

DEMOCRATIC REPUBLIC OF TIMOR-LESTE

GOVERNMENT

**DECREE-LAW No. 13/2004
OF 16 JUNE 2004**

**DISCIPLINARY REGULATION
OF THE NATIONAL POLICE OF TIMOR-LESTE**

The National Police of Timor-Leste (PNTL) is an integral part of the defence and security forces, which are constitutionally mandated to defend democratic legality and guarantee internal and public security.

Defending democratic legality presupposes careful training of police agents in the humanistic and social area, and also presupposes prior knowledge of and conscious respect for the law. On the other hand, it presupposes that the Police, as an institution, have a high sense of discipline and a clear awareness of the special responsibilities that fall on it as the holder of the monopoly on the legitimate use of force.

In this context, it is important to provide the PNTL with a set of legal provisions that will guarantee institutional discipline conducive to the attainment of such objectives.

The Disciplinary Regulation of the PNTL as a systematised corpus of rules and principles is established to guide the action of its members who must cultivate a sense of personal dignity and commit themselves to training, thereby guaranteeing the professionalism and prestige of the institution.

Thus, pursuant to Section 116 (d) of the Constitution of Timor-Leste, the Government enacts the following that shall have the force of law:

**HEADING I
Fundamental principles**

**CHAPTER I
Article 1
Scope of application**

The present Regulation shall apply to the staff on the staffing tables of the National Police of Timor-Leste, performing police functions.

**Article 2
Concept of discipline**

Discipline consists of strictly abiding by the country's general laws and the rules and determinations applicable to the PNTL members.

Article 3
Disciplinary liability

PNTL members are answerable to their respective superiors for any disciplinary offence they may commit.

Article 4
Concept of disciplinary offence

Disciplinary offence refers to any act, even though merely of a negligent nature, committed by violating any of the duties, general or specific, arising from the function being exercised by a PNTL member.

Considered on the basis of a certain result, a disciplinary fault may consist of the action that brought about such result or of the omission of the duty to prevent such result from taking place, except where the law has a different intent.

Article 5
Bases for discipline

While exercising their functions, the PNTL members are exclusively in the service of the public interest as defined by law and by the competent organs.

The PNTL members shall honour the oath they have made and act in a strictly non-partisan manner and shall, in the performance of their functions, be guided by criteria of impartiality, detachment, objectivity and respect for democratic legality.

Article 6
Oath

Cadets who have passed in the admission course imparted by the Police Academy shall, before joining the PNTL, take an oath the text of which shall read as follows:

“I swear that I will fulfil all my duties and perform the functions that have been invested in me as a member of the National Police of Timor-Leste without fear, without malice and without hatred, and that I will do my utmost to keep and consolidate public peace and order by preventing any sort of attempt against the democratic order and strictly abiding by the rule of law.

I swear that I will carry out my functions without discrimination on any ground such as colour, race, gender, marital status, ethnical origin, language, social or economic status, political or ideological convictions, religion, education and physical or mental condition.”

A breach of the oath taken shall constitute a disciplinary offence.

CHAPATER II

General and specific duties

Article 7

Fundamental principle

The fundamental principle of a PNTL member performing police functions consists of complying with the law and accomplishing in a timely and full manner the service-related determinations issued to him or her.

Article 8

General duties

1. The general duty of a PNTL member is to act toward strengthening the community's trust in the action being developed by the institution, particularly with regard to its non-partisan and impartial nature.
2. General duties also include:
 - (a) propriety;
 - (b) zeal;
 - (c) detachment;
 - (d) obedience;
 - (e) loyalty;
 - (f) secrecy;
 - (g) attendance;
 - (h) punctuality;
 - (i) decorum.

Article 9

Duty of propriety

1. The duty of propriety consists of treating the general public, including superiors and other PNTL members, with respect and consideration.
2. In the discharge of the duty of propriety, a PNTL member shall:
 - (a) never abuse his or her functional powers or exceed the limits while exercising such powers, where the use of coercive or any other means that are likely to restrict the rights of the citizens proves to be indispensable;
 - (b) respect the members of the organs of sovereignty and judicial, administrative and military authorities by extending to them due deference;
 - (c) use moderation and understanding toward any person who approaches him or her, without forgetting, especially under difficult situations, that firmness and determination may not preclude urbanity and prudence;

- (d) always adopt fair and reasonable procedures, correct language and firm and calm attitudes;
- (e) promptly identify himself or herself by exhibiting the PNTL ID card as requested or where the working circumstances so require, to certify his or her capacity, even where he or she is wearing a uniform;
- (f) use moderation and comprehension in dealing with subordinates, while on and off duty by seeking to demand respect and esteem from subordinates through a fair behaviour.

Article 10 **Duty of zeal**

The duty of zeal consists of knowing the legal and regulatory rules and administrative instructions issued by their superiors, as well as acquiring and improving their knowledge and working methods in order to perform their functions with efficiency and correction.

In the discharge of the duty of zeal, a PNTL member shall:

- (a) take care of any occurrences falling under the scope of his or her competence, while on or off duty, and, where applicable, report such occurrences, with all objectivity, as well as provide assistance or rescue as deemed necessary or requested;
- (b) promptly and truthfully inform his or her superior on matters relating to work, justice or discipline;
- (c) not provide criminals or offenders with any assistance that might help frustrate or hinder the ascertainment of their liabilities or break the incommunicability of detainees, without prejudice to the provisions of criminal procedural legislation;
- (d) handle in a timely manner any request, claim or complaint made to him or her, and report it, where necessary, with a view to the fair settlement that such request, claim or complain deserves;
- (e) act, with diligence, upon any service-related orders issued by his or her superiors;
- (f) use no weapon, except under the terms provided by regulation;
- (g) retain no item or valuable belonging to another person beyond the strictly required length of time;
- (h) not destroy, cause damage to or by any means deviate from its legal destination any item owned by the PNTL or by a third party;
- (i) not interfere with the service of other agents or authorities, while extending to the latter any assistance as requested;
- (j) not consent to another person taking possession of weapons or equipment that may have been assigned to him or her or that is under his or her custody, by promptly handing such weapons or equipment in as determined by a superior;
- (k) remain vigilant and diligent in his duty station or workplace, thereby contributing towards the peace and security of people, assets and institutions, public or private.

Article 11
Duty of detachment

1. The duty of detachment consists of not taking direct or indirect advantage, pecuniary or others, from the exercise of one's functions, by acting with independence in relation to interests or pressures of any nature, from the perspective of respect for the equality among citizens.
2. In the discharge of the duty of detachment, a PNTL member shall:
 - (a) in the performance of their functions, keep strict political neutrality, at all times, notably in public acts;
 - (b) not take advantage of his or her authority, rank or duty station nor invoke superiors to obtain profit or advantage, exert pressure or take vengeance for any act or procedure;
 - (c) use prudence and justice in acting upon the orders given to him or her, by not imposing on subordinates the execution of illegal acts or others that are extraneous to the service;
 - (d) not exceed his or her authority derived from his or her rank or post nor exercise any competence he or she has not been invested with;
 - (e) not accept nor promote recommendations in favour of, or that somehow impinge upon, the freedom of opinion and the spirit of justice;
 - (f) not accept, not even indirectly, while on active duty, any activity that is subject to monitoring by police authorities, nor act as a prosecutor or simple mediator in acts or businesses that need to be dealt with in or with police services, nor perform any other function, even though performed gratuitously, which might affect his or her sense of personal and professional dignity or the prestige of the institution;
 - (g) not ask for or accept any favour, amount of money or benefit that might interfere, directly or indirectly, with the independence, objectivity or impartiality required in the performance of his or her functions;
 - (h) not accept from his or her subordinates any forms of address other than those authorised at a higher level.

