



**JUDICIAL SYSTEM MONITORING PROGRAMME**  
**PROGRAMA MONITORIZASAUN SISTEMA JUDISIÁL**

## **Press Release**

### ***Dili District Court***

**16 October 2013**

### **Court has to retry case involving abuse of power and falsification of documents due to the composition of the panel of judges**

Between 7 - 10 October 2013 the Dili District Court conducted a retrial in a case involving abuse of power and falsification of documents allegedly committed by the defendant FdJS and the defendant ACG. The defendants were employed respectively as the Director General of Finance and Finance Officer in the Office of the Prime Minister in 2008 and 2009.

The trial was conducted to reexamine testimony from the two defendants and witnesses. In the aforementioned trial the court heard testimony from 11 witnesses.

The court decided to retry this case because one member of the panel of judges presiding over the trial returned to his country of origin and the court was unable to establish a new panel in accordance with the schedule established by the court.

Article 250 (5) of the Criminal Procedure Code states that: *An interrupted or adjourned hearing is resumed from the last procedural act performed; however, if it is not possible to resume the hearing within 30 days, the evidence already produced will need to be provided again.*

“JSMP believes that it is important to ensure that all proceedings are conducted in accordance with the rules established in the Criminal Procedure Code. However JSMP is also concerned that the retrial could undermine the interests of justice, because the witnesses have to go back and forth to the court to respond to the same things, and there is a huge possibility that they will change their views or forget important evidence relating to this case,” said Luis de Oliveira Sampaio, the Executive Director of JSMP.

JSMP encourages the court to properly manage issues like this so that there is no impact on the final result or the final conclusions from this process. JSMP believes that those people who are involved in this case will lose their desire to cooperate and uphold the interests of justice, state the truth or present important evidence relating to this process if the process itself is not conducted effectively.

During the trial the Public Prosecutor maintained the charges against the defendant FdJS for misusing his authority as the Director General to replace the Obrigado Computer company, which had won the tender for the provision of IT equipment, with the company Alegna, which was not selected in the documental evaluation.

The charges stated that the defendant corresponded directly with the procurement department to replace the company that had been recommended by the bid evaluation committee.

The public prosecutor also charged the defendant FdJS and the defendant ACG with the crime of falsification of documents relating to the rehabilitation of a bathroom with a budget of US\$ 19,000, and a budget of US\$ 16,000 to organize a “Christmas get together” as well as funds for scholarships and the rehabilitation of offices.

In relation to these actions the public prosecutor charged the defendant FdJS for violating Articles 266, 297 and 304 of the Penal Code on fraud, abuse of power and falsification of documents and charged the defendant ACG for violating Article 304 of the Penal Code on falsification of documents.

During the trial the defendant (FdJS) rejected all of the facts alleged in the indictment. The defendant FdJS testified that only local companies should have been competing for the tender. Moreover the defendant testified that he coordinated with the bid evaluation committee to replace the Obrigado Computer company (an international company) that had won the tender with the Alegna company (a local company).

The defendant FdJS acknowledged that the letter sent to the Director of Procurement in the Ministry of Finance was signed by him, and acknowledged that he was the cousin of the Director of the Alegna company.

The defendant ACG testified that he was given an instruction by the defendant FdJS to prepare a Commitment and Payment Voucher and this process was based on the existing funds.

In relation to the “Christmas get together” the defendant testified that as the coordinator of finance and the chairperson of the organizing committee for the Christmas get together he received funds of US\$ 13,000. These funds were then given to the organizers to be used for the purpose of organizing the Christmas get together.

The six witnesses SMdGX, CX, JvdJ, PP, SdMF and JT presented by the public prosecutor testified that the defendant FdJS used his authority to choose the Alegna company and to replace the Obrigado Computer company that had won the tender as determined by the bid evaluation committee.

In addition, another five witnesses LF, MG, ARD, RdS and AFS testified that they did not have any knowledge about this case because they were not involved with the bid evaluation committee at that time.

After hearing testimony from the defendants and witnesses, the court announced that the trial would be continued on 24 October 2013 at 10am.

This case was registered as Case No. 204/C.Ord/2012/TDD and the panel of judges presiding over this trial comprised Dr. José Maria de Araújo, Dr. Duarte Tilman, and Dr. Júlio Gantes. The Public Prosecution Service was represented by Dra. Glória Alves and the Office of the Public Defender was represented by Dr. Fernando Lopes de Carvalho and Dr. Andre Geroto.

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