



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

Press Release

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**PROSECUTOR'S RECOMMENDATIONS OF SENTENCE FOR THE
DEFENDANT ROGÉRIO TIAGO LOBATO AND CO-ACCUSED IN THE CASE
OF ARMING CIVILIANS IN TIMOR LESTE**

The 8th hearing in the case of the distribution of weapons to civilians in Timor Leste involving the defendant Rogério Tiago Lobato and co-accused was conducted for the purpose of hearing the final recommendation of sentence from the prosecutor handling this case.

As per normal the hearing was presided over by international judges Ivo Nelson de Caires Rosa Batista and Teresa do Rosário together with national judge Antoninho Goncalves. The prosecution unit was represented by two international prosecutors, namely Bernardo C. Fernandes and Felismino Cardoso. JSMP observed that prosecutor Felismino Cardoso has rarely attended previous hearings. The prosecution unit has been delegating this task to prosecutor Bernardo. The defence was represented by lawyers Paulo dos Remedios, Nelson de Carvalho, and Luis, together with the lawyer representing the suspect Marcos Piedade a.k.a. Labadain.

The hearing of the prosecutor's final recommendation of sentence commenced at 2:10pm. After the hearing was officially opened by Judge Ivo Nelson de Caires Rosa Batista, the prosecution was immediately granted the opportunity to read out their recommendation of sentence against the defendants.

The international prosecutor read out the recommendation of sentence for each of the accused in a clear and firm manner, especially in relation to the defendant Rogerio Tiago Lobato. The prosecutor stated that the defendant had made a huge mistake that could not go unpunished by claiming that the law had allowed him as the then Minister of the Interior in charge of the PNTL to distribute weapons to civilians, as had been done by Brigadier General Taur Matan Ruak.

Therefore the prosecutor recommended that the defendant Rogerio Tiago Lobato be sentenced for the commission of three major crimes, namely the misuse of state facilities, illegal possession and distribution of weapons and the charge of

murder and attempted murder. The prosecutor recommended that the suspects Francisco Salsinha and Marcos Piedade a.k.a. Labadain be sentenced for illegal possession of weapons. However the prosecutor did not recommend a sentence against the defendant Francisco Xavier Viegas as the prosecutor believed that there was not one shred of evidence presented by the witnesses against this defendant. Thus the prosecutor requested for the panel of judges to take this matter into consideration and acquit this defendant.

In their recommendation of sentence for the defendant Rogério Tiago Lobato the prosecution mentioned in detail each article that was relevant for each charge brought against the defendant. The charge relating to misuse use of state facilities was made pursuant to Article 514 and Article 92 of the Penal Code. For the charge of illegal possession of firearms the Prosecutor relied on Article 4 (4 & 7) of UNTAET Regulation 5/2001. For the charge of murder and attempted murder the prosecutor charged the defendant with Article 338 and Article 53 of the Penal Code.

After the recommendation of sentence was read out by the prosecutor, the presiding judge invited the legal representatives of the defendants to present their final plea on behalf of their clients. After a long speech the legal representative for Rogerio Tiago Lobato, Francisco Salsinha and Francisco Xavier Viegas requested for the panel of judges to acquit the accused as he believed they were innocent. In support of his claim the legal representative attempted to present a portfolio of articles written by Portuguese political observers that demonstrated the presence of a third party in the riots that occurred in Timor Leste. However, prosecutor Bernardo strongly rejected the aforementioned articles pursuant to Article 133 of the Criminal Procedure Code as he believed them to merely state opinions that bear no consequence to the prosecutor's recommendation of sentence.

Nevertheless the panel of judges accepted the request of the defence for the aforementioned articles to be used as evidence to help establish the material facts pursuant to Article 277 of the Criminal Procedure Code which refers to the use of such articles or opinions.

The lawyer Benevides C. Barros, representing the defendant Marcos Piedade a.k.a. Labadain, claimed that the defence did not see Labadain as a killer even though he had been requested to kill. After hearing an appeal made by the government for civilians to hand in their guns, Labadain obediently handed in his gun to the Australian troops in a cooperative manner. This demonstrates that no criminal acts could be attributed to Labadain. Before handing down a final judgment against the defendant, the panel was requested to consider all the available facts.

JSMP deeply respects the decision of the prosecution to charge the defendants to ensure that in the future people can see that justice has been done, in spite of

the various opinions that have emerged along the way that suggested that justice was not served or was not appropriate.

JSMP also requests for the community to respect and value all decisions made to date as well as any decisions contained in the final judgment, as this in itself will ensure that justice can occur in a secure and peaceful Timor Leste. JSMP also requests for all members of the community to avoid bias interpretations of the law, as has been done by certain people or sections of the mass media by suggesting that Rogério Tiago Lobato will be sentenced to the maximum imprisonment of 32 years, as JSMP believes this legal interpretation to be quite erroneous. This is because the maximum sentence of imprisonment in Timor Leste is stated as *“a maximum sentence of 25 years imprisonment pursuant to Article 10(1^a) of UNTAET Regulation No.15/2000 on Serious Crimes in accordance with the applicable criminal procedure code in Timor Leste.”*

JSMP only wishes to remind everyone that the aforementioned hearing dealt with the recommendation of sentence made by the prosecution and the final plea made by the defence. On Wednesday, 7 March 2007, the court will announce its final decision in the case against the defendants of arming civilians in Timor Leste. We all hope that the court will use its wisdom and good conscience to reach a sound, fair and unbiased decision that is acceptable to all parties.

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