

UNITED NATIONS
United Nations Transitional Administration
in East Timor



UNTAET

NATIONS UNIES
Administration Transitoire des Nations Unies
au Timor Oriental

UNTAET/REG/2002/01
16 January 2002

REGULATION NO. 2002/01

**ON THE ELECTION OF THE FIRST PRESIDENT
OF AN INDEPENDENT AND DEMOCRATIC 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,

Recalling United Nations Security Council Resolution 1338 (2001) of 31 January 2001 which acknowledges that it is the responsibility of the United Nations Transitional Administration in East Timor (UNTAET) to ensure free and fair elections in East Timor in collaboration with the East Timorese people and to transfer authority to a legally constituted government,

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

Taking into account UNTAET Regulation No. 2001/2 of 16 March 2001 on the election of a Constituent Assembly to prepare a constitution for an independent and democratic East Timor,

For the purpose of electing the first president of an independent and democratic East Timor and for making certain amendments to UNTAET Regulation No. 2001/2,

Encouraging the equal participation of women and men at all stages of the electoral and constitutional process, and undertaking to promote the full enjoyment by women of their civil and political rights,

After considering the recommendations of the Constituent Assembly and of the Council of Ministers of the Second Transitional Government in East Timor,

Promulgates the following:

I: The President

Section 1 **President of East Timor**

1. A President shall be elected by the qualified voters of East Timor.
2. The President shall be elected on a date to be fixed by the Transitional Administrator by Directive.
3. The election of the President shall be governed by the present regulation and shall be free and fair, with universal adult suffrage and a secret ballot.

Section 2 **Mandate of the President**

1. The President shall have the powers conferred on that office by the Constitution.
2. The term of office shall be that established by the Constitution.

Section 3 **Electorate**

The President shall be elected on the basis of a single national constituency.

II: The Independent Electoral Commission

Section 4 **Independent Electoral Commission**

Electoral authority in East Timor shall be exclusively vested in the Independent Electoral Commission (“IEC”) established under UNTAET Regulation 2001/2 as modified by the present Regulation.

Section 5 **Period of operation of Independent Electoral Commission (IEC)**

The IEC shall continue to operate until such date, after the declaration of the results of the Presidential election, as may be prescribed by the Transitional Administrator.

Section 6
The Commissioners

Subsection 13.1 of UNTAET Regulation 2001/2 is amended by deleting the entire text of the subsection and substituting in its place the words “The Commission shall be composed of the Chief Electoral Officer and five (5) voting Commissioners appointed by the Secretary-General of the United Nations Organization, three (3) of whom shall be East Timorese, and two (2) of whom shall be internationally recognized experts in electoral matters.”

Section 7
Meetings of the Commission

Subsection 15.1 of UNTAET Regulation 2001/2 is amended by adding the following words: “In the event that there is no Chair, the Chief Electoral Officer shall convene meetings of the Commission.”

Section 8
Delegation of IEC Powers

The Commission may by resolution delegate to the Chief Electoral Officer, or to an officer of the Office of the Chief Electoral Officer, any of its powers which in its opinion may be necessary to delegate for the proper administration of the election.

Section 9
Delegation of CEO Powers

The Chief Electoral Officer may delegate in writing to any officer of the Office of the Chief Electoral Officer, any of the powers of the Chief Electoral Officer, which may be necessary to delegate for the proper administration of the election.

Section 10
IEC Sanctions

1. The IEC may refer its findings to the police or judicial authorities for enforcement, further investigation, or prosecution under any applicable law.
2. The IEC may remove a political party or candidate from the ballot, or disqualify them from election, if it is determined that the party or candidate achieved registration or nomination fraudulently or has sought to prevent the free exercise of the right to vote.
3. The IEC may revoke the accreditation of observer groups or of any political party agent if it determines that such action is necessary to preserve the integrity of the electoral process.

4. The IEC may order the publication or broadcast of such information as it believes necessary to the proper administration of the electoral process.

Section 11
Obligations of office holders, officials, and staff of the IEC

Section 19 of UNTAET Regulation 2001/2 is amended by deleting the entire text of the section and substituting in its place the words:

“All office holders, officials, and staff of the IEC shall be independent and impartial in the exercise of their functions and shall be guided by the goal of ensuring a free and fair election reflecting the will of the people of East Timor.

All office holders, officials, and staff shall refrain from any action which might impugn their neutrality or impartiality, or otherwise compromise the integrity of the electoral process.

No office holder, official, or staff shall seek or receive instructions from any government, political party, candidate, or any other authority or person outside of the IEC regarding the performance of their duties.

Upon resolution of the IEC, the Commissioners may recommend to the Transitional Administrator the immediate termination of employment of any office holder, official, or staff of the IEC, based on evidence indicating that such office holder, official, or staff has undertaken an act which threatens to compromise the credibility or integrity of, or public trust in, the IEC or the electoral process.”

