

JSMP Comments on Jhoni Franca case

31/10/2002

On 29 October 2002, the Special Panel of the Dili District Court in East Timor sentenced an ex-commander of the pro-integration Kaer Metin Merah Putih (KMMP) to 5 years imprisonment on four counts of crimes against humanity, including one count of torture and four counts of imprisonment /severe deprivation of physical liberty.

Joao Franca Da Silva alias Jhoni Franca had originally been indicted on 7 counts of crimes against humanity, together with two other alleged former KMMP militia, in relation to events which occurred in the Lolotoe area of Bobonaro district in the months leading up to the popular consultation in 1999. However, after reaching an agreement with the prosecution, his case was severed from the larger Lolotoe case (4/2001), two of the counts against him were dropped, and he pleaded guilty to the remaining charges. In return for his guilty plea, the prosecution agreed to recommend to the Court a maximum jail term of 7 years, considerably below the maximum possible sentence of 25 years.

The plea did not proceed without hitch. After receiving a copy of the agreement between the prosecution and defence, the Court questioned Jhoni Franca, as it is required to do, about his plea in respect of the five charges facing him. He initially said that he accepted his responsibility and guilt in relation to three of the charges but not the remaining two. The Court was adjourned for a short period, Jhoni Franca talked with his defence counsel and then returned to tell the Court that he accepted responsibility for all the charges.

The Court accepted the plea.

Before sentencing Jhoni Franca the Court heard evidence from several witnesses, including his mother and two members of Parliament, that the accused had always been a valued member of his family and a vocal and active part of the struggle for independence. The witnesses and Jhoni himself testified that he had, however, been forced to become a member of the militia in order to save his own life.

As a result of ongoing delays in the hearing of the Lolotoe trial, Jhoni Franca has, in fact, already spent a considerable period of time in detention. He has been detained in Becora Prison since 15 February 2001. His sentence will be reduced accordingly. In the meantime Jhoni Franca is free to give evidence in the Lolotoe trial and it is understood that the prosecution intends to call him as a witness.

The Court will publish its reasons for the decision on 15 November 2002.