomplished;
- (g) to request information from relevant authorities or persons in East Timor;
- (h) to request information from the relevant authorities of another country and

to gather information from *victims, witnesses*, government officials and others in other countries; and

(i) to be present at exhumations relevant to *Commission* inquiries, and with the permission of the *Office of the General Prosecutor*, to undertake or arrange for the undertaking of exhumations;

(j) to recommend to the Transitional Administrator that steps be taken to declare a person dead;

(k) to hold meetings or hearings at any place within East Timor, or with the agreement of the Transitional Administrator, at a location or locations outside East Timor; and

(l) with the agreement of the Transitional Administrator, to enter into co-operative arrangements with *official bodies of foreign countries* in order to ensure the *Commission's* access to relevant information pertaining to its performance of functions.

## **Section 15** **Search and Seizure Power**

15.1. The *Commission* may request an Investigating Judge of the District Court to issue a search *warrant* to enable *police* authorities to search *premises* considered to contain evidence relevant to a *Commission* inquiry.

15.2 An Investigating Judge of the District Court shall only issue a search *warrant* if he or she is satisfied that there are reasonable grounds to believe that such search would produce evidence necessary for the *Commission's* inquiry.

15.3 A copy of the *warrant* shall be furnished to any person who resides or is present at the *premises* at the time the *warrant* is executed. The *warrant* shall contain the following:

(a) identification of the Investigating Judge;

(b) identification of the inquiry of the *Commission* relevant to the search;

(c) identification of the locations and items to be searched;

(d) the reason for the search;

(e) the authority to search for and seize particular items; and

(f) the hours of its execution and the duration of its validity.



15.4 Searches shall normally be made during daylight hours. The *Commission* may, however, request the Investigating Judge to authorize a night time search when there are reasonable grounds to believe that it is necessary for the effective execution of the *warrant* or for the safety of the persons involved in the search. Such grounds shall be recorded in the *warrant*.

15.5 The *police* conducting the search shall make a written record of the search. Photographs, films or tape recordings may be part of the record. The written record shall contain the following:

- (a) identification of the recipient of the *warrant*;
- (b) a detailed description of the *premises*;
- (c) a list and description of the objects, and any other items at the *premises* that may be relevant for the investigation;
- (d) a detailed list of the physical evidence seized during the search;
- (e) identification and signature of persons claiming the ownership or possession of seized evidence, if any; and
- (f) identification of the persons present at the *premises* and their physical conditions, if relevant.

15.6 If possible, the search will be made in the presence of the residents of the *premises*. The search should also be made in the presence of at least one *Commission* staff member. Where there are no residents present at the time of the search, the *police* may provide for at least one independent *witness*. Such *witness* shall sign the record. In any case where the *witness* cannot read or write, the record shall be read out to the *witness* and the *witness* asked to make an identifying mark to verify the record.

15.7 Any entry into *premises* undertaken under this Section shall be undertaken in a fashion which considers:

- (a) a person's right to, respect for and the protection of his or her dignity;
- (b) the right of a person to freedom and security; and
- (c) the right of a person to his or her personal privacy.

15.8 *Police* officers may, on the authority of a search *warrant*:

(a) inspect and search the identified *premises* and there make such inquiries as he or she may deem necessary;

(b) examine any object or item (including documents) relevant to a *Commission* inquiry found in or upon such *premises*;

(c) request from the person who is in control of such *premises* or in whose possession or under whose control any object or item (within the meaning of Subsection 15.8 (b)) is when it is found, or who is upon reasonable grounds believed to have information with regard to any object or item, an explanation or information;

(d) make copies of or extracts from any object or item found upon or in such *premises*;

(e) seize any object or item found upon or in such *premises* which he or she upon reasonable grounds suspects to be an object or item within the meaning of Subsection 15.8 (b)

(f) After having issued a receipt in respect thereof remove any object or item found on such *premises* and suspect upon reasonable grounds to be an object or item within the meaning of Subsection 15.8 (b) and retain such object or item for a reasonable period for the purpose of further examination or, in the case of such article, the making of copies thereof or extracts thereof or extracts therefrom; provided that any object or item that has been so removed, shall be returned as soon as possible after the purpose of such removal has been accomplished.

