



## JUDICIAL SYSTEM MONITORING PROGRAMME

### PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

#### *Press Release*

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#### **National Parliament approves the appointment of the President of the Court of Appeal**

On 29 August 2011 the National Parliament approved Resolution No. 74/II submitted by Vicente Guterres in his capacity as the Deputy President of the National Parliament to ratify the appointment of Claudio Ximenes de Jesus as the President of the Court of Appeal pursuant to Presidential Decree No. 43/2011 June 2011.

The Director of JSMP Luis Oliveira Sampaio *said that this ratification is extremely important to fulfill Article 95.3(a) and Article 164.2 of the Constitution which grants authority to the National Parliament to ratify the appointment of the President of the Court of Appeal.*

However, JSMP believes that this process is rather complex because this process was not employed at the time of his prior appointment, which gives rise to a misunderstanding in relation to the ratification process at the National Parliament. Several members of parliament are very concerned and have reacted strongly towards the request for ratification that was submitted to the National Parliament when the President had already reappointed Claudio Ximenes de Jesus as the President of the Court of Appeal for a term of four years (2011-2015). This appointment took place on 10 June 2011 pursuant to Presidential Decree No. 43/2011. Several members of parliament from the AMP coalition, which include the PD and CNRT parties, as well as members from the opposition, argue that the Presidential Decree had already been debated. JSMP also observed that several members of parliament from both the AMP coalition and Fretilín are quite concerned with aspects of the juridical procedure relating to the aforementioned parliamentary resolution. This reaction is due to the fact that the reappointment has already been announced in the State Gazette and Claudio Ximenes de Jesus has already started carrying out his functions as the incumbent President of the Court of Appeal.

Therefore, these members of parliament recommend for the chair of the parliament to invalidate this ratification, to ensure that the National Parliament is not just used as a political formality by the President of Timor-Leste.

In response to these concerns the Deputy President of the Parliament Vicente Guterres as the person who submitted this resolution, stated that this ratification is extremely important because it is the constitutional responsibility of the National Parliament to ratify the mandate of the President of the Court of Appeal to reinforce the aforementioned presidential decree.

Vicente Guterres in his proposal said that this ratification is only a formality to fulfill their obligations before their second legislatively approved mandate expires, because the previous appointment of Claudio Ximenes de Jesus was not made pursuant to ratification from the National Parliament.

This Member of Parliament also argued that this Presidential Decree on the appointment of the Court of Appeal has been already published in the State Gazette for a mandate of four years, pursuant to Article 86 (j) and Article 124.2 of the Timor-Leste Constitution. Therefore, he asked for the other members of parliament to carefully consider that it is extremely difficult to recruit a person to serve as president of the Court of Appeal, apart from Claudio Ximenes de Jesus.

JSMP believes that if we look at the interdependency between the sovereign organs of State and the legal procedure that is normally applied by the National Parliament in relation to the ratification of laws and legislative matters, the Parliament has never been able to ratify a decree or resolution that has already been announced in the State Gazette for the purposes of validation any State document.

However, when JSMP looked in the State Gazette for the aforementioned Presidential Decree, there was not decree on the appointment of the President of the Court of Appeal, as debated in National Parliament.

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