

**DEMOCRATIC REPUBLIC OF TIMOR-LESTE  
GOVERNMENT**

**DRAFT LAW NR. 24/I/2<sup>a</sup>**  
(date)

**ON AMNESTY  
AND OTHER CLEMENCY MEASURES**

The occasion of another anniversary of the Restoration of National Independence is a moment of jubilation and commemoration for all East Timorese.

It is especially an occasion for everybody to join hands and show clemency towards those who were forced by the vicissitudes of life to engage into criminal acts.

Though one cannot forget such criminal acts, it is important to forgive even those who have committed the so-called “serious crimes” provided for by Regulation nr. 2000/11, because the spirit of national reconciliation is also extensive to them.

The Government and the President of the Republic, in a common agreement regarding the need and the importance of promoting a far-reaching clemency measure, have therefore decided that, for the sake of national reconciliation, a draft law meeting those requirements should be submitted to the National Parliament.

Under the terms of paragraph c), item 1, Section 97, and paragraph a), item 2, Section 115, of the Constitution, the Government submits to the National Parliament the following draft law and requests that it be dealt with as a matter of priority and urgency:

**Article 1  
Amnesty for offences**

Insofar as they have been committed on 31 March 2004 or before, there shall be amnesty on the following offences:

- a) criminal offences carrying an imprisonment penalty up to 5 years insofar as they have not been committed in an organised manner, or with violence or under threat against people;
- b) minor violations of the highway code, offences related to tax and customs , or other offences only carrying a fine penalty;
- c) any other violations punishable with a fine penalty, even where such offences may alternatively carry an imprisonment sentence.

**Article 2  
Condition precedent**

1. Amnesty enacted following the previous article of this law is to be granted on the condition that the aggrieved party has been compensated and, where the aggrieved party is the State, that payment of appropriate fiscal and customs taxes has been made.
2. Whenever the aggrieved party is unknown or cannot be found, the judge may consider that the condition referred to under item 1 above has been met for the purposes of this law.
3. If at the time of granting amnesty, the exact amount of compensation has not yet been established, the judge, following inquiries as s/he has deemed necessary, shall establish such amount equitably through an unappealable award.
4. Failure to meet the condition referred to under item 1 above within the 90 days immediately following notification that may be served to the accused for such purposes shall render amnesty inapplicable.

### **Article 3 Pardon**

1. With regard to any type of criminal offence, minor offence or contravention committed on 31 March 2004 or before, pardon shall be granted for the following:
  - a) fine penalties even where such penalties replace another form of penalty payment;
  - b) prison sentences enforced as actual punishment not exceeding one year;
  - c) half of the penalty or 18 months whenever the imprisonment sentence has been enforced as actual punishment not exceeding 10 years, whichever is more favourable to the convict;
  - d) one-third of the sentence whenever imprisonment has been enforced as actual punishment exceeding 10 years.
2. Pardon referred to under item 1 above shall apply to penalties established by decisions to be orally given or which have already been orally given and is made in relation to shall centre on the single sentence in case of cumulative punishment.

### **Article 4 Condition subsequent**

Pardon provided for in this law shall be granted on the condition that the beneficiary is not to commit another malicious crime in the succeeding 3 years from the date of entry

into force of this law or, in case where the beneficiary is imprisoned beyond the three years, in the year immediately following his or her release.

**Article 5**  
**Pardon on suspended sentence**

In case of conviction that results in suspended sentence, pardon provided for in this law shall only apply where suspension is to be revoked.

**Article 6**  
**Effects**

1. A declaration of amnesty under the terms of Article 1 of this law, besides overriding any criminal procedure, shall imply an automatic cancellation of any criminal records related to the offence for which amnesty has been granted.
2. Amnesty or pardon granted under this law shall not invalidate civil liability arising from the offence committed.
3. The deadline to initiate legal action for civil liability shall begin to count again from the date of entry into force of this law.
4. Where a date for trial hearing has already been established in a case related to an offence for which amnesty has been granted, the trial hearing shall be held for the sole purpose of determining and enacting the value of the civil liability.

**Article 7**  
**Competencies**

1. On its own initiative, the Public Prosecution Service shall promote the application of this law at the court which is in charge of the case and the competent judge for any such case shall decide on the application.
2. Where a case is outstanding at the Court of Appeal, such case shall be referred back to the first-instance court for the purpose of applying this law.
3. Where the beneficiary of amnesty or pardon is under custody, the application from the Public Prosecution Service and the decision by the judge has to be made within 72 hours, respectively.
4. Whenever the lawful deadlines to comply with the provisions of this law are not met, the public defender or the attorney may request its application or, where the beneficiary is under custody, file a petition for habeas corpus.

5. Whenever a beneficiary of this law disagrees with its actual application, cancellation of the judicial decision shall be admissible through appeal, to be considered only in case the body appealed to chooses to sustain the decision.

**Article 8**  
**Entry into force**

This law shall enter into force on the day following its publication date.

Approved by the Council of Ministers on 14 April 2004.

The Prime Minister  
[signed]  
(Mari Bim Amude Alkatiri)