



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

### Press Release

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### PROGRESS OF THE 2006 F-FDTL/PNTL CASE

The case relating to the nine PNTL members who were shot dead in front of the Ministry of Justice on 25 May 2006 has reached trial. This is the third Commission of Inquiry case to be considered by the Dili District Court. The trial is being presided over by Judge Ivo Rosa, who is being assisted by Judge Antonino Gonçalves (East Timorese) and Judge Vitor Hugo Pardal. The Prosecution team is led by Prosecutor Bernardo Fernandes, and includes Felismino Cardoso and Zelia Trindade.

Twelve individuals have been charged by the Public Prosecutor in relation to the shooting deaths of nine PNTL members. Eleven defendants are members of F-FDTL and one defendant is a member of PNTL. The defendants are being represented by three private lawyers: Tome Zeronimo, Jose Guterres and Arlindo Sanções Marçal.

The court convened between 24 and 27 September 2007 to hear the statements of the defendants. The court will summon as many as 103 witnesses, who will provide individual testimony in relation to the criminal acts allegedly committed by the defendants.

JSMP observed that F-FDTL and PNTL have been cooperative with the formal judicial process instituted against their members. JSMP also observed that the F-FDTL and PNTL defendants have, to date, observed the rules and directives of the court.

JSMP notes a contrast between the present hearing and the pre-trial hearing held at the Dili District Court on 12 January 2007. At that time, nearly all the F-FDTL leadership attended court to follow the entirety of the pre-trial process. JSMP observed that security at that time was very strict. In addition to the military personnel on guard, there were also a large number of F-FDTL members who were fully armed and in military uniform standing outside of the court.

Since the trial began, however, JSMP has not observed any of the F-FDTL leadership at the court, though several F-FDTL members have been present in the public gallery each day. Although these individuals were wearing military uniforms, they were unarmed. Only F-FDTL military police, and the *Guarda Nacional Republicana* (GNR), outside of the court, have been confirmed as armed.

Since the first day of the trial, the F-FDTL defendants have been identifiable from their uniforms, as has the remaining PNTL defendant. Before each of the defendants enters the court vicinity, each of them is screened in turn by members of the F-FDTL Military Police to ensure no weapons are being carried into the court.

JSMP considers the present conduct of this trial to be a positive development, given both the F-FDTL and PNTL are cooperating to facilitate the trial and in doing so are indicating their support of the formal justice process in Timor-Leste. In terms of law enforcement, this is one of a number of positive signs starting to appear in the formal justice sector of Timor Leste.

Article 130 of the RDTL Constitution sets out the establishment and existence of a Military Tribunal in Timor Leste. However, until now this has not been possible due to a lack of human resources and supporting facilities. Therefore, all existing cases, including criminal and civil cases, are still being forwarded to the district courts.

In the future, it is to be hoped that the F-FDTL will examine internal options to transparently, and expeditiously bring their own to justice when necessary. Technical preparations within the military to guarantee domestic security must, of course, be balanced by appropriate mechanisms to ensure understanding of, and compliance with, human rights standards and the prevailing law. To this end, the F-FDTL may wish to consider training some among their ranks to take up positions as Military Judges, Prosecutors and Lawyers.

Statements from some of the eleven F-FDTL defendants appear to claim that the shooting incident that resulted in the deaths of nine PNTL members arose from a command given by a F-FDTL Commander at that time. We await testimony from the witnesses who will be summoned before the court, to prove or disprove these and other allegations. The trial will continue on 1 October 2007 and begin to hear witness testimony. It is estimated that, due to the number of witnesses anticipated to be called, it will be at least one month before the court will be able to decide on its judgment.

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