



February 2009

## Need for separation of proceedings

On 12 January 2009, the Dili District Court conducted a hearing against three defendants charged with attacking a F-FDTL base in Tasi Tolu in 2006 with the use of automatic guns. Only two defendants (VC and LLB) attended this hearing after being granted conditional release and the third defendant (MAR) did not attend.

In response to this situation the prosecution and defence submitted an oral request to the court to try the defendant MAR separately from the other two defendants because his whereabouts remain unknown and the other two defendants who attended the trial have the right to justice. However the panel of judges decisively rejected the aforementioned request on the basis that this is a complicated case and only one trial should be conducted. Therefore the panel decided to adjourn the trial until 1 April 2009.

JSMP believes that the court should not adjourn the trial until the whereabouts of the third defendant are known, and the court should therefore accept the request submitted by the prosecution and the defence. JSMP recommends for the court to apply a separation of proceedings as set out in Article 25 of the Timor Leste Criminal Procedure Code that states that "*Exceptionally, separation of proceedings is permitted, either at request or on a discretionary basis, where relationship may result in significant delays in the proceedings.*"

The two defendants who attended the trial have the right to justice, pursuant to the International Covenant on Civil and Political Rights, Article 14.3(c) that states that "*everyone charged with a criminal offence shall have the right to be tried without undue delay*".

For further information please contact

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