



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

Press Release

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Dili District Court acquits defendants in case of attack in Fatu-Ahi

On 17 September 2010 the Dili District Court read out its final decision in Case No. 233/C.ord/2007/TDD. This case related to the shooting incident and attack against members of F-FDTL that took place in Fatu-Ahi on 23 May 2006 that involved 28 defendants known as the petitioners and former members of PNTL.

The final decision was announced by a panel of judge comprising Judge Antonino Gonsalves (presiding judge) together with judge Deolindo do Santos and judge Joao Felgar (international). The prosecution unit was represented by Felismino Cardoso and the defendants were represented by Afonso Prado, an international public defender, and Jose Pedro Camões, a private lawyer. The hearing took place between 10:25 am -11:00 am.

The shooting incident and attack against members of F-FDTL in Fatu-ahi is common knowledge to most people in Dili. As a result of this incident two members of the F-FDTL died at the scene and dozens of others were injured. The two victims were Captain Joabinho Noronha and Lieutenant Kablaki from F-FDTL.

This was one of the many incidents that occurred during the crisis which had its roots in suspected discriminative practices within the F-FDTL which developed into a national crisis that was known as the 2006 political and military crisis.

Executive Director of JSMP, Luis de Oliveira Sampaio, believes that the acquittal of all defendants in the shooting incident and attack in Fatu-ahi is extremely regrettable, because members of F-FDTL and PNTL died and many others suffered minor and serious injuries as a result of this incident. He also believes that the court is the only institution that is trusted to provide legal certainty and justice, and therefore the court should have been more diligent and cautious when deciding this matter to uphold justice for the victims and the families of the victims.

JSMP understands the principle of law that dictates that defendants must be acquitted when a judge or court is in doubt. However JSMP notes that there were victims in this

case, but the legal institutions, in particular the prosecution unit, were unable to prove who was behind this event.

JSMP notes that the decision to acquit in this case adds to the long list of people given impunity for their involvement in a range of cases related to the 2006 crisis.

JSMP observed that the court read out its decision based on the findings of the trial, which took into account the testimony of witnesses and defendants. In relation to the Fatu-ahi shooting, not a single witness or defendant told the court that they saw the defendants with their own eyes and many of them even said that they were not at the scene when the Fatu-ahi incident occurred.

Some of the defendants' names were mentioned by their colleagues during the trial. However they had not arrived there with the intention to attack members of F-FDTL, because they were acting under the orders of their superiors to conduct a patrol. They did not intend to attack. These witnesses claim that they should not have been brought before the courts. Rather they believe that their superiors who gave the orders should have been held responsible.

Based on the evidence that was presented and examined before the court, the panel concluded that the proof was insufficient to convict the defendants. The court then decided to acquit the defendants.

However, the court provided an opportunity to the prosecution to appeal against the court's decision. The prosecution is waiting for the written decision to be released on 28 September 2010.

JSMP notes that failures to provide sufficient evidence in major cases like this are a challenge for the justice system of Timor-Leste.

JSMP hopes and recommends for public prosecutors to continue improving the quality of their investigations and the gathering of evidence in the future. All legal institutions such as the prosecution unit and court have a responsibility to uphold justice. JSMP believes that the authority of the law must be upheld through the hard work and professionalism of the institutions entrusted and mandated with this important task

In order to guarantee that this mandate is upheld, JSMP recommends for the prosecution unit to pursue all legal avenues against the court's decision to prove who was behind the shooting incident.

JSMP suspects that this decision might be an indication of the court's inability to consistently carry out its mission, due to the stance of our state which has tended to reduce the role of the court in upholding justice and the law. The pardons granted by the president are a good example of this.

JSMP understands that the court may be bearing a psychological burden in relation to the handling of cases from 2006 and 2008; however as a country that embraces the rule of law, we implore all parties to consistently apply the principles that underpin the rule of law in the pursuit of all matters pertaining to the state and the nation.

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