III: Registration of Political Parties

Section 12
Registered party has right to nominate candidates

1. The registration of political parties under UNTAET Regulation 2001/2 is hereby extended to allow those parties to nominate a candidate for election to the office of President.
2. A political party which is not registered pursuant to Section 12.1 or Section 13 of the present regulation may not nominate a candidate for election to the office of President.
3. In accordance with the laws of East Timor as established by Section 2 and Section 3 of UNTAET Regulation No. 1999/1, persons in East Timor have the right to freedom of association, the right to peaceful assembly, the right to freedom of expression, the right to vote and to be elected and to take part in the conduct of public affairs, directly or through freely chosen representatives. Nothing in this regulation shall deny the right of individuals to form or participate in the activities of political parties, whether registered to nominate a candidate for this election or not.

Section 13
Lodging an application

1. A political party not registered under UNTAET Regulation 2001/2 may apply to the IEC for registration pursuant to the present regulation.
2. An application shall be lodged with the Chief Electoral Officer by the party's officers during an application period to be established by the Chief Electoral Officer. Such period will be at least six (6) consecutive days and shall be publicized by the Chief Electoral Officer at least ten (10) days in advance.
3. No fee shall be payable by a political party for lodging an application for registration.

Section 14
Information to be contained in application

An application for political party registration shall be in writing in the manner prescribed by the IEC and shall contain the following items:

the full name, the acronym, and the logo which the political party wants to represent it on the ballot and educational materials;

the name, address, other contact information, and signature or personal mark of the leader of the political party;

the name, address, other contact information, and signature or personal mark of a designated national liaison officer of the political party

the names and signatures or personal marks of the political party's national officers;

a written declaration signed by the leader and national officers of the political party that they are habitual residents of East Timor as defined in UNTAET Regulation 2001/3;

the address or other contact information of one office of the political party in Dili to which all correspondence to the political party will be addressed;

the names, dates and places of birth, addresses, and signatures or personal marks of no fewer than five hundred (500) persons who are eligible to vote under the present regulation and who support the political party's registration; and

the statutes of the political party.

Section 15
Notification and publication of applications: objections

1. The Chief Electoral Officer shall, as soon as is practicable, notify the public, by entry in the Official Gazette of East Timor, newspaper advertisement, radio announcement, and by notice display at each District Administration office, of the receipt of an eligible application for registration, and shall make the application available for public inspection for a period of at least six (6) consecutive days.
2. The period and place of public inspection shall be announced by the Chief Electoral Officer at least ten (10) days in advance.
3. Any person eligible to vote may lodge an objection with the IEC to an application for the registration of a political party. The grounds upon which an objection may be lodged are limited to a claim that the items contained in the application are deficient or inaccurate. Objections will only be accepted during the public inspection period.
4. Objections shall only be available for inspection by the party filing the application to which an objection was filed.

Section 16
Registration

1. A political party which has lodged an application for registration shall be registered within five (5) days after the end of the public inspection period, if the Chief Electoral Officer is satisfied
 - (a) that there is no prima facie deficiency or inaccuracy in the items contained in the application;
 - (b) that the political party does not have a name, acronym, or logo which is likely to incite hatred or violence;
 - (c) that the political party does not have a logo which is the same as or similar to the flag of another nation, any currently used military symbol or insignia, the Falintil symbol, or the National Council of East Timorese Resistance symbol; and
 - (d) that the political party does not have a name, acronym, or logo which is the same as or similar to the name, acronym, symbol, or logo of a currently registered political party, such that confusion is likely to result in the minds of the East Timorese people.
2. In considering whether the criterion in Section 16.1(d) is met, the Chief Electoral Officer shall take into account the totality of the history and political circumstances surrounding the application for registration.

3. If the Chief Electoral Officer is not satisfied that the criteria set out in Section 16.1 are met, the CEO shall, within three (3) days of the original lodgment of the application, notify the political party which lodged the application and refer the application to the IEC.
4. The party may cure any deficiency in the application at any time prior to the close of the registration period by filing an amended application, and may, in particular, propose a different name, acronym, or logo.
5. As soon as practicable after the close of the period for the receipt of objections, the IEC shall:
 - (a) consider any application in relation to which any objections have been lodged, including those received from the CEO under 16.3;
 - (b) decide whether the political party will be registered; and
 - (c) notify the political party of its decision.
6. Subject to Section 16.7 and Section 17, the IEC shall refuse to register a political party if, and only if:
 - (a) there is a prima facie deficiency or inaccuracy in the items contained in the application;
 - (b) the political party has a name, acronym, or logo which is likely to incite hatred or violence;
 - (c) the political party has a logo which is the same as or similar to the flag of another nation, any currently used military symbol or insignia, the Falintil symbol, or the National Council of East Timorese Resistance symbol; or
 - (d) the political party has a name, acronym, or logo which is the same as or similar to the name, acronym, symbol, or logo of a previously registered political party, such that confusion is likely to result in the minds of the East Timorese people.
7. In considering whether the criterion in Section 16.6(d) is met, the IEC shall take into account the totality of the history and political circumstances surrounding the application for registration.

