

**BEFORE THE SPECIAL PANEL
FOR SERIOUS CRIMES**

DISTRICT COURT OF DILI



Case No: 03/2004

INDICTMENT

DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

-AGAINST-

**Lieutenant Colonel Djoko SOEHARSOYO [1]
Lieutenant Colonel Gustaf HERU [2]
First Lieutenant MINTON [3]
First Lieutenant Yusuf TANDI [4]
Head Sergeant Andreas PRAWIN [5]
Martinho FERNANDES [6]
Emiliano Joaquim GOMES [7]**

ORIGINAL IN ENGLISH

I. INDICTMENT

The Deputy General Prosecutor for Serious Crimes pursuant to his authority under UNTAET Regulations 2000/16 and 2000/30 as amended by UNTAET Regulation 2001/25 charges:

- Lieutenant Colonel Djoko SOEHARSOYO [1]**
- Lieutenant Colonel Gustaf HERU [2]**
- First Lieutenant MINTON [3]**
- First Lieutenant Yusuf TANDI [4]**
- Head Sergeant Andreas PRAWIN [5]**
- Martinho FERNANDES [6]**
- Emiliano Joaquim GOMES [7]**

-with-

**CRIMES AGAINST HUMANITY:
MURDER, TORTURE, DEPORTATION OR FORCIBLE TRANSFER OF
POPULATION & PERSECUTION**

II. NAMES AND PARTICULARS OF THE ACCUSED

- [1] Name: **Lieutenant Colonel Djoko SOEHARSOYO
aka Joko SUHARSOYO**
Place of Birth: **Java, Indonesia**
Date of Birth: **Not Known**
Nationality: **Indonesian**
Address: **Believed to be in Indonesia**
Position held in 1999: **TNI District Military Commander KODIM 1630 until
15 August 1999**
- [2] Name: **Lieutenant Colonel Gustaf HERU**
Place of Birth: **Indonesia**
Date of Birth: **Not Known**
Nationality: **Indonesian**
Address: **Believed to be in Indonesia**
Position held in 1999: **TNI District Military Commander KODIM 1630 from
15 August 1999**
- [3] Name: **First Lieutenant MINTON**
Place of Birth: **Sumatra, Indonesia**
Date of Birth: **Not Known**
Nationality: **Indonesian**
Address: **Believed to be in Indonesia**
Position held in 1999: **TNI KOPASSUS Commander KODIM 1630**
- [4] Name: **First Lieutenant Yusuf TANDI**
Place of Birth: **Manado, North Sulawesi, Indonesia**
Date of Birth: **Not Known**
Nationality: **Indonesian**
Address: **Believed to be in Indonesia**
Position held in 1999: **TNI Intelligence Section Head KODIM 1630**

[5] Name: **Head Sergeant Andreas PRAWIN**
 Place of Birth: Flores, Indonesia
 Date of Birth: Not Known
 Nationality: Indonesian
 Address: Believed to be in Indonesia
 Position held in 1999: TNI soldier KODIM 1630 Intelligence Section (Registration Number 502781); & Village Guidance Officer Caraubalo, Viqueque, Viqueque

[6] Name: **Martinho FERNANDES**
 Place of Birth: East Timor
 Date of Birth: About 52 in 1999
 Nationality: East Timorese
 Address: Believed to be in Bali, Indonesia
 Position held in 1999: Acting District Administrator Viqueque (officially appointed on 24 August 1999); Commander of *Makikit* militia; Head of Forum for Democracy and Justice Viqueque; & Honorary member of KOPASSUS

[7] Name: **Emiliano Joaquim GOMES**
 Place of Birth: Viqueque, East Timor
 Date of Birth: Not Known
 Nationality: East Timorese
 Address: Believed to be in Kupang, West Timor, Indonesia
 Position held in 1999: 2nd Assistant to the District Administrator; Deputy Commander of *Makikit* militia; Deputy Head of Forum for Democracy and Justice Viqueque; & Honorary member of KOPASSUS

