



JUDICIAL **SYSTEM** MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA **SISTEMA** JUDISIÁRIU

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JSMP requests that pardons and commutation of sentences should not be granted for transnational crimes, serious crimes, crimes against women and children and crimes of corruption

Prisoners have the right to a pardons and commutation of sentences and normally on significant dates the President of the Republic exercises his competence in accordance with the Timor-Leste Constitution¹ to grant pardons and commute sentences for prisoners who fulfil certain criteria, such as serving half of the sentence, the person is elderly, has displayed good behaviour, and for humanitarian reasons such as illness etc.

“JSMP acknowledges the Timor-Leste Constitution grants exclusive competence to the President of the Republic to grant pardons as the prerogative of the President. However, JSMP requests that pardons and commutation of sentences should not be granted for transnational or organised crime, serious crimes, crimes against women and children and crimes of corruption,” said the Executive Director of JSMP, Ms. Ana Paula Marçal.

In 2020 the Government, through the Ministry of Justice, presented and recommended a list of 184 prisoners to the President to be given pardons and commutation of sentences to commemorate the 18th anniversary of the restauration of independence. From this total, in May 2020, pursuant to Presidential Decree No. 41/2020, 28 May, the President of the Republic Francisco Guterres Lu Olo pardoned prisoners who mostly were serving sentences of a maximum four years in prison. 17 of them were released and 1 prisoner was given a partial pardon, even though this was during the State of Emergency. The President will grant pardons to other prisoners on significant dates such as 30 August this year.

JSMP believes that to guarantee and strengthen public confidence in the justice system, it is necessary to carefully consider pardons or an option for the President to gradually reduce a sentence, rather than totally commuting the prison sentence, which has been the practice to date.

In previous years, before the Law on Procedures for Pardons and Commutation of Sentences was discussed and approved, JSMP advocated that the aforementioned crimes should not be subject to pardons. At that time JSMP met with the benches in National Parliament and the members of

¹ Article 85 of the Timor-Leste Constitution on Competencies:

It is exclusively incumbent upon the President of the Republic: point (i) To grant pardons and commute sentences after consultation with the Government.

parliament agreed for the President not to grant pardons for transnational crimes, serious crimes, crimes against women and children and crimes of corruption, because if these crimes are pardoned it will certainly not be a good image for the democratic rule of law and the people.

The law on pardons was promulgated as Law No. 5/2016, 25 May, on the Procedures for Granting Pardons and Commutation of Sentences and this law states that pardons cannot be granted for the aforementioned crimes (Article 4 on crimes not subject to pardon)². JSMP hopes that on 30 August 2020, the President will make his decision in accordance with the aforementioned law.

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² Law No. 5/2016, 25 May, on the Procedures for Granting Pardons and Commutation of Sentences, Article 4 on crimes not subject to pardon.