



JUDICIAL SYSTEM MONITORING PROGRAMME
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Press Release

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**Dili District Court hands down sentence of 9 years imprisonment
against member of the *Besi Merah Putih* (BMP) militia for serious
crimes committed in 1999**

On 8 July 2011 the Dili District Court read out its final decision in the trial of Case No. 13/C.Ord/2011 involving serious crimes. This case related to a crime against humanity allegedly committed by the defendant Valentim Lavio against the victim Patricio Sarmento Viegas in Liquica District on 6 September 1999¹ after the results of the referendum were announced. After considering all of the facts presented to the court and the examination of witnesses and other relevant documents, the court decided to sentence the defendant to 9 years imprisonment in the aforementioned case.

The hearing to announce the decision was attended by the defendant and his family, the family of the victim, several widows who suffered violence at the hands of the BMP militia in Liquica District, members of the *Front Mahasiswa Timor Leste*, ANTI (National Alliance for an International Tribunal), other human rights organizations, the media, and the Serious Crimes Investigation Team from UNMIT.

The decision was read out by Judge João Felgar (international), who was accompanied by Judge Antonio Fonseca, who provided translation from Portuguese into Tetum.² The prosecution service was represented by Franklin A. Fortadu (international), and the defendant was represented by public defender Fernando Lopes de Carvalho.

The murder of the victim Patricio Sarmento Viegas took place approximately 11 years ago in Liquica District and actually involved three defendants, namely Valetim Lavio, Afonso de Jesus and another defendant from Atambua whose name is unknown.

This case was one of the hundreds of serious crimes that occurred in a widespread and systematic manner before, during and after the referendum as part of a campaign of terror

¹ Refer also to JSMP Press Release, May 2011 on the JSMP Website, <http://www.jsmp.minihub.org>, under 'Publications'

² The judge decided to appoint a national judge as interpreter because experience to date has shown that court interpreters often make mistakes during their interpretation.

driven by the Indonesian police and military in order to carry out intimidation, maltreatment, rape, arson, murder, coercion and property damage that was committed in a brutal fashion across the entire territory of Timor-Leste. All of these acts were committed in order to show dissatisfaction with the results of the referendum whereby the pro-independence supporters gained a landslide victory in 1999.

The Executive Director of JSMP, Luis de Olivera Sampaio, stated that even though this sentence related to the crime of taking the life of another person, as provided for in Article 338 of the Indonesian Penal Code, the sentence was not proportional with crimes against humanity which must be condemned by all nations.

“JSMP understands that the court can use its wisdom and discretion in accordance with the law to determine the severity of a penalty in a particular case, however JSMP encourages the court to ensure that the penalty upholds the interests of justice for victims of crimes against humanity”. To this end the judges should have no need for doubt if the available evidence convinces the court to convict the defendant.

JSMP noted that the sentence read out by the court contained a number of considerations relating to the many facts that indicated the involvement of the convicted person Valentim Lavio as a member of a militia group who was active in the BMP in Liquica District before, during and after the referendum, which was part of a systematic attack led by the Indonesian military and police due to their dissatisfaction with the results of the referendum that determined that Timor-Leste would gain its independence.

Due to the large amount of evidence processed and tested by the panel of judges presiding over this trial, the court concluded that there were very convincing grounds to convict the defendant Valentim Lavio for murdering the victim Patricio Sarmiento Viegas by cutting his throat after the victim was shot in the head by the defendant AdJ at Pala beach, Liquica District on 6 September 1999, at approximately 9:00 am.

After considering the convincing material evidence presented during the trial, the Dili District Court sentenced the defendant Valentim Lavio to 9 years imprisonment. The Court’s decision was made in accordance with Articles 5.1 (a), 10 and 14 of UNTAET Regulation No. 15/2000.

Before closing the hearing the court gave an opportunity to the defendant Valentim Lavio in accordance with the provisions of Article 300 of the Timor-Leste Criminal Procedure Code which states that if the convicted person or his legal representative does not accept the decision of the court of first instance, they can lodge an appeal to the Court of Appeal within 15 days of the defendant receiving the final decision from the Dili District Court.

The family of the victim accepted the court’s decision, although psychologically they felt that this decision did not redress their pain and the loss of their family member. The family of the victim felt that even though the sentence of nine years imprisonment did not seem adequate enough to provide justice, they still had to respect the decision of the court.

Nevertheless they were concerned with the 15 day period calculated from the date that the decision was issued,³ because this would give a chance for the convicted person to flee to Indonesia because the victim was still carrying an Indonesian passport, and they wanted to know who will be responsible if this occurs or if a third party does anything untoward.

In response to the concerns of the family of the victim, the court asked the Dili District Police to escort the defendant and keep the defendant under the supervision of the Liquica District Police until the appeal process is complete.

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³ According to information obtained by the court, the decision will only be published on 25 July after the other two members of the panel sign it. This means that the period to lodge an appeal will not be a mere 15 days, but it could end up being between one to one and a half months or more, depending on when the court issued the decision and when the defendant and his lawyer declare intent to file an appeal.