15.9 A *warrant* issued in terms of this Section may be issued on any day and unless the Investigating Judge orders otherwise shall be of force until

(a) It is executed; or

(b) It is cancelled by the person who issued it or, if such person is not available, by any person with like authority; or

(c) The expiry of one month from the day of its issue; or

(l) The purpose for the issuing of the *warrant* has lapsed, whichever may occur first.

15.10 Any object or item seized by the *police* for retention under Subsection 15.8 shall remain in the custody and control of the *police*. *Commission* staff may be given access to such object or item on the *premises* of the *police*.

## **Section 16** **Public Hearing**

16.1 Subject to the provisions of this Section, the hearings of the *Commission* shall be open to the public.

16.2 If the *Commission*, in relation to any hearing it has convened, is satisfied that:

(a) it would be in the interests of justice; or

(b) there is a likelihood that harm may ensue to any person as a result of the proceedings being open,

it may direct that such proceedings be held behind closed doors and that the public or any category thereof shall not be present at such proceedings or any part thereof; provided that the *Commission* shall permit any *victim* who has an interest in the proceedings concerned, to be present.

16.3 Where the *Commission* directs that the public or any category thereof shall not be present at any proceedings or part thereof, the *Commission* may:

(a) direct that no information relating to the proceedings, or any part thereof held behind closed doors, shall be made public in any manner;

(b) direct that no person may, in any manner, make public any information which may reveal the identity of any *witness* in the proceedings;

(c) give such directions in respect of the record of proceedings as may be necessary to protect the identity of any *witness*.

16.4 The *Commission* shall allow for special measures be taken in hearings which involve testimonies from special groups of *victims*, such as women and children. Such hearings may allow for accompaniment of *victims* by relevant *victim* support workers.

16.5 The *Commission* shall endeavour to publicise, by all available means, the location and timing of hearings convened by the *Commission* to allow interested parties to participate in the hearing.

## **Section 17** **Applicability of Privilege**

17.1 No *witness* may be compelled to incriminate himself or herself. Every person who is invited or required to come before the *Commission* shall be informed of such right. If at any time it appears to the *Commission* that a question asked of a *witness* is likely to elicit a response that might incriminate the *witness*, the *Commission* shall readvise the *witness* of his or her right not to answer the question.

17.2 No *witness* may be compelled to incriminate the *witness*' spouse or partner, parents, children, or relatives within the second degree.

17.3 Unless the person who has provided information consents to the disclosure, a duly ordained priest or monk shall refuse to answer questions concerning information revealed during the course of religious duties rendered by that priest or monk.

17.4 Unless a client consents to the disclosure, a lawyer shall refuse to answer questions concerning information provided by a client.

17.5 Unless the patient consents to the disclosure, a medical professional shall refuse to answer questions in relation to information provided by a patient in the course of delivery of medical services to such a person. For purposes of the present Section, the term 'medical professional' includes without limitation, medical doctors, psychiatrists, psychologists, counsellors and their professional assistants.

### **Section 18** **Legal Representation**

18.1 A person who has been invited or required to appear before the *Commission* shall be permitted to be represented by legal representative, and shall be informed of such right.

18.2 The *Commission* shall appoint a legal representative to appear on behalf of a person it has required to attend before the *Commission* if it is satisfied that such person is not financially capable of appointing a legal representative himself or herself, and it considers that in the interests of justice a person should be represented by a legal representative.

18.3 If in the opinion of the *Commission* there is a significant possibility that a person will incriminate him or herself in evidence given to the *Commission* it shall ensure that such person is represented by a legal representative, unless such person declines to be so represented.

### **Section 19** **Delegation of Functions**

19.1 The *Commission* may delegate the performance of its functions under Part III to Regional Commissioners. Where such powers are delegated, Regional Commissioners remain subject to the supervision and oversight of the National

Commissioners and are obliged to follow any guidelines on performance of functions issued by the *Commission*.

19.2 The *Commission* may direct that a matter or inquiry being dealt with by a Regional Commissioner or staff of the *Commission* be referred to the *Commission*.

## **Section 20** **Offences**

20.1 It shall be an offence for any person to:

(a) knowingly furnish the *Commission* with false or misleading information;

(b) without reasonable excuse, fail to comply with an order issued by the *Commission* to appear and/or answer questions at a specified place, date and time;

(c) without reasonable excuse, fail to comply with an order issued by the *Commission* to produce any object or item in his or her possession, custody or control;

Any person who commits any of the acts listed in Subsection 20.1 shall be guilty of an offence and liable to a term of imprisonment not to exceed 1 year or a fine not to exceed US\$3000, or both.