Article 12
Duty of obedience

1. The duty of obedience consists of promptly acting upon or complying with service-related orders given in accordance with the law.
2. In the discharge of the duty of obedience, a PNTL member shall:
 - (a) comply with service-related regulations and instructions;
 - (b) promptly act upon the orders transmitted by sentries, guards, beats and patrols or other duty stations;
 - (c) serve, as determined, such penalties as may be imposed in accordance with this regulation;
 - (d) use moderate language, not refer to a superior in a way that may denote lack of respect nor allow it on the part of any of his or her subordinates;

- (e) accept any uniform items, equipment and armament handed out under the terms established by regulation and collect the salaries and wages, bonuses and other allowances granted in accordance with the law.

Article 13
Duty of loyalty

1. The duty of loyalty consists of performing the functions by subjecting one's action to the institutional objectives of the service, from the perspective of pursuing the public interest.
2. In the discharge of the duty of loyalty, a PNTL member shall:
 - (a) promptly report to his or her superior any facts that are likely to pose danger to public order, the security of people and of their assets, the smooth operation of the democratic institutions and, in general, to criminally protected interests;
 - (b) promptly and truthfully report to his or superior any absence from work or any acts performed by a subordinate against an express provision of this Regulation;
 - (c) without prejudice to the right of petition, lodge a complaint or claim with a superior, except in case of refusal by the latter to receive such complaint or claim or to refer it to the relevant entity;

Article 14
Duty of secrecy

1. The duty of secrecy consists of keeping professional secrecy in connection with facts a PNTL member may have become acquainted with by reason of the exercise of his or her functions and that are not meant to become public domain.
2. In the discharge of the duty of secrecy, a PNTL member shall:
 - (a) not disclose any matter that constitutes a state secret or that is the object of an in camera proceeding or, under the terms of the criminal procedural legislation, any activity related to crime prevention or investigation, including any action taken within the scope of an offence or disciplinary proceeding;
 - (b) not disclose information on matters relating to the police capability or operational activity classified as reserved or above, except through authorisation from the hierarchically competent entity;
 - (c) not divulge the capabilities of the security forces and services and keep strict secrecy in connection with information contained in records, databases or in any other documents to which he or she has access by reason of his or her work.

Article 15
Duty of decorum

1. The duty of decorum consists of adopting, while on or off duty, principles, attitudes and behaviours that will strengthen the dignity of the police function and the prestige of the institution.
2. In the discharge of the duty of decorum, a PNTL member shall:

- (a) look after his or her good personal appearance and present himself or herself wearing the uniform in a proper manner and equipped as required;
- (b) keep a firm and correct stance in parade;
- (c) keep any uniform items, armament, equipment or any other material that has been assigned to him or her or that is under his or her custody clean and in good condition;
- (d) not perform, while wearing a uniform, at any public presentation without authorisation from his or her superior, nor attend any such presentation where this might affect his or her personal or functional dignity;
- (e) not create a situation of dependence that is inconsistent with freedom, detachment or objectivity in the discharge of his or her duties by contracting a debt or making commitments that he or she is not able to meet under normal circumstances;
- (f) not carry out, while on or off duty, any action contrary to the professional ethics, deontology, the sense of dignity or the decorum of the institution;
- (g) avoid behaviours that might undermine his or her physical or intellectual fitness, notably the excessive consumption of alcoholic beverages or of any other substances harmful to health;
- (h) cultivate good relationships, solidarity and camaraderie among the employees and agents of the institution;
- (i) while on duty, not take alcoholic beverages nor frequent gambling houses or similar establishments;
- (j) not relate to, keep company of, or make friends with individuals who are, given their criminal or police record, subject to police surveillance;
- (k) not change the uniform pattern nor use badges that do not belong to his or her rank or insignias or decorations that have not been authorised at a higher level;
- (l) not use his or her status as a police agent to achieve any advertising purposes;
- (m) while on duty, not carry out any act or omission that may constitute an offence.

Article 16

Duty of regular attendance

1. The duty of regular attendance consists of regularly and continually reporting to work.
2. The duty of attendance binds a PNTL member:
 - (a) not to be absent from work;
 - (b) not to leave work without prior authorisation from the officer-in-charge of the duty station or workplace where he or she is required to stay.

Article 17
Duty of punctuality

1. The duty of punctuality consists of reporting to work within the hours determined by law.
2. In the discharge of the duty of punctuality a PNTL member shall:
 - (a) report to his or her duty station, on the days and at the time determined by regulation;
 - (b) report to his or her unit, command or service whenever called for working reasons or when special circumstances so require, notably in case of serious change to public order, emergency or calamity.

Article 18
Special duties

Duties set out in all other statutes of the institution and in legislation on internal security form also part of the specific institutional responsibilities of the PNTL.

HEADING II
Disciplinary competencies

CHAPTER I
General provisions

Article 19
Disciplinary powers authority

1. Disciplinary competencies to judge offences, hand down penalties or grant rewards shall rest with the appropriate officials within the line of command, in accordance with the tables attached to this Regulation.
2. The competencies of a superior shall always comprise the competencies of his or her subordinates within the framework of the line of command that has the Minister of the Interior at the top.

Article 20
Exercise of competencies

1. Where a superior believes that a police member deserves punishment or reward the imposition of which exceeds his or her competencies, the superior shall transmit the fact to his or her immediate superior along with the respective case for decision.
2. A superior who rewards or punishes a member of another command shall transmit the details of the respective decision to the command concerned.

3. An official listed under levels I, II, or III of Table B attached to this Regulation shall, through a substantiated administrative order, have the authority to mitigate, aggravate or replace penalties imposed by him or her, or by his or her subordinates, within the time period leading up to the beginning of enforcement of such penalties, as determined by Article 52 of this Regulation, provided that the official does not go beyond his or her competencies.
4. An official listed under levels I, II, or III of Table A attached to this Regulation shall, on grounds of illegality or proven unfair award, have authority to change or cancel rewards granted by him or her, or by his or her subordinates, within 30 days from the date of the reward announcement, provided that the official does not go beyond his or her competencies.

Article 21
Investigation of facts

1. Facts giving rise to the granting of rewards shall always be entered into a registry and, where necessary, shall be subject to a summary investigation.
2. Facts giving rise to the imposition of a penalty shall always be investigated in a disciplinary case, without prejudice to the provisions of Article 52 of this Regulation.

CHAPTER II
Rewards and their effects

Article 22
Rewards

1. To acknowledge exemplary behaviour and outstanding zeal for service, and to highlight acts of social and professional relevance, the following rewards may be granted:
 - a) Commendation;
 - b) Praise;
 - c) Promotion by distinction.
2. The granting of rewards provided for under item 1 above shall be made public through an administrative order and entered into the personal file of the beneficiary.

Article 23
Commendation

Commendation is designed to honour a person who, for his or her exemplary conduct, self-control and uprightness, emerges as deserving distinction by his or her superiors or other entities.

Article 24
Praise

1. Praise is designed to bestow honours for important or praiseworthy acts, and it shall be granted to employees or agents who have demonstrated outstanding zeal for service while discharging their duties.
2. Competencies to grant praise shall be exercised by officials listed on Table A attached to this Regulation and under the terms of such table.

Article 25
Promotion by distinction

1. Promotion by distinction is designed to honour competent and highly professional police members, and it shall be granted by the Minister of the Interior, on the recommendation of the General Commander and following endorsement by the Superior Police Council, under the terms of a future regulation.
2. Promotion by distinction shall not imply movement of the beneficiary from his or her command, even where there is no vacancy at the beneficiary's current command. Exception is made where such movement is in the beneficiary's interest.
3. Promotion by distinction shall cancel the effects of all disciplinary penalties, although such penalties shall remain recorded in the personal file of individual concerned.

