



**JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL**

Press Release

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**Baucau District Court Decides to Repatriate a Former Indonesian
National Armed Forces (TNI) Member to Indonesia**

On 09 March 2007, the Baucau District Court, through the Dili District Court, conducted proceedings in relation to an accused named Taryono in a case of serious assault. The accused, Taryono, is an Indonesian citizen, a former member of the Indonesian National Armed Forces (TNI) and has been in pre-trial detention in Becora Prison since 2000. The proceedings were presided over by International Judge Telma Figueredo accompanied by two National Judges, Judge Edite Palmira, and Judge AnaPaula Fonseca. The indictment which was read out by Judge Edite Palmira asserted that the accused, on 31 March 2000 at Manatuto, committed criminal actions; namely, the attempted murder and serious assault of several victims, amongst them, security officers named João Marques and Matias Soares in the Manatuto office of UNTAET and several Philippino military personnel. In the attack, the accused used a piece of steel to wound several of the victims who sustained serious injuries including one of the victims whose evidence stated that he lost consciousness for two days.

In the indictment, the Prosecutor General alleged violations of Article 351.2 of the Criminal Code which provides that if an assault causes serious injuries then the penalty is five years imprisonment, Article 353.1 of the Criminal Code which provides that if the assault is premeditated, then the penalty is four years imprisonment, and Article 354.1 in connection with Article 353.2, that is, with the intention of causing serious injuries.

In the proceedings, the Prosecutor General called two of the victims as witnesses whose evidence stated that it was true that on 31 March 2000, the Accused attacked and assaulted the victim witnesses causing serious injuries and loss of blood.

In the conclusion of the indictment, the Prosecutor stated that the accused Taryono did commit the crimes of assault in relation to several persons who suffered serious injuries. However, the Prosecutor made an application to the Judges dealing with the case to impose a limited sentence on the basis that the accused Taryono was not responsible for these criminal actions because he suffered from a mental illness based on a medical report in the case file. The Prosecutor's application was based on Article 44.1 of the Criminal Code which provides that *a person who commits an act and can not be held responsible for it on the basis of mental illness may not be punished*. In these proceedings, the accused's defence counsel, Sebatião Amado Nheu de Almeida SH agreed with the allegations and the application by the Prosecutor.

In the decision, the Judges of the Baucau District Court found that the Accused Taryono can not be held responsible for his actions because of his mental illness and that he be held in detention in Becora Prison pending his repatriation to Indonesia with the assistance of the Immigration section of the Timor-Leste National Police and the Indonesian Embassy in Timor-Leste. The legal basis of this decision is Article 44.1 of the Criminal Code and Article 103 of the Criminal Procedure Code in relation to annulments that can not be restored.

JSMP is of the opinion that before the accused Taryono is repatriated to his home country, it is better if he is examined and given medication for his illness so that in the future there is no misunderstanding between the Indonesian government and the government of Timor-Leste, recalling that the condition of the accused is of great concern in the context of his repatriation and particularly since the accused is a former member of the Indonesian National Armed Forces (TNI).

FOR FURTHER INFORMATION PLEASE CONTACT:

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