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Special Panels for Serious Crimes face further setback as International judge called home

Further delays are expected in the Special Panels for Serious Crimes in Dili, East Timor as yet another judge looks set to return home before finishing her cases. Judge Dora de Moraes from Brazil, who has been working on the Special Panel for Serious Crimes since the beginning of 2003, has been requested to return to Brazil to recommence her duties as judge in a Court in the province of Sao Paulo by the 1st November this year. Judge de Moraes' departure will dramatically curtail the work of the Special Panel for Serious Crimes at a crucial time in its mandate.

The premature return will result in one of the two panels who work exclusively hearing serious crimes cases having to stop work until a replacement is appointed.

"This is not the first time that an international judge returning home has meant that cases have had to be restarted. In the case of Judge Dora this means that under the law seven cases will need to start again. Unfortunately the recruitment and appointment of judges takes considerable time and we can expect significant delays if Judge Dora leaves." said JSMP

"The thing that must be remembered is this will result in violation of the accused's rights such as the right to personal freedom and right to a trial within a reasonable time. It will also ultimately create a delay in the accountability process in East Timor in bringing to justice people accused of gross violations of human rights and humanitarian law. Clearly this is unacceptable" continued JSMP

Currently the Special Panel for Serious Crimes is under considerable pressure to process cases in a timely manner given the past delays and possible limited time frame for the operation of the serious crimes process past May 2004.

The renewal of Judge Dora's contract was dependant upon Brazil's judicial authorities releasing her from her obligation to return to Brazil. Despite formal requests from the United Nations, the Ministry of Justice in East Timor and the Ambassador of Brazil in East Timor to allow Judge Dora to stay this has been refused by the Brazilian authorities.

"We understand that the Court in Brazil might face a shortage of judges and might need Judge Dora back to re-start her functions, but the consequence for the East Timorese justice system is enormous. This should weigh heavily in favour of allowing Judge Dora to continue in East Timor and to conclude the undergoing trials." - said JSMP

Recently, Brazil established an agreement with East Timor in the area of cooperation in the judicial sector. The denial of the request for the further stay of Judge Dora is against the general basis of cooperation.

"The Brazilian government should be proud to be able to provide assistance in this important process for bringing justice for East Timorese victims. We believe that the Brazilian authorities are not aware of the consequences and of the importance of the Special Panel in East Timor. We are still trying to understand the overriding reason for not allowing Judge Dora to continue participating in the Special Panel for Serious Crimes." - continued JSMP.

JSMP believes that an examination by the Government of East Timor and the United Nations on the restrictions provided by the law as it stands, and a greater focus on cooperation and planning by the UN, the East Timorese Government and the countries where international judges originate from may help to provide a longer term solution to this ongoing problem.