CHAPTER III
Disciplinary penalties, accessory punishments and their effects

Article 26
Disciplinary penalties

1. The main penalties to apply to personnel exercising police functions who commit disciplinary offences shall be as follows:
 - a) Verbal reprimand;
 - b) Written reprimand;
 - c) Fine up to 30 days;
 - d) Suspension for 20 to 120 days;
 - e) Suspension for 121 to 240 days;
 - f) Compulsory retirement;
 - g) Dismissal.
2. The penalty of compulsory re-assignment shall be applied as accessory punishment.

Article 27
Definition of penalties

1. The penalty of verbal or written reprimand shall simply consist in drawing the attention of the offender to the irregularity committed.
2. The penalty of fine shall be established in a fixed amount and shall not exceed the monthly base salary of the offender as on the date of notifying him or her of the convicting decision.
3. The penalty of suspension shall consist in complete debarment from service for the duration of the penalty and in the forfeiture, for remuneration purposes, of seniority and time towards retirement by as many days as the suspension lasts.
4. The penalty of compulsory retirement shall consist in the forced conversion to a retiree status, thereby terminating the employment relation.
5. Dismissal shall consist in complete separation from the post, thereby terminating the employment relation.

Article 28
Accessory punishment

1. Where an offence carries the penalties provided for under paragraphs a) and e), item 1, Article 26, of this Regulation, re-assignment of the offender may be determined on an accessory basis if, by the nature or gravity of the offence, he or she can no longer remain in his or her current duty station and retain a prestige commensurate with his or her functions or if he or she becomes incompatible with such environment.
2. Re-assignment shall consist in the movement of the offender through his or her posting to another service of the same command or to a different district command, for a minimum of one year and without prejudice to a third party.

Article 29
Other effects of penalties

1. Without prejudice to the provisions of this Regulation regarding the determination of classes of behaviour, the penalties of fine, suspension and disqualification from service shall also have the following effects:
 - a) The penalty of fine shall imply a reduction in seniority and the counting of time towards retirement by as many days as the days of the fine applied;

- b) The penalty of suspension shall imply disqualification from promotion or advancement during a period of one or two years, subject to whether the duration of the suspension is within the limits provided for under paragraph d), item 1, Article 26, or within the limits provided for under paragraph e) of the same item and Article.
2. The penalty of suspension and disqualification from service shall also determine disentitlement to leave of absence for a period of one year after the penalty has been served, except however for the right to take leave of absence for 10 days in case of suspension not exceeding 120 days.

Article 30
Effects of a penalty of dismissal

The penalty of dismissal shall imply, apart from the consequences established in general legislation, disqualification from being appointed to a PNTL post, even as re-assignment from another public institution.

CHAPTER IV
Classes of behaviour

Article 31
Definition

Class of behaviour is a disciplinary level ascribed to personnel exercising police functions and assigned to PNTL staffing tables, according to time of service, punishments and rewards.

Article 32
Classes of behaviour

Personnel exercising police functions shall be assessed, on the basis of their behaviour, as belonging to exemplary, first, second, third, or fourth class.

Article 33
Assessment

1. Assessment of behaviour shall be determined by the rate resulting from the application of the following formula:

$$B = \frac{P+2N-L}{A+A'}$$

where:

B stands for behaviour;

- P stands for the total number of penalties equivalent to days of fine;
 N stands for the number of punishments;
 C stands for the rewards equivalent, for this purpose, to the combination referred to under item 3;
 A stands for approximate years of service up to hundredths;
 A' stands for time of service following the last punishment and it indicates years up to hundredths;
2. The value of P shall be determined as follows:

Verbal reprimand:	0;
Written reprimand:	0.5;
Fine (each day):	1;
Suspension (each day):	2.

 3. The value of L shall be determined as follows:

Commendation:	0.5;
Praise included in a police station administrative order:	3;
Praise included in an HG administrative order:	6;
Praise published in the Official Gazette of the RDTL:	12.

 4. Penalties covered by an amnesty or rehabilitation shall have no bearing on classes of behaviour.

 5. Rates shall correspond to the following classes of behaviour:
 - Exemplary – absence of punishments or, if any, where the rate for punishments is 0 or lower and where an amnesty has been granted for all of the punishments;
 - 1st class – a rate up to 2, where requirements have not been met for the granting of an exemplary behaviour class;
 - 2nd class – a rate exceeding 2, up to 6;
 - 3rd class – a rate exceeding 6, up to 10;
 - 4th class – a rate exceeding 10.

 6. A disciplinary case shall be initiated against a police member to determine the nature of the offence and investigate whether there is professional incompetence, functional non-adjustment or lack of moral integrity for the exercise of police functions with a view to enforcing the provisions of Article 45 of this Regulation if such member is placed at the 4th class of behaviour and commits a disciplinary offence.

HEADING III

Disciplinary liability

CHAPTER I **General provisions**

Article 34
Subjection to disciplinary authority

1. Police members shall be subject to disciplinary authority from the date of appointment or, where such appointment is not a requirement, from the date of taking up functions.
2. Dismissal or change in status shall not rule out punishment for a disciplinary offence committed while discharging official duties.

Article 35
Single and cumulated offences

Without prejudice to the provisions of Article 28 of this Regulation, the same person shall not be subject to more than one disciplinary penalty for each offence or for cumulated offences considered in one single case.

Article 36
Independence of disciplinary proceedings

1. Disciplinary proceedings shall be independent from criminal proceedings.
2. Acquittal or conviction in a criminal case shall not imply a similar award in a disciplinary case, without prejudice to the effects contemplated in criminal and procedural legislation for criminal sentences.
3. Whenever deemed appropriate, the authority invested with disciplinary competence to impose punishments may determine suspension of disciplinary proceedings until such a time as the outstanding criminal case is concluded.

Article 37
Effects of conviction in criminal case

1. Where a PNTL member is finally sentenced in a criminal case to an accessory penalty of dismissal, the secretariat of the competent court shall, on its own initiative, send a transcript of the convicting sentence to the Headquarters of the National Police of Timor-Leste, with a copy to the Office of the Prosecutor-General.
2. In cases provided for under item 1 above, the ongoing disciplinary case shall be dismissed, thereby complying with the court's decision.
3. In any other cases, the competent authority shall order the immediate execution of court decision in criminal cases imposing and producing

disciplinary effects, without prejudice to the possibility of enforcing the penalty required for the disciplinary case.

Article 38
Crime of a public nature

1. The filing of a criminal complaint against a PNTL member accused of acts that may qualify as public crime shall be mandatory.
2. A complaint against a suspect shall be filed with the competent public prosecutor under the terms of criminal legislation.

Article 39
Suppletive application of the Penal Code

In all that is not provided for in this Regulation regarding suspension or dismissal for the purposes of a penalty imposed by a court, the provisions of the Penal Code shall apply.

Article 40
Exclusion of disciplinary liability

1. The disciplinary liability of a PNTL member shall be excluded where such a member acts in compliance with an order or instruction from a superior for official purposes.
2. The duty of obedience shall cease whenever compliance with an order or instruction entails the commission of a crime.

CHAPTER II
Enforcement and degrees of penalties

Article 41
General principle

In the enforcement of penalties, consideration shall be given to criteria provided for under the articles below, the nature and gravity of the offence, the rank of the offender, the degree of guilt, the personality of the offender, his or her education, his or her time of service, and any other circumstances militating against or to the advantage of the accused.

SECTION I
Penalties not disrupting employment relationship

Article 42
Reprimand

The penalties of verbal reprimand and written reprimand shall apply in case of offences that do not bring damage to the service or the public.

Article 43
Fine

The penalty of fine shall apply in case of negligence or misunderstanding of functional duties resulting in damage to the service, discipline or the public.