20.2 Without limiting the meaning of the term 'reasonable excuse' in Subsection 20.1, it shall be regarded as a reasonable excuse that:

(a) a person's testimony or production of an object or item in his or her possession was not relevant to the matters into which the *Commission* was inquiring;

(b) a person was incapable of complying with an order of the *Commission* for reasons beyond his or her control; or

(c) a person is given insufficient notice of the *Commission's* order to enable compliance with the order of the *Commission*.

## **Section 21** **Report and Recommendations**

21.1 The *Commission* shall submit a final report on the basis of the information that the *Commission* has gathered to the Transitional Administrator.

21.2 The final report shall summarise the findings of the *Commission* and shall

make recommendations concerning the reforms and other measures, whether legal, political, administrative or otherwise which could be taken to achieve the objectives of the *Commission*, prevent the repetition of *human rights violations* and respond to the needs of *victims of human rights violations*.

21.3 The report produced by the *Commission* shall be made immediately available to the public and shall be published in the Official Gazette.

21.4 The Transitional Administrator shall consider all recommendations made by the *Commission* in its final report with a view to their implementation.

## **PART IV - COMMUNITY RECONCILIATION PROCEDURES**

### **Section 22**

#### **Community Reconciliation Process**

22.1 In seeking to assist the reception and reintegration of persons into their communities, the *Commission* may facilitate Community Reconciliation Processes (hereinafter: CRP) in relation to criminal or non-criminal acts committed within the context of the *political conflicts in East Timor* between 25 April 1974 and 25 October 1999 considered appropriate by the *Commission* under Section 24.

22.2 Nothing in the present Regulation shall prejudice the exercise of the exclusive *prosecutorial authority* of the General Prosecutor and Deputy General Prosecutor for Serious Crimes under Section 14 of UNTAET Regulation No. 2000/16 nor the exclusive jurisdiction over *serious criminal offences* of the Serious Crimes Panel of judges established within the Dili District Court in accordance with Sections 1 and 2 of UNTAET Regulation No. 2000/15.

22.3 In undertaking its functions under Part IV, the *Commission* may give priority to facilitating Community Reconciliation Processes in respect of acts committed during 1999.

22.4 The *Commission* may undertake a Community Reconciliation Process only in cases where a person has made an admission of responsibility based on a full appreciation of the nature and consequences of such admission and has voluntarily requested to participate in a Community Reconciliation Process.

### **Section 23**

#### **Initiation of the Community Reconciliation Process**

23.1 A person responsible for the commission of a criminal or non-criminal act (hereinafter: the Deponent) who wishes to participate in a Community Reconciliation Process in respect of such act must submit a written statement to the *Commission*. This statement must contain the following:

- (a) a full description of the relevant acts;
- (b) an admission of responsibility for such acts;
- (c) a explanation of the association of such acts with the *political conflicts in East Timor*;
- (d) an identification of the specific community in which the Deponent wishes to undertake a process of reconciliation and reintegration (hereinafter: the Community of Reception);
- (e) a request to participate in a Community Reconciliation Process;
- (f) a renunciation of the use of violence to achieve political objectives; and
- (g) the signature or other identifying mark of the Deponent.

23.2 The *Commission* shall endeavour to provide such assistance as is necessary to facilitate Deponents' making a written statement. Such assistance may take the form of assistance by *Commission* staff and/or coordinated assistance from non-government organisations.

23.3 Prior to the *Commission* accepting a statement under this Section, the Deponent must be informed that a copy of the statement will be sent to the *Office of the General Prosecutor* and that its contents might be used against him or her in a court of law should of the *Office of the General Prosecutor* choose to exercise jurisdiction. Only in circumstances where the Deponent indicates acceptance of this process and annotates the statement accordingly shall the statement be accepted by the *Commission*.

23.4 In cases where the *Commission* is of the opinion that a statement does not fulfil the requirements of Subsection 23.1, the *Commission* shall notify the Deponent of this view, providing details of the deficiencies of content. A Deponent may submit a revised statement for consideration by the *Commission*.

## **Section 24** **CRP Statements Committee and the Office of the General Prosecutor**

24.1 The *Commission* shall establish a CRP Statements Committee (hereinafter:

the CRP Statements Committee). The CRP Statements Committee shall examine all statements received to form an initial assessment as to whether the act or acts disclosed therein are appropriate to be dealt with in the context of a Community Reconciliation Process.