Section 17 **Immaterial deficiencies**

The IEC shall not reject an application for registration if it is satisfied on reasonable grounds that a deficiency or inaccuracy in the items contained in the application would not materially prejudice the purposes of the present regulation if the application were accepted.

Section 18
Registered party has legal identity

A political party which is registered pursuant to the present regulation, including those whose registration is extended on the basis of Section 12.1 of the current Regulation, shall operate as a legal entity in East Timor, and shall be capable of owning property, suing and being sued, only until the date set by the Transitional Administrator for the functions of the IEC under Article 5 of the current Regulation. Thereafter, the legal personality of a political party may be continued only pursuant to registration under other applicable laws.

Section 19
IEC to maintain Register

The IEC shall maintain a Register of registered political parties which shall contain the registration applications of the parties. After the IEC ceases to consider objections, the lists of signatures given in support of those applications will not be included in the Register.

Section 20
Political parties to inform of change of information

Within fourteen (14) days of any material change with respect to information contained in the Register in relation to a registered political party, the political party's National Liaison Officer shall inform the Chief Electoral Officer in writing of the change.

IV: Eligibility Criteria and Forms of Candidacy

Section 21
Eligibility of voters

The following persons, aged seventeen (17) years or above on the date of the election, shall be eligible to vote in the election for the President:

- (a) persons born in East Timor,
- (b) persons born outside East Timor, but with at least one parent having been born in East Timor, and
- (c) persons whose spouse is eligible under either paragraph (a) or (b) above.

Section 22
Entitlement to Vote

An eligible voter is only entitled to vote in the election of the President if he or she:

- (a) is present in East Timor on polling day; and
- (b) when applying to vote at a polling station, presents proof in a form to be established by the IEC that he or she has been granted civil registration pursuant to UNTAET Regulation 2001/3.

Section 23
Eligibility of candidates

To be eligible for election as President, a person:

- (a) must have been born in East Timor, and have at least one parent born in East Timor;
- (b) must be registered as an habitual resident of East Timor as defined in UNTAET Regulation 2001/3;
- (c) must be at least 35 years of age as of the date of the election; and
- (d) must be a resident of East Timor, defined as maintaining his or her primary residence in East Timor for at least three (3) months immediately prior to the date of lodgment of their nomination or application for candidacy.

Section 24
Party candidates

1. Each registered political party wishing to participate in the election shall lodge with the IEC a nomination of one candidate. It is permissible for the same candidate to be nominated by more than one political party.
2. The nomination of a candidate by a registered political party shall:
 - (a) be made in the manner prescribed by the political party's statutes; and
 - (b) be lodged with the IEC on the form provided by the IEC for such purpose; and
 - (c) be lodged with the IEC during the period established by the IEC for the nomination of candidates; and
 - (d) be accompanied by a statement, in a form prescribed by the IEC, from the nominee, confirming that he or she is an eligible candidate, and is willing to be nominated by the political party in question; and
 - (e) be accompanied by proof of eligibility in a form prescribed by the IEC.
3. In the event of the death, incapacity, or resignation of a party's nominee at least 60 days prior to the election, a replacement may be designated by the party.

Section 25
Independent candidates

1. A person seeking to stand as an independent candidate for election shall lodge an application with the IEC.
2. The application of an independent candidate shall:
 - (a) be lodged with the IEC on the form provided by the IEC for such purpose; and
 - (b) be lodged with the IEC during the period established by the IEC for the nomination of candidates; and
 - (c) be accompanied by a statement, in a form prescribed by the IEC, from the nominee, confirming that he or she is an eligible candidate; and
 - (d) be accompanied by proof of eligibility in a form prescribed by the IEC; and
 - (e) be accompanied by the signatures or personal marks of no fewer than five thousand (5,000) individuals who are eligible to vote and who support that person's application.

V: Determining the Candidate Elected

Section 26
Tallying vote results

The number of votes recorded at the election for each candidate shall be tallied, and the Chief Electoral Officer shall inform the IEC of the results.

Section 27
Winning Candidate

The candidate with the highest number of votes shall be President. In the event that two candidates receive the same highest number of votes, the candidate elected shall be decided by the Constituent Assembly in a personal and secret vote.

VI: Miscellaneous

Section 28
Interpretation

In the present regulation, unless the contrary intention appears:

“independent candidate” means an individual seeking election as President who is not nominated as a candidate of any political party;

“IEC” means the Independent Electoral Commission established under UNTAET Regulation 2001/2 as modified by the present Regulation;

“registered political party” means political party registered under the present regulation;

Section 29
Entry into force

The present regulation shall enter into force upon the date of signature.

Sergio Vieira de Mello
Transitional Administrator