Article 44
Suspension

1. The penalty of suspension shall apply in case of gross negligence or manifest disinterest in the compliance with professional duties, especially by absenting oneself without permission from the workplace for a period exceeding 5 consecutive or 10 interspersed days in one month.
2. The penalty of suspension shall also apply where the committed acts gravely affect the dignity or personal prestige of the police member concerned, or his or her function.

SECTION II
Penalties disrupting employment relationship

Article 45
Compulsory retirement and dismissal

1. The penalties of compulsory retirement and dismissal shall apply in general in case of disciplinary offences that make it impossible to maintain the employment relationship.
2. The penalties provided for under item 1 above shall apply to a police member who, specifically:
 - a) uses authority not given by law, or abuses authority attached to his or her functions by exceeding the required limits when there is no need to resort to coercion or any other means with a potential to infringe upon the rights of a citizen;
 - b) commits or attempts an act provided for in the penal code as a criminal offence against the State;

- c) gravely assaults, insults or disrespects a superior, fellow police member, subordinate or a third person at the workplace or in public;
- d) provides safe haven to criminals or otherwise gives them assistance that may contribute to foil or hinder the action of justice;
- e) as a result of misrepresentations, causes damage to a third party or acts as an accessory in stealing weapons;
- f) commits or attempts an act that demonstrates how dangerous he or she is to remain in the institution, or an act of disobedience or insubordination, including incitement to collective disobedience or insubordination;
- g) actually commits or tries to commit a crime of theft, robbery, fraud, breach of trust, speculation, bribery, coercion or extortion;
- h) takes part or an interest, either directly or through a middleman, in any contract entered into or to be entered into by any agency of the State;
- i) breaches professional secrecy or discloses classified information resulting in damage to the State or a third party;
- j) commits dereliction of duty by absenting himself or herself from his or her workplace without permission for more than 10 consecutive or 20 interspersed days in one month;
- k) accepts, either directly or indirectly, a gift, gratification or share in profits as a results of his or her position;
- l) excessively takes alcoholic beverages, or takes and traffics in narcotic drugs or psychotropic substances;
- m) is an accomplice in the actual or attempted commission of any of the crimes provided for under the previous paragraphs.

Article 46 **Compulsory retirement**

The penalty of compulsory retirement shall apply on a special basis in cases where it is concluded that a police member is professionally incompetent or morally unsuitable for his or her functions.

Article 47 **Dismissal**

1. The penalty of dismissal shall apply on a special basis to a PNTL member where:
 - a) he or she, with malice aforethought, has committed a criminal offence carrying an imprisonment penalty of more than three years;
 - b) he or she has committed one of the offences provided for under paragraph a), item 2, of the previous Article.
 - c) He or she has committed or tried to commit any of the acts provided for under paragraphs b), f), and g), item 2, Article 48.
2. Where dismissal has not been enacted in the convicting sentence, the elements required to make a decision shall be requested from the court, taking into

consideration the provisions of the penal procedural legislation regarding the case under judgement.

CHAPTER III

Exculpatory, mitigating and aggravating circumstances

Article 48

Exculpatory circumstances

Exculpatory circumstances of disciplinary liability include:

- (a) duress;
- (b) accidental or involuntary loss of his or her intellectual faculties at the time when an illicit act is committed;
- (c) legitimate or self defence or defence of others;
- (d) where a different conduct is not required;
- (e) the exercise of a right or the discharge of a duty.

Article 49

Mitigating circumstances

1. Mitigating circumstances of disciplinary liability include:

- (a) the provision of relevant services to society;
- (b) good past behaviour;
- (c) short time of service;
- (d) the fact that the offender committed the fault to retaliate a spouse, family member in the ascending or descending line or another PNTL member, in case of an immediate reaction to the affront or the knowledge of such affront;
- (e) spontaneous confession of the fault or damage redress;
- (f) provocation by a superior or member of the same or equivalent rank or level;
- (g) previous commendation or other rewards;
- (h) good service report by his immediate superior;

2. An employee or agent is considered to have good past behaviour where he or she is under the class of “exemplary behaviour” or under the 1st class without a punishment for over three (3) years.

3. Short time of service refers to a two-year period from the date of induction into office or effective entry on duty.

Article 50

Aggravating circumstances

1. Aggravating circumstances of disciplinary liability include:

- (a) an offence committed during a serious change to public order or an attempt against the democratic regime;
- (b) premeditation;
- (c) past misdemeanour;

- (d) an offence committed while on duty or as a result thereof, in the presence of others, especially subordinates of the offender, in public or in a place open to the public;
 - (e) an offence committed in connivance with others;
 - (f) an offence that compromises the honour, sense of dignity or professional decorum or that is prejudicial to order or the institution;
 - (g) persistence in the commission of an offence, notably once it has been reproached by a superior, once the offender has been called to obedience and restraint or after the latter has been alerted to the inconveniences of his or her behaviour;
 - (h) recidivism;
 - (i) accumulation of offences.
2. Premeditation consists of the duration of the intent of committing an offence for more than 24 hours.
 3. Misdemeanour is considered to exist where the member concerned is under the 3rd or 4th class of behaviour.
 4. Accumulation occurs where two or more offences are committed at once or where a new fault is committed before the previous one has been punished.
 5. Recidivism occurs where a new offence is committed within six (6) months from the date the serving of a sentence imposed for a previous offence was completed.

CHAPTER IV

Lapse of disciplinary liability

Article 51

Causes for lapse

Disciplinary liability lapses through:

- (a) limitation of time for taking disciplinary action;
- (b) limitation of time for executing a penalty;
- (c) serving a penalty;
- (d) death of the offender;
- (e) amnesty.

Article 52

Limitation of time for taking disciplinary action

1. The right to take disciplinary action lapses three (3) years after the date the offence has been committed.
2. Exception is made to disciplinary offences that constitute criminal offences, which shall only lapse under the terms and within the deadlines established by the criminal law, where the deadlines for limiting criminal action exceed three (3) years.
3. Liability also lapses where no proceeding is initiated within three (3) months after the authority vested with disciplinary competence becomes acquainted with the fault.
4. Limitation of time is considered as having been interrupted through preliminary instructions for the prosecution and through notification of the charge to the defendant.

5. Limitation of time is suspended by the initiation of an investigation process or a mere ascertainment process, including the initiation of an enquiry or disciplinary process in which, even though not conducted against an employee or agent, offences for which he or she is liable are found.

Article 53

Limitation of time for executing a penalty

1. The disciplinary penalties provided for in Article 26.1 shall lapse within the following deadlines, counted from the date the punitive decision has become unappealable:
 - (a) six months, for the penalties provided for under paragraphs (a) and (b);
 - (b) two years, for the penalties provided for under paragraphs (c) to (e);
 - (c) five years, for the penalties provided for under paragraphs (f) to (g).
2. In the case of an appeal, the limitation of time for executing the penalty shall be suspended until the final decision on such appeal has been handed down.

Article 54

Serving a penalty

1. A decision imposing a disciplinary penalty shall always be notified personally to the punished employee or agent and shall, in the absence of an appeal within the deadline established by law, be published in administrative order, taking effect on the day following the date of its publication.
2. Where, for any reason, a personal notification cannot be served to the punished employee or agent, the decision shall be published in the Official Gazette, Part II, and shall take effect fifteen (15) days after its publication.
3. If, for any work-related reason, a disciplinary penalty cannot be actually executed, such penalty shall take effect as if it had been served.
4. Serving a penalty of suspension is not interrupted by the admission of the PNTL member to a health establishment.
5. Vacation of a post or office resulting from the application of a penalty of compulsory retirement or dismissal shall be published in the Official Gazette, Part II.

Article 55

Death of the offender

Disciplinary liability lapses through the death of the offender, without prejudice to the effects that have already been produced and those arising from the application of the penalty for the purpose of granting a survival pension under the general law.