24.2 Where a statement discloses the commission of more than one act, the CRP Statements Committee shall consider the appropriateness of each act individually. If the CRP Statements Committee considers that certain of the acts disclosed are not appropriately dealt with in the context of a Community Reconciliation Process, the *Commission* is not precluded from facilitating a Community Reconciliation Process under Subsection 24.6 below on the remaining act or acts.

24.3 In the case of criminal acts disclosed in the statement, the CRP Statements Committee shall be guided by the Criteria set out in Schedule 1 to the present Regulation to assess whether the act is appropriately dealt with in the context of a Community Reconciliation Process.

24.4 In cases where the CRP Statements Committee considers that the acts disclosed are not appropriately dealt with through a Community Reconciliation Process, the *Commission* shall notify the Deponent as soon as possible of its decision not to proceed with a Community Reconciliation Process.

24.5 The CRP Statements Committee shall provide a copy of all statements received together with the CRP Statement Committee's assessment to the *Office of the General Prosecutor*.

24.6 Where the *Office of the General Prosecutor* within 14 days of its receipt of the statement and assessment notifies the *Commission* that the *Office of the General Prosecutor* intends to exercise its exclusive jurisdiction pursuant to UNTAET Regulation 16, the *Commission* shall notify the Deponent of its inability to proceed with the Community Reconciliation Process.

24.7 In relation to the statements disclosing acts considered appropriate for a Community Reconciliation Process and in respect of which after the lapse of 14 days of receipt by the *Office of the General Prosecutor*, the CRP Statements Committee has not received a notification under Subsection 24.6 from the *Office of the General Prosecutor*, the *Commission* shall facilitate a Community Reconciliation Process.

24.8 If, before the expiry of the 14 day period specified in the preceding Subsection, the CRP Statements Committee receives notification from the



*Office of the General Prosecutor* that it wishes further time to consider a statement, then the 14 day period specified in the preceding Subsection shall be extended by an additional 14 days.

## **Section 25** **Referral to Regional Commission**

25.1 The *Commission* shall delegate the function of facilitating a Community Reconciliation Process to a Regional Commissioner performing functions in the Regional Office having responsibility for the Community of Reception identified by the Deponent.

25.2 In cases where the Deponent admits to acts occurring in several Districts or Regions, the *Commission* has the power to refer the matter to several Regional Offices (so that more than one Community Reconciliation Process is undertaken) or to direct that a Community Reconciliation Process held in one Region should involve representatives from the various areas impacted by the Deponent's acts.

25.3 Once the *Commission* has delegated the facilitation of a Community Reconciliation Process to a Regional Commissioner under Subsection 25.1, the power of the *Office of the General Prosecutor* to institute criminal proceedings is stayed in relation to acts which are the subject of a Community Reconciliation Process as set out in Section 31.

## **Section 26** **Establishment of a CRP Panel**

26.1 The Regional Commissioner given responsibility for a Community Reconciliation Process under Section 25 shall convene a panel of between three to five persons (hereinafter: the CRP Panel) whose members shall include the Regional Commissioner and community representatives from the Community of Reception. In establishing the Panel, the Regional Commissioner shall liaise with community leaders and should endeavour to have appropriate gender representation within the Panel.

26.2 The Regional Commissioner shall act as Chair of the CRP Panel.

26.3 The CRP Panel shall take decisions by consensus, when possible. In the absence of consensus, the Regional Commissioner shall make the final determination.

**Section 27**  
**CRP Hearing**

27.1 The Regional Commissioner shall arrange for a public CRP Hearing (hereinafter: the CRP Hearing) in which the CRP Panel shall hear from:

- (a) the Deponent;
- (b) *victims* of the Deponent's acts; and
- (c) other members of the community who have relevant information to provide to the Panel.

27.2 The CRP Panel may determine its own procedure for the CRP Hearing. In appropriate cases, the CRP Panel may decide to receive certain information in writing rather than in oral form.

27.3 At the CRP Hearing, the CRP Panel may question the Deponent about the involvement of others in the acts disclosed, including, but not limited to, the identity of those who organised, planned, instigated, ordered, or participated in, the commission of such acts. Where it is of the opinion that public disclosure of such information would endanger the safety of the Deponent or another member of the Community, the CRP Panel may decide to hold a closed hearing to receive such information, or alternatively, permit the Deponent to provide the information in written form.