III. INTRODUCTORY STATEMENT OF FACTS

1. A widespread and systematic attack directed against the civilian population was committed in East Timor in 1999. The attack occurred during two interconnected periods of intensified violence. The first period followed the announcement on 27 January 1999 by the Government of Indonesia that the people of East Timor would be allowed to choose between autonomy within the Republic of Indonesia or independence in what became known as the popular consultation. This period ended on 4 September 1999 the date of the announcement of the result of the popular consultation in which 78.5 per cent of the population of East Timor voted against the autonomy proposal. The second period followed the announcement of the result of the popular consultation through to 25 October 1999.
2. The widespread and systematic attack was part of an orchestrated campaign of violence, that included, among other things, threats to life, intimidation, unlawful confinements, assaults, forced displacements, arsons, murders, rapes, torture and other forms of violence carried out by members of the pro-autonomy militias, members of the Armed Forces of Indonesia [*Angkatan Bersenjata Republik Indonesia – ABRI*]; renamed the Indonesian National Army [*Tentara Nasional Indonesia – TNI* – from April 1999, hereafter “TNI” in all instances] and members of the Indonesian Police Force [*Polisi Republik Indonesia – POLRI*] with the acquiescence and active participation of civilian, police and military authorities.
3. The widespread and systematic attack was directed against civilians of all ages but predominantly against individuals who were believed to be independence supporters. Those persons who were believed to be active members of the National Council of Timorese Resistance [*Conselho Nacional da Resistencia Timorese – CNRT*] were targeted in particular. These individuals were subject to arbitrary arrests and detentions, rape, assaults and murder. In addition, the deportation or forcible transfer of a large part of the civilian population to West Timor, Indonesia, and within East Timor was an essential feature of the orchestrated campaign of violence.

4. The TNI in East Timor consisted of both regular territorial forces and special combat forces, i.e., the Strategic Reserve Command [*Komando Cadangan Strategis Angkatan Darat* – KOSTRAD] and Special Forces Command [*Komando Pasukan Khusus* – KOPASSUS], all of which had units, staff officers and soldiers stationed in East Timor, including Viqueque district.
5. In 1999, the TNI's territorial unit in East Timor was Sub-regional Military Command 164 [*Komando Resort Militer 164* – KOREM 164] with its headquarters based in Dili. A DANREM [*Komandan KOREM*] commanded the KOREM.
6. During 1999, there was one District Military Command [*Komando Distrik Militer* – KODIM] in each of the 13 districts of East Timor. Specifically KODIM 1630 was located in Viqueque town, Viqueque district.
7. Each of these KODIM had responsibility over the Sub-district Military Commands [*Komando Rayon Militer* – KORAMIL], which were headquartered in the sub-districts throughout East Timor.
8. The Indonesian Police Force [POLRI] was the state agency responsible for upholding law and public order. POLRI was part of the Armed Forces of Indonesia until 1 April 1999. On this date POLRI was formally separated from the Armed Forces of Indonesia, or the Indonesian National Army [TNI], as it was then renamed.
9. During 1999, more than 25 militia groups operated throughout East Timor. Their aim, to be achieved through intimidation and violence, was to persuade the population of East Timor to support the option of autonomy at the popular consultation. Specifically, *59/75 Junior* and *Makikit* militias operated in Viqueque district during 1999.

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10. In the period leading up to the popular consultation, the Government of Indonesia and the TNI were instrumental in establishing these pro-Indonesia militias. They provided funding, training, weapons and other forms of material support to these militias. In some districts, TNI commanders appointed their TNI subordinates to lead militia groups.
 11. TNI commanders in the districts of East Timor ordered and directed the militia in their conduct. The militia groups, with the support and assistance of the TNI and acting together with TNI soldiers, participated in the widespread and systematic attack against the civilian population.
 12. TNI and civilian government officials helped establish an umbrella organisation under which all militia groups were organised. The organisation was called the Integration Fighters' Force [*Pasukan Pejuang Intergrasi – PPI*]. Joao Tavares was the commander of PPI and Eurico Guterres was deputy commander.
 13. Under the terms of the *5 May Agreements*, between the United Nations and the governments of Indonesia and Portugal; the Indonesian security authorities, both TNI and POLRI, had the responsibility to ensure a safe environment devoid of violence or other forms of intimidation as well as to ensure the general maintenance of law and order before, during and after the popular consultation.
 14. During 1999, the TNI and POLRI failed to meet these obligations. They made no attempt to disarm or neutralize the militia groups and allowed the militia groups to act with impunity throughout East Timor.

IV. SPECIFIC STATEMENT OF FACTS