Article 56

Amnesty

1. Amnesty brings the execution of a penalty to an end, where such penalty is still being served, but does not annul the effects already produced by the application thereof, and a

record of such penalty shall be maintained only for the purposes set out in this Regulation.

2. Except as otherwise provided, amnesty shall not be granted to recidivists.

HEADING IV Disciplinary proceeding

CHAPTER I General provision

Article 57 Concept

A disciplinary proceeding is a summary investigation conducted for the purpose of finding facts, in which unnecessary actions or dilatory procedures are not admitted.

Article 58 Obligatory nature

1. The penalties provided for in paragraphs (c) to (g) of Article 26.1 shall only be applied once the facts have been determined in a written disciplinary proceeding.
2. A penalty of verbal or written reprimand may be applied irrespective of a written proceeding, but not until the defendant is heard.
3. At the request of the member concerned, a record of the actions referred to in the preceding article shall be prepared in the presence of the defendant and, if he or she so requires, of two witnesses, in the case of application of the penalty of written reprimand.
4. Where the defendant expresses his or her intention of presenting his or her plea in writing, he or she shall be given 48 hours for that purpose.

Article 59 Confidential nature of proceedings

1. A disciplinary proceeding shall be kept confidential until the charge has been notified.
2. A certificate shall only be issued for the purpose of defending legitimate interests or upon a request specifying the purpose for which such certificate will be used, and the publication thereof may, however, be prohibited.
3. The issuance of the certificate referred to above may only be authorised by the entity conducting the investigation until its completion.
4. Any defendant who discloses confidential matters under this article shall be subject to a further disciplinary proceeding.

Article 60
Unitary proceeding. Accumulation of offences

1. Where the object of a charge is to impute faults that may amount to any of the penalties provided for under paragraphs (c) to (g) of article 26.1 or article 26.2, a proceeding shall be organised for each defendant.
2. Where more than one disciplinary proceeding is pending in relation to the same defendant, such proceedings may be merged, except in the case where this may cause any inconvenience to the administration of justice.

Article 61
Form of acts

1. The form of the acts, where expressly regulated by law, shall be attuned to the intended end and shall limit itself to what is indispensable to achieve that end.
2. An instructing officer may order on his or her own initiative that searches and acts necessary to discover material truth be conducted and performed.

Article 62
Subsidiary law

A disciplinary proceeding shall be governed by the norms set out in the present Regulation and, in the absence or omission of such norms, by the applicable rules of the disciplinary statute in force for civil servants and public administration agents and of the criminal procedural legislation.

CHAPTER II
Forms of proceeding. Common provisions

Article 63
Ordinary or special proceeding

1. A proceeding can be either ordinary or special.
2. The special proceeding applies to cases expressly provided for and the ordinary proceeding applies to all other cases.

Article 64
Special proceedings

1. Special proceedings include ascertainment, enquiry, investigation and dereliction proceedings.
2. Special proceedings are regulated by the rules set out in the articles below and, on a subsidiary basis, by the provisions concerning ordinary proceedings.

Article 65
Competence to initiate a proceeding

1. A proceeding is initiated upon receipt of a report, complaint, notification, application or decision.
2. A superior performing command, supervisory or managerial functions is empowered to initiate or have a disciplinary proceeding initiated against any of their respective subordinates.
3. Where a reported fact amounts to a disciplinary penalty the application of which goes beyond the competence of the entity that has become acquainted with such fact, the initiation of the proceeding shall be forthwith reported to the superior of the next higher rank.

Article 66
Dismissal

The preliminary decision ordering that a proceeding be dismissed without investigation of the facts shall be substantiated and notified in writing to the complainant, notifier or applicant.

Article 67
Appeal

1. The complainant, notifier or applicant may appeal against the decision to dismiss the proceeding within five (5) days to the superior of the entity who has ordered that the proceeding be dismissed.
2. The appeal shall be lodged with the appealed entity and shall contain a summary statement of the facts opposing the decision to dismiss the proceeding.

Article and 68
Appointment of instructing officers and clerks

1. A decision ordering that the proceeding be prosecuted shall appoint an instructing officer from among members holding a higher or the same rank as that of the defendant, but longer serving, and the appointee may, in either case, not have a rank lower than that of subinspector.
2. The instructing officer shall appoint the clerk.
3. The functions of an instructing officer and those of a clerk shall take precedence over any other professional obligations.

Article 69
Provisional remedies

1. Where the exercise of his or her functions proves to be inconvenient for either the service or the determination of the truth, the application of the following provisional remedies to police employees and agents may be decided:

- (a) disarmament;
 - (b) seizure of any document or item that has been used, or may continue to be used, to commit the offence;
 - (c) preventive suspension.
2. Provisional remedies shall be applied on the initiative of the entity ordering the initiation of the proceeding or, in the course of the investigation, following a proposal from the instructing officer.
 3. Disarmament consists of removing from the employee or agent any weapon that may, for working reasons, have been assigned to him or her or that is under his or her custody and that may, where such is deemed necessary or convenient, be ordered by any superior performing command or supervisory functions.
 4. Seizure of a document or item consists of dispossessing an employee or agent of a document or item that may have been used, or may continue to be used, to commit an offence, or of any document or item the examination of which is necessary for the preparation of the proceeding.
 5. Where the seizure referred to in the previous subsection relates to a document or item belonging to a third party, such document or item may only be kept for the time strictly required to carry out the examinations necessary for the preparation of the proceeding.
 6. Preventive suspension consists of separation from service, with the forfeiture of one sixth (1/6) of the base salary, until a final decision on the proceeding is handed down, within ninety (90) days, renewable for an equal period, without prejudice to the provision of article 88.
 7. Preventive suspension may only be ordered or extended by the Minister of the Interior or by the PNTL General Commander in the case of a serious service fault that carries any of the penalties provided for under paragraphs (a) to (g) of Article 26.1
 8. Forfeiture of one sixth (1/6) of the base salary referred to in subsection 6 above shall be redressed or taken into account in the final decision on the proceeding in case of acquittal or application of a penalty not carrying a definitive forfeiture of salaries.
 9. During the pendency of the proceeding, the employee or agent may be appraised for promotion or admission, but the move cannot be effected until a final decision is handed down.
 10. Where the proceeding is dismissed or a penalty not prejudicing the promotion or admission is applied, the employee or agent shall keep his or her ranking in the list of seniorities.
 11. The provisions of subsections 9 and 10 shall be applicable, with the necessary adaptations, during the pendency of a criminal proceeding.

CHAPTER III
Ordinary proceeding

PART I
Preliminary examination

Article 70
Procedural steps

1. The instructing officer shall prepare the proceeding along with the report, complaint, petition, information or letter that comprise it and shall conduct the investigation by hearing the notifier, and the deponents and/or witnesses indicated by the former, as well as others deemed necessary; the instructing officer shall also conduct examinations and other actions that may clarify the truth and shall append to the records the documents deemed pertinent.
2. The instructing officer shall hear the defendant whenever deemed convenient until the preliminary examination is completed, and may confront the defendant with witnesses or deponents.
3. During the preliminary examination phase, the defendant may suggest to the instructing officer that such probatory actions as deemed necessary to determine the truth be carried out.
4. Where an instructing officer believes that the produced evidence is sufficient, he or she may, through a substantiated decision, dismiss the petition referred to in the previous subsection, if the suggested actions are manifestly impertinent or constitute a dilatory procedure.
5. Actions that are to be carried out outside the locality where the proceeding is in progress may be requisitioned by letter, fax or other electronic means from a competent police entity.
6. Where the defendant is accused of professional incompetence, the instructing officer may invite him or her to carry out any work, in accordance with a plan devised by two experts, who shall then issue their report on the tests done and the competence of the defendant.
7. The experts referred to in previous subsection shall be appointed by the entity that has ordered that the proceeding be initiated, in the case that the defendant fails to use his or her prerogative to appoint one expert; and the work to be carried out by the defendant shall be of the same nature as that that usually falls under the competence of employees or agents of the same service and rank.

