



JSMP Press Release
26 May 2005

Prosecutors and Public Defenders Fail Their Evaluations

On 25 May the President of the Court of Appeal, Judge Claudio Ximenes, announced that none of the East Timorese Public Defenders or Prosecutors (including the Prosecutor General) had passed their evaluations. Consequently none of those evaluated are now eligible to work as Public Defenders or Prosecutors in the courts of Timor-Leste.

The evaluations consisted of written exams (conducted in December 2004) and evaluations of practical work performance (presumably conducted in late 2004, since all Public Defenders and most of the Prosecutors being evaluated have been in full time training since January 2005). Although most of the Public Prosecutors and Public Defenders passed the practical component of their evaluations, they all failed the written test. Their combined scores in both parts of the evaluations were not enough to pass the overall evaluation.

It is not clear to JSMP why it has taken the Commissions of Evaluation more than five months to announce the results of the evaluations.

Most of the Public Defenders and Prosecutors who were being evaluated are currently undertaking full time training at the Judicial Training Centre (JTC). Despite the failure of their evaluations, all of those who failed may still continue with this training program until mid-2006, at which time they will be eligible to become again probationary Public Defenders and Prosecutors.

JSMP is unsure as to the future status of the Prosecutor General, Longuinhos Monteiro, and the Director of the Public Defenders, Sergio Hornai. Under UNTAET Regulation 2000/16, the Prosecutor General has both administrative and prosecutorial functions and it may be possible to split the functions. We note that the Prosecutor General's current four year term finishes in August 2005. Under UNTAET Regulation 2001/24 the Director of the Public Defenders has to have "proven legal and management experience" but the law does not mention a requirement that he/she actually be a Public Defender.

There are three Prosecutors who commenced working in mid-2004 who were not eligible for evaluation in the current evaluation process (due to the fact they had only been working for six months at the time the evaluation was carried out), and who failed the preparatory stage of the JTC training program. It is JSMP's understanding that they will continue to work as Prosecutors until further notice, presumably from the Prosecutor General. There is also currently one international Prosecutor working in the district courts (who also works as a trainer in the JTC). JSMP presumes that these four prosecutors will continue to work through the backlog of at least 2000 cases in the district courts as well as all new cases until the three new international Prosecutors to be recruited by UNOTIL can commence work.

There is currently one international Public Defender working in the courts of Timor Leste (who also works as a trainer in the JTC). Positions for two more Public Defenders to work for UNOTIL have also been advertised, and recently another position was advertised by UNDP. JSMP presumes that East Timorese private lawyers will continue to represent the majority of criminal cases in the district courts until new East Timorese Public Defenders can commence work in mid-2006 (once the theoretical part of the JTC training program is concluded).

JSMP notes that all of the Judges who failed their evaluations appealed the results of their written examinations on 2 February 2005. The Superior Council of the Judiciary is yet to announce the results of the appeal. We also note that one of the appeal grounds raised doubts as to the quality of the translations of the written examination questions from Portuguese to Tetum and the answers from Tetum to Portuguese. We call on the Superior Council of the Judiciary to announce a decision on the appeal into the results of these examinations as soon as possible, and to publicly clarify the quality of the translation of the written examination questions and answers of the written examination answers. A public clarification about the veracity of these translations would help to remove lingering doubts about the quality of the Judges evaluations and new doubts about the Public Defenders and Prosecutors evaluations.

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