27.4 If the Deponent refuses to answer the questions asked pursuant to Subsection 27.3 without providing in the view of the CRP Panel a valid justification for such refusal, the CRP Panel may discontinue the CRP Hearing and refer the original statement back to the *Office of the General Prosecutor*.

27.5 Where, during the CRP Hearing, credible evidence is given of a Deponent's commission of a *serious criminal offence*, the CRP Panel shall make a record of such evidence, refer the evidence to the *Office of the General Prosecutor* and adjourn the Community Reconciliation Process.

27.6 Where a Community Reconciliation Process has been adjourned under Subsection 27.5, the *Office of the General Prosecutor* shall promptly determine whether it concurs in the determination of the CRP Panel that there is credible evidence of a *serious criminal offence* and shall notify the *Commission* of its determination. If the *Commission* receives a notification that the General

Prosecutor concurs in the determination of the CRP Panel, it shall discontinue any Community Reconciliation Process which involves acts implicated in the alleged *serious criminal offence*, and shall notify the General Prosecutor and the Deponent accordingly. If, upon the expiry of 14 days following notice to the *Office of the General Prosecutor* under Subsection 27.5, the *Office of the General Prosecutor* has not notified the *Commission* of its determination, or if the *Commission* receives a notification that the General Prosecutor does not concur in the determination of the CRP Panel, the *Commission* may, where it considers it appropriate, continue a Community Reconciliation Process in relation to any acts disclosed by the Deponent which do not constitute a *serious criminal offence*.

27.7 Following the CRP Hearing, the CRP Panel shall deliberate upon the act of reconciliation which it considers most appropriate for the Deponent and inform the Deponent of the outcome of their deliberations. The act of reconciliation may include:

- (a) community service,
- (b) reparation;
  
- (c) public apology; and/or
  
- (d) other act of contrition.

27.8 Where the Deponent agrees to undertake the act of reconciliation recommended by the CRP Panel, the CRP Panel shall make a written record of the outcome of the CRP, to be known as the Community Reconciliation Agreement (hereinafter: CRA). The CRA shall include:

- (a) a description of the acts disclosed;
- (b) a record of the Deponent's acceptance of responsibility for such acts, and the Deponent's apology for the acts disclosed;
  
- (c) the agreed upon act of reconciliation for the acts disclosed;
  
- (d) the time limit for performance of the act of reconciliation;
  
- (e) the signatures or other identifying marks of the CRP Panel and the Deponent.

27.9 Where the Deponent does not agree to undertake the act of reconciliation recommended by the CRP Panel, the CRP Panel shall refer the matter back to

the *Commission* who may refer the matter to the *Office of the General Prosecutor*.

### **Section 28**

#### **Registration of the CRA as an Order of the District Court**

28.1 The Regional Office shall submit the CRA to the relevant District Court with jurisdiction pursuant to UNTAET Regulation No 2000/11 as amended by UNTAET Regulation No 2000/14.

28.2 Unless the relevant District Court considers that the act of reconciliation specified in the CRA exceeds what is reasonably proportionate to the acts disclosed or that the CRA violates human rights principles, the District Court shall register the CRA as an Order of the Court.

### **Section 29**

#### **Distribution of the Registered CRA**

29.1 Once the CRA has been registered as an Order of the Court, a copy of the CRA shall be sent to the office of the National *Commission*, the Deponent and the Civilian *Police*. A copy of the CRA shall be made available to other interested persons, including *victims* of the Deponent's acts.

### **Section 30**

#### **Deponent's Failure to Fulfill CRA Obligations**

30.1 Any person with information regarding the Deponent's non-compliance with the CRA, may provide such information to the *Commission* or the Civilian *Police*, for referral to the *Office of the General Prosecutor*.

30.2 Any person who fails to fulfill his or her CRA obligations shall be guilty of an offence and liable to a term of imprisonment not to exceed 1 year or a fine not to exceed \$US 3,000, or both.

### **Section 31**

#### **Temporary Stay of Prosecutorial Authority**

31.1 Once the *Commission* has referred a Deponent's statement to a Regional Commissioner under Section 25, the Public Prosecution Service shall be stayed from commencing a prosecution in relation to the acts which are the subject of a Community Reconciliation Process unless:

(a) The Community Reconciliation Process fails to result in a CRA; or

(b) The Community Reconciliation Process is discontinued under Section 27.6;  
or

(c) The Deponent fails to fulfil his or her obligations under the CRA; or

(d) The General Prosecutor finds evidence of a *serious criminal offence*, in which event prosecution for a *serious criminal offence* may proceed.

31.2 Where the Public Prosecution Service initiates a prosecution in circumstances outlined in 31.1(b), a court may take into account a person's participation in a CRA and partial fulfillment of obligations under the CRA in any sentencing with respect to the acts which were the subject of the CRA.

### **Section 32**

#### **Immunity Upon Completion of CRA Obligations**

32.1 A person who has fully complied with all obligations arising under a CRA shall have no criminal liability for acts disclosed therein; *provided, however*, that no immunity conferred by operation of this or any other provision of the present Regulation shall extend to a *serious criminal offence*.

32.2 A person who has fully complied with all obligations arising under a CRA shall have no civil liability for acts disclosed therein.

### **Section 33**

#### **Prosecution for other Offences**

33.1 Nothing in the present Regulation is intended to confer immunity on a Deponent from prosecution for criminal acts which have not been the subject of a CRA.

## **PART V - OTHER MATTERS**

### **Section 34**

#### **Conditions of Employment**

34.1 Staff of the *Commission* and Regional Commissioners shall be employed on such conditions as are prescribed by future UNTAET Directive.

### **Section 35**

#### **Principles governing the treatment of persons**

35.1 All *Commissioners*, members of the staff of the *Commission* and any person acting on behalf on the Commission shall observe the following

principles in the performance of their functions:

- (a) all persons shall be treated with compassion and respect for their dignity;
- (b) persons shall be treated equally and without discrimination of any kind, including race, colour, gender, sex, sexual orientation, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, or disability;
- (c) appropriate measures shall be taken to minimise the inconvenience to persons and, as appropriate, to protect privacy and safety of persons, families and other *witnesses* and to protect them from intimidation;
- (d) appropriate measures shall be taken to allow persons to communicate in the language of their choice; and
- (e) persons shall be informed of:
  - (i) the role of the *Commission* and the scope of its activities;
  - (ii) the rights of persons to have their views and submissions presented and considered; and
- (f) in any case in which the *Commission* has made an order under Section 14, persons shall be informed of the potential consequences of non-compliance with such order.
- (g) in any case in which the *Commission* is facilitating a Community Reconciliation Process, a deponent shall be informed of the potential consequences of failure of fulfil a CRA registered with the District Court.

### **Section 36** **Victim and Witness Protection**

36.1 Before beginning hearings pursuant to Section 16 of this Regulation, the *Commission* shall take appropriate measures to protect the safety, physical and psychological well being, dignity and privacy of *victims* and *witnesses* who are to appear before the *Commission*. In so doing, the *Commission* shall have regard to all relevant factors, including age, gender, health and the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence or violence against children or where there exists a credible threat against the safety of a *victim* or *witness*.

36.2 Procedures regarding the protection of *victims* and *witnesses* may be elaborated under an UNTAET directive.

**Section 37**  
**Other Investigations**

37.1 The provisions of the present Regulation shall not prevent the normal investigation of any situation or case by competent authorities, regardless of whether the *Commission* has investigated the matter or is currently investigating the matter.

**Section 38**  
**Referrals**

38.1 In accordance with Section 22.2 of the present Regulation, the *Commission* shall refer matters of *serious criminal offences* to the appropriate authority.

38.2 The *Commission* shall not attempt to deal with land disputes, but shall record and refer any matters relating to land issues to the appropriate UNTAET authorities.

**Section 39**  
**General Offences**

39.1 It shall be an offence for any person to:

- (a) knowingly hinder the *Commission* in the fulfillment or execution of its powers, obligations and duties under the present Regulation;
- (b) perform any act aimed at improperly influencing the *Commission*; or
- (c) threaten, intimidate or improperly influence any person who has cooperated with the *Commission* or is intending to cooperate with the *Commission*, including any person involved in or associated with a Community Reconciliation Agreement;
- (d) disclose any confidential information in contravention of the present Regulation.

Any person who commits any of these acts listed in Section 39 shall be guilty of an offence and liable to a term of imprisonment not to exceed 1 year or a fine not to exceed US\$3,000 or both.

**Section 40**  
**Initiation of Prosecutions**

40.1 Prosecutions under the present Regulation can be initiated only by the

Public Prosecution Service in accordance with UNTAET Regulation No. 2000/15.

#### **Section 41** **Independence of Commission**

41.1 Each *Commissioner* and member of the staff of the *Commission* shall function without political or other bias or interference and shall be independent and separate from any party, government, administration or any other functionary or body directly or indirectly representing the interests of any such entity.

41.2 No *Commissioner*, former *Commissioner*, member of staff or former member of staff of the *Commission* or any person acting on behalf on the *Commission* shall make private use of or profit from any confidential information gained as a result of his or her work in the *Commission* or divulge such information to any other person except in the course of his or her functions as a member of staff of the *Commission* or otherwise required by law. Any contravention of this provision may result in dismissal from the *Commission*.

#### **Section 42** **Commissioner's Conflict of Interest**

42.1 On the assumption of office, or during the course of meetings of the *Commission*, if it appears that a *Commissioner* has or may have a financial or personal interest which causes or potentially causes a substantial conflict of interests or a perception of a substantial conflict of interest in the performance of his or her functions as a *Commissioner*, such *Commissioner* shall fully disclose the nature of that interest to the *Commission*.

42.2 A *Commissioner* who has made a disclosure under Subsection 42.1 may refer a matter involving an actual, potential or perceived conflict of interest to another *Commissioner*.

42.3 Where a *Commissioner* has made a disclosure under Subsection 42.1, without indicating an intention to act under Subsection 42.2, the *Commission* (excluding the *Commissioner*, if a National Commissioner) shall consider whether the *Commissioner* should be permitted to continue exercising functions in respect of matters involving the actual or potential conflict of interest.



**Section 43**  
**Dissolution of the Commission**

43.1 The Transitional Administrator shall, not later than three months after the submission of the final report of the *Commission* to him, dissolve the *Commission* by notice in the Official Gazette of East Timor.

43.2 Before it is dissolved, the members of the *Commission* shall organise the *Commission's* archives and records, as appropriate, for possible future reference, giving special consideration to:

- (a) Whether the materials or information should be made available to the public of East Timor, either immediately or when conditions and resources allow;
- (b) The measures necessary to protect confidential information provided to the *Commission* under Section 44.2; and
- (c) The measures necessary to provide for the ongoing safety of individuals.

**Section 44**  
**Confidentiality**

44.1 Every *Commissioner* and member of staff of the *Commission* or any person acting on behalf on the *Commission* shall, with regard to any matter or information which he or she becomes aware of in the exercise, performance or carrying out of his or her powers, functions or duties, preserve and assist in the preservation of the confidentiality of those matters which are confidential.

44.2 At the discretion of the *Commission*, any person shall be permitted to provide information to the *Commission* on a confidential basis. The *Commission* shall not be compelled to release information, except on request of the *Office of the General Prosecutor*.

**Section 45**  
**Liability of the Commission, Commissioners and Members of Staff**

45.1 No *Commissioner*, member of staff or person who performs any task on behalf of the *Commission* shall be liable in respect of any finding, point of view or recommendation made in good faith in the course of the *Commission's* work or reflected in the *Commission's* final report.

**Section 46**  
**Privileges and Immunities of the United Nations**

46.1 The powers conferred on the *Commission* by this Regulation are without prejudice to the privileges and immunities of the United Nations and its Specialized Agencies.

**Section 47**  
**Provisions of Schedule**

47.1 The provisions of the Schedule to the present Regulation may be amended by Directive.

**Section 48**  
**Entry into force**

48.1 The present Regulation shall enter into force on 13 July 2001.

Sergio Vieira de Mello  
Transitional Administrator

**SCHEDULE 1**  
**Criteria for Determining whether Offence appropriately dealt with in a  
Community Reconciliation Process**

1. The nature of the crime committed by the Deponent: for example, offences such as theft, minor assault, arson (other than that resulting in death or injury), the killing of livestock or destruction of crops might be appropriate cases to form the subject of a Community Reconciliation Process.
2. The total number of acts which the Deponent committed.
3. The Deponent's role in the commission of the crime, that is, whether the Deponent organised, planned, instigated or ordered the crime or was following the orders of others in carrying out the crime.
4. In no circumstances shall a *serious criminal offence* be dealt with in a Community Reconciliation Process.