Article 71
Witnesses

1. There shall be no limit to the number of witnesses during the preliminary examination phase of the proceeding.
2. The provision of subarticle 70.4 shall apply to the enquiry of witnesses.

Article 72
Directly observed offences

1. A superior who notices or observes a disciplinary offence committed in the service under his or her direction, command or supervision shall write or have a report written specifying the facts that constitute a disciplinary offence, the date, time and place, as well as all other circumstances under which the offence has been committed, the name and

other particulars of the employee or agent concerned and of a witness(es) who may depose to such facts, compiling the documents in his or her possession or certified copies thereof and requesting other evidence deemed necessary.

2. The report referred to in the previous subsection shall be signed by the entity who has written or had the report written and, optionally, by the witnesses and by the PNTL member concerned.

3. A single report may be written on various concurrent or related offences, even though committed by different persons.

4. Reports written under the terms of this article shall be forthwith forwarded to the entity that is competent to initiate the proceeding.

Article 73

Proceeding initiated on the basis of a report

Where a disciplinary proceeding is based on a report prepared in accordance with the provision of the previous article and no action is ordered or required, the instructing officer shall issue an charge within 48 hours from the date the preliminary examination of the proceeding was initiated, under the terms of the following articles.

Article 74

Completion of the preliminary examination

1. Where the instructing officer believes, upon completion of the investigation, that the acts stated in the record do not constitute a disciplinary offence, that they were not committed by the defendant or that disciplinary liability has lapsed, he or she shall prepare a report within five (5) days and shall forthwith submit it, with the respective proceeding, to the authority that has ordered its initiation, proposing that such proceeding be dismissed.

2. Otherwise, the instructing officer shall issue a charge within ten (10) days.

PART II

Charge

Article 75

Charge

The charge shall be clearly specified and contain a description of the acts that constitute the offence, and shall indicate how, when and where the offence has been committed and the exculpatory, mitigating and aggravating circumstances, including a reference to the legal provisions breached and the applicable penalties.

Article 76
Notification of the charge

1. A copy of the charge shall be made within forty-eight (48) hours and delivered to the defendant, through personal notification indicating that the latter must present his or her defence within fifteen (15) days.
2. Where a notification under the terms of the previous subsection is not feasible, notably because the whereabouts of the defendant are unknown, a notice shall be published in the Official Gazette, Part II, summoning him or her to present his or her defence within forty-five (45) days from the date the notice is published.
3. The notice referred to in the previous subsection shall only state that a disciplinary proceeding against the defendant is pending and shall set a deadline for the presentation of his or her defence.

PART III
Defence

Article 77
Defence

1. In defence, the defendant shall prepare a plea, in which all evidence is required to be adduced, notably testimonial evidence, indicating the acts to which each witness must depose.
2. The number of the witnesses shall not exceed 20 and not more than three (3) witnesses can be appointed for each act.
3. For the purpose of preparing a written plea, the defendant may, either directly or through his or her representative, consult the proceeding in the office where this is being organised, during office hours.

Article 78
Probatory actions

1. The instructing officer may, on a substantiated basis, decide to waive the required probatory actions, where he or she finds these manifestly dilatory or where the facts alleged by the defendant in his or her plea are considered to be sufficiently proved.
2. A decision dismissing the request for the carrying out of probatory actions considered by the defendant as indispensable to discover the truth may be appealed against to the superior of the next higher rank, within five (5) days.
3. The appeal provided for in the previous subsection becomes final with the outcome of the decision.

Article 79
Production of evidence offered by the defendant

1. The instructing officer shall question the witnesses and collect all other evidence offered by the defendant within twenty (20) days, a deadline that may only be extended up to forty (40) days through a substantiated decision.
2. Once the production of evidence offered by the defendant is completed, further actions deemed indispensable for a thorough clarification of the truth may still be ordered, through a substantiated decision.

Article 80
Nullities

1. A disciplinary proceeding in which the defendant has not been heard in connection with its subject matter or where the charge does not specify the offences committed and the legal provisions breached, where the charge has not been personally notified to the defendant or where the essential actions have not been carried out to discover the truth, is considered null and void.
2. Any other failures to comply with the procedures are considered as having been remedied if they are not complained about by the defendant until a final report is prepared by the instructing officer of the proceeding.

PART IV
Disciplinary decision

Article 81
Final report by the instructing officer

1. Once the preliminary examination of the proceeding has been completed, the instructing officer shall, within five (5) days, prepare a full and detailed report containing the material characterisation of the faults considered to have been committed, their classification and gravity, any amounts that may need to be returned and the disposal thereof, as well as the penalty deemed fair or a proposal that the process be dismissed on the grounds that the charge is unfounded.
2. The entity that is competent to hand down the decision may, where the complexity of the case so requires, extend the deadline determined in the previous subsection up to twenty (20) days.
3. The proceeding shall, once it has been written in the form of a report, be submitted with 24 hours to the entity that has ordered its initiation; if not competent to make a decision thereon, such entity shall forward it to the competent entity within two (2) days.

Article 82
Decision

1. The competent entity shall review the proceeding and assess the conclusions of the report, and may order that further actions be carried out within the deadline set for that purpose.
2. The entity that decides the proceeding shall substantiate the decision where this is at odds with the proposal contained in the report of the instructing officer.

Article 83
Notification of a decision

Once a decision has been handed down, it shall be notified in writing to the defendant, in compliance with Articles 54 and 76.

CHAPTER IV

Appeals

PART I
Ordinary appeal

Article 84
Appeal

1. A PNTL member who disagrees with a decision handed down in a disciplinary proceeding, and considers that the penalty imposed is unfair or unlawful, may lodge an appeal against such decision.
2. The appeal shall be lodged by means of a simple request, and the grounds for the appeal shall, even though in a summarised fashion, be stated.
3. Lodging an ordinary appeal shall not suspend the execution of the penalty.

Articles 85
Procedural steps

1. The appeal shall be addressed to the superior of the next higher rank within ten (10) days from the date of notification and delivered to the respondent entity.
2. The respondent entity shall forward the appeal to the relevant superior within five (5) days, accompanied by information supporting the confirmation, revocation or change of the penalty.
3. Where the entity to whom the appeal has been addressed considers himself or herself competent to review it, such entity may order that fresh investigations be carried out, where necessary, for the purpose of determining the truth.
4. The investigations referred to in the previous subsection shall be committed to writing and shall include the hearing of the appellant.

5. Where the entity to whom the appeal has been addressed considers himself or herself incompetent to review it, such appeal shall be forwarded to the competent entity.

Article 86

Decision on administrative appeal to superior authority

1. A decision on an administrative appeal to a superior authority shall be handed down within thirty (30) days of the receipt of the respective proceeding by the entity that is competent to decide.
2. There shall be only one instance of administrative appeal to a superior authority.

Article 87

Appeal against decision by the General Commander

1. A decision by the General Commander may be appealed against to the Minister of the Interior within ten (10) days of the date of notification of such decision.
2. A decision by the Minister of the Interior in an appeal proceeding shall be final.

Article 88

Effects of appeal

The lodgement of an administrative appeal has suspensive effect; however, in the event that provisional orders have been issued, these shall apply until the appeal is decided.

PART II

Extraordinary appeal

Article 89

Admissibility

1. A review appeal is extraordinary and admissible where there emerge new circumstances capable of demonstrating that the acts that have determined the conviction were not committed or where there is new evidence that could not have been used by the defendant in the disciplinary proceeding.
2. The revision may lead to the confirmation or revocation, in whole or in part, of a previous decision, but may, under no circumstance, be used to aggravate the penalty.
3. The pendency of an administrative or contentious appeal shall not prejudice a petition for review.
4. The review proceeding shall not suspend the execution of the penalty.

Article 90

Requirements

1. The member interested in the review of a disciplinary proceeding shall, directly or through a representative, file a petition for that purpose with the entity that has handed down the decision that is the subject of review.

2. The petition shall indicate the circumstances or evidence that has not been considered in the proceeding that the appellant deems to warrant such review, and the new items of proof invoked shall be appended thereto.
3. A mere allegation of illegality as to the form or essence of the proceeding or of the decision shall not constitute a ground for review.

Article 91
Decision on a petition

1. Once the petition has been filed, the entity that has reviewed the proceeding shall decide within fifteen (15) days whether or not the review should be granted.
2. A decision not granting the review of the proceeding may be appealed against to the General Commander, where such decision has been handed down by an entity other than the latter.
3. A decision by the General Commander may be appealed against to the Minister of the Interior.

Article 92
Procedural steps

Where the review is granted, the decision and all evidence produced shall be appended to the disciplinary proceeding and an instructing officer other than the previous one shall be appointed to carry out the necessary actions, under the terms of Articles 76 and 86, insofar as these Articles are applicable.

Article 93
Effect of a review deemed warranted

1. If a petition for review is deemed warranted, the previous decision shall be revoked, in whole or in part.
2. Revocation shall take the following effects:
 - (a) cancellation of the entry of the penalty in the personal file of the employee or agent;
 - (b) annulment of the effects of the penalty.
3. In the event of revocation, in whole or in part, of the penalty of compulsory retirement or dismissal, the defendant is entitled to be readmitted to his or her previous post or, where such is not feasible, to take the first vacancy that occurs at the corresponding level; and shall, on a provisional basis and outside the staffing table, exercise his or her functions until such a time as his or her name is entered onto the staffing table, without prejudice to a third party.

CHAPTER V

Ascertainment proceeding

Article 94

Concept

1. The ascertainment proceeding is a summary investigation that is characterised by the expeditiousness with which it must be organised and is designed to collect factual evidence that will allow the determination as to whether or not the initiation of an investigation, enquiry or disciplinary proceeding should be ordered.
2. Competence to determine the initiation of an ascertainment proceeding shall rest with holders of disciplinary powers, under the terms of Article 19.

Article 95

Procedural steps

1. The ascertainment proceeding shall be initiated within 24 hours of the delivery to the instructing officer, appointed under the terms of Article 68, of the decision ordering its initiation.
2. Once the ascertainment indispensable to attaining the objectives set in Article 102 has been carried out and concluded within fifteen (15) days of the date it has been initiated, the proceeding shall be submitted to the entity that has ordered its initiation along with the report of the instructing officer, to be prepared within three (3) days. Such a report shall indicate the actions that have been carried out and shall contain a summary of the facts that have been determined and a proposal on what to do with the records.

Article 96

Decision

1. The entity that has ordered the initiation of the proceeding shall, in view of the evidence gathered and of the report of the instructing officer, decide either to order or propose, depending on his or her degree of competence, that:
 - (a) the proceeding be dismissed, if he or she deems that a disciplinary proceeding is not justifiable, without prejudice to the provision of Article 81.3;
 - (b) an enquiry proceeding be initiated under the terms of Article 97, if, after the occurrence of the offence has been determined, the offender is yet to be identified;
 - (c) a disciplinary proceeding be initiated, if there are clear indications that the offence has been committed and the offender has been identified.
2. In the event that the acts that have been determined are deemed to justify an overall ascertainment of a command or service, judging from the scope and gravity of such acts, the initiation of an investigation proceeding shall be proposed to the Minister of the Interior by or through the General Commander.
3. Written statements and depositions produced in accordance with legal procedures, in an ascertainment proceeding, shall not be required to be made afresh where they are in compliance with the forms of proceeding referred to in the previous subsections.

CHAPTER VI
Enquiry and investigation proceedings

Article 97
Enquiry

1. An enquiry is meant to ascertain the acts that have been determined and ascribed either to the irregular operation of a command or service or to an action that is likely to attract disciplinary liability from an employee or agent.
2. Without prejudice to the inherent powers of the Minister of the Interior, the competence to order enquiries rests with the General Commander and his Deputies in their respective areas of competence, either on their own initiative or under proposal of a subordinate command or service director.

Article 98
Investigation

1. An investigation is meant to generally ascertain whether a command or service is operating properly.
2. The competence to order investigations rests with the Minister of the Interior and the General Commander.

Article 99
Special rules

Enquiry and investigation proceedings shall be governed by the provisions of the following articles and, to the extent applicable, by the general provisions concerning the preparation of disciplinary proceedings.

Article 100
Publicity of investigations

1. In an investigation proceeding, the investigator shall, as soon as the investigation is initiated, publicise the act through announcements to be published in the Official Gazette and in a daily newspaper, where available, and through public notices to be displayed in the place where the investigation is going to take place.
2. Announcements and public notices shall state that any person who has a reason to make a complaint about the irregular operation of the command or service being investigated may personally approach the investigator at the time and place as determined, or forward a written complaint to the investigator.
3. The written complaint shall contain the particulars of the complainant and his or her signature legalised by a notary public, except if the identity card of the complainant is exhibited upon the filing of such complaint.
4. A periodical to which an announcement has been addressed shall have the obligation to publish it, and its publication cost shall, for payment purposes, be documented by the

investigator and paid for by the PNTL, in case of acquittal, and by the defendant, in case of conviction.

5. Refusal to publish an announcement shall constitute a crime of disobedience, punishable under criminal law.

Article 101 Deadline

1. The deadline for preparing an enquiry or investigation proceeding shall be set in the decision ordering it, and may be extended where the circumstances so require.

2. The enquirer or investigator shall, if the originally set deadline is deemed insufficient for the carrying out of the actions ordered, notify that fact to the entity that has ordered the initiation of the proceeding.

Article 102 Report

Once the indispensable actions have been concluded, the instructing officer shall prepare a detailed report within ten (10) days, which may be extended up to 30 days. The report shall include a brief indication of the actions that have been carried, a summary of the acts that have been determined, and proposed measures.

Article 103 Decision

1. The proceeding shall, within 48 hours, be forwarded to the competent entity who shall, in view of the evidence gathered and of the report of the instructing officer, decide on the procedures to be adopted.

2. In the event that, as a follow-up to the enquiry or investigation proceeding, a disciplinary proceeding is ordered, the former may supersede the preliminary examination phase of the latter, and the charge phase shall follow immediately, under the terms of Article 75 and subsequent ones.

CHAPTER VII Proceeding for absenteeism

Article 104 Absenteeism

1. Where an employee or agent unjustifiably fails to report to work for five (5) consecutive days or ten (10) interspersed days, the competent superior shall write or have an absenteeism report written, under the terms of Article 72.

2. The provision of the previous subsection does not preclude the General Commander from considering the absence as justified from a disciplinary viewpoint, where the employee or agent invokes and substantiates reasonable grounds.

Article 105
Proceeding

1. The absenteeism report shall serve as the basis, under the terms of Article 73, for the subsequent disciplinary proceeding, which shall follow the procedural steps provided for in this Regulation, with the specificities established in this article.
2. Where the whereabouts of the defendant are unknown, the proceeding shall be forthwith forwarded to the entity that is competent to decide, upon expiry of the deadline for notification by notice published in the Official Gazette, Part II, as provided for in Article 76.
3. The penalty of dismissal shall be applied if it is proved that absenteeism, in view of the evidence produced, constitutes a disciplinary offence.
4. The decision shall be published in administrative order and notified to the defendant by notice published in the Official Gazette, Part II, if the whereabouts of the defendant remain unknown; and the latter may, within sixty (60) days from the date of publication of the notice, rebut it or request that the proceeding be reopened.
5. When the whereabouts of the defendant become known, the decision shall be notified to the defendant personally or by registered courier with a receipt notice; and the defendant shall be advised that he or she may rebut the decision within thirty (30) days or, within the same deadline, request that the proceeding be reopened.

