

## **Court of Appeal reduces FALINTIL member's sentence to 5 years**

JSMP, Dili 29 October 2001

The Court of Appeal in Dili today gave judgment in an appeal from a decision of the Special Panel for Serious Crimes, reducing the sentence to 5 years. On 1 March 2001 the Special Panel of the Dili District Court convicted Julio Fernandes, an ex-FALINTIL member, of the murder of a militia member in Ermera district on 25 September 1999 and sentenced Fernandes to 7 years' imprisonment.

Fernandes appealed the sentence and the conviction, claiming that a group of villagers had captured and tortured the victim, who was suspected of being a member of the Darah Merah militia that had terrorized the area in the aftermath of the popular consultation on 30 August 1999. Although Fernandes admitted to stabbing the victim at the trial, he asserted that he was forced by the crowd of villagers.

The Court of Appeal, comprised of President Claudio de Jesus Ximenes (Portugal), Judge Cirilo Jose Cristovao (East Timor) and Judge Frederick Egonda Ntende (Uganda), agreed that the appeal had no merit, however, disagreed on the result. The majority decided that there was no evidence that the murder was premeditated and as a result the Special Panel had relied on the incorrect provision of the Indonesian Penal Code. As the correct provision of the Indonesian code carried with it a lesser maximum penalty, the majority reduced Fernandes' sentence to 5 years.

Judge Egonda Ntende issued a dissenting opinion in English in which he upheld the decision of the Special Panel. The majority judgment was rendered in Portuguese, a language neither Fernandes, his Public Defender nor the Public Prosecutor can understand. Despite the fact that three court interpreters were present in the courtroom, the President of the Court of Appeal decided to give an improvised verbal summary of the decision in Tetum for the benefit of Fernandes, and a summary of the main legal points in English.

This decision is the second final appeal judgment issued by the Court of Appeal in a serious crimes case.