HEADING V
Rehabilitation

Article 106
Concept

1. A PNTL member punished with a penalty other than that of expulsion may be rehabilitated, whether or not his or her respective proceeding is reviewed.
2. Rehabilitation shall be granted to a person deserving of such rehabilitation by virtue of good conduct, preceding a request by the person concerned in which the evidence that he or she intends to produce is indicated.

Article 107
Procedures

1. Rehabilitation may be requested by the person concerned, directly or through a representative, once the following deadlines have elapsed since the application or execution of a penalty:
 - (a) one year, in the case of a written reprimand;
 - (b) three years, in the case of a fine;
 - (c) five years, in the case of suspension.
2. The competence to grant rehabilitation shall rest with the entities of the levels I and II who are competent to apply penalties under the terms of Table B attached to the present Regulation.

Article 108
Effects

Rehabilitation shall annul any disqualifications and other still-subsisting effects produced by the penalty, and shall be recorded in the personal file of the employee or agent.

HEADING VI
The Superior Police Council

Article 109
Definition

The Superior Police Council is an advisory board that the PNTL General Commander is required to consult on the most important activities carried out by the institution, notably in the area of discipline.

Article 110
Competencies

1. The Superior Police Council shall, under the terms of the PNTL Organic Law, be responsible for issuing opinions on:
 - (a) the exercise of the police activity and its articulation with the community;
 - (b) the conditions for the provision of services and the definition of the PNTL professional status and remuneration system;
 - (c) the goals of the training plans and programmes to be developed by the Police Academy;
 - (d) the legal provisions and regulations concerning the PNTL activity;
 - (e) any other matters of relevance as requested by the Minister of the Interior.
2. The Superior Police Council shall be specifically responsible in the area of discipline for issuing opinions on:
 - (a) the disciplinary effects of convicting sentences by a court of law against a PNTL employee or agent;
 - (b) files on the promotion by choice and promotion by distinction;
 - (c) proposals for the awarding of decorations;
 - (d) proposals for the application of penalties of compulsory retirement or dismissal;
 - (e) any other matters of special relevance within the disciplinary scope.

Article 111
Composition

1. The Superior Police Council is composed of:
 - (a) the General Commander;
 - (b) the Deputy General Commanders;
 - (c) two senior officers appointed by the Minister of the Interior;
 - (d) the legal adviser to the PNTL Headquarters;

- (e) the National Commanders of the Special Units;
 - (f) the Director of the Police Academy;
 - (g) the District Commanders.
2. The Superior Police Council shall be convened and chaired by the General Commander.
 3. By decision of the Superior Police Council, other PNTL members may, on a permanent or provisional basis, attend Superior Police Council meetings, where the opinions of such members are deemed convenient in view of the nature of the functions they are performing or of the special qualifications they possess.

Article 112

Operation

1. The Superior Police Council shall meet ordinarily every six months and extraordinarily as convened by the PNTL General Commander or at the request of one third of its members to discuss disciplinary matters or subjects regarding the professional status of the PNTL members.
2. The opinions, resolutions and statements issued by the Superior Police Council shall be committed to writing and properly substantiated, and recorded in a specific book.
3. Superior Police Council meetings shall be conducted in Tetum and Portuguese and all their documents written in the official languages.
4. Files and proposals the decision on which is the competence of the Minister of the Interior shall be prepared in accordance with the opinions, resolutions or statements issued by the Superior Police Council in that respect, whenever this body has to be consulted under the terms of Articles 109 and 110.
5. The operation of the Superior Police Council shall be regulated by its rules of procedure to be approved by order of the Minister of the Interior and published in the Official Gazette.

HEADING VII

Final and transitional provisions

Article 113

Compulsory appearance

1. Unjustified failure to appear in acts relating to a disciplinary, ascertainment, enquiry or investigation proceeding shall be punishable under criminal procedural law.
2. Unjustified failure by the defendant to appear in a disciplinary proceeding or by the person concerned to appear in an enquiry proceeding shall constitute a serious disciplinary offence.

Article 114
Disciplinary regime for the Police Academy

The Police Academy shall have a specific disciplinary regime regulated by rules to be approved by order of the Minister of the Interior following a proposal by the Director of the Police Academy.

Article 115
Disposal of fines

Fines imposed under the terms of the present Regulation shall constitute state revenue and 30% of which shall accrue to the Police Fund to be established by Government decree.

Article 116
Failure to pay

1. If a defendant who has been finally punished by a fine or reimbursement of money fails to pay the amount payable within thirty (30) days from the date of notification, such amount shall be deducted from salaries, wages, bonuses, allowances or pensions payable to him or her.
2. The deduction provided for in the previous subsection shall be made by monthly instalments not to exceed one fifth of the total amount payable to the defendant, in accordance with a decision taken by the entity that has reviewed the disciplinary proceeding, which shall determine the amount of each instalment.

Article 117
Execution

1. The provisions of Article 116 shall not prejudice the execution of the disciplinary decision, where deemed necessary, which shall be in compliance with the tax execution procedure.
2. The execution shall be based on the certificate of the convicting decision.

Article 118
Previous punishments and rewards

Punishments imposed and rewards granted prior to the entry into force of the present Regulation shall be taken into account in determining the class of behaviour referred to in Article 35, with the following marks:

- (a) re-assignment to another command or service- 30;
- (b) re-assignment within the same command or service-15;
- (c) one day's imprisonment-4;
- (d) one day's detention- 2;
- (e) one day's suspension from work- 2;

- (f) one guard or picket duty - 1;
- (g) one patrol or beat- 0.5.

Article 119
Entry into force

The present Regulation shall enter into force thirty (30) days following its date of publication.

Approved by the Council of Ministers on 30 April 2004.

The Prime Minister

[Signed]
(Mari Bim Amude Alkatiri)

The Minister of the Interior

[Signed]
(Rogério Tiago de Fátima Lobato)

Promulgated on 08 June 2004.

To be published.

The President of the Republic

[Signed]
(Kay Rala Xanana Gusmão)

ANNEX I
Attached Table A
Levels of disciplinary competence

Rewards	Officials				
	Minister of the Interior (I)	General Commander (II)	Deputy General Commander (III)	Director of the Police Academy, District Commanders, Commanders of Special Units, Commander of the VIP Protection Unit, Commander of the Criminal Investigation Unit, Commander of the Traffic and Road Safety Unit, Director of Migration (III)	Commander of Police Station
Commendation Praise Promotion by distinction	(a) (a) (a)	(a) (a) recommends	(a) (a) recommends	(a) (a) -	(a) recommends

(a) Competence to reward or to recommend for a higher rank.

Attached Table B
Levels of disciplinary competence

Punishments	Officials				
	Minister of the Interior (I)	General Commander (II)	Deputy General Commander (III)	Director of the Police Academy, District Commanders, Commanders of Special Units, Commander of the VIP Protection Unit, Commander of the Criminal Investigation Unit, Commander of the Traffic and Road Safety Unit, Director of Migration (III)	Local Commander
Verbal or written reprimand Fine Suspension Compulsory retirement Dismissal Re-assignment within the same command or service (b) Re-assignment to another command	(a) (a) (a) (a) (a) (a) (a)	(a) (a) (a) recommends recommends (a) (a)	(a) up to 20 days up to 90 days recommends recommends to SPC (a) (a)	(a) up to 15 days up to 60 days - SPC (a) -	(a) up to 10 days up to 30 days - - - -

(a) Full competence
(b) Accessory penalty

SPC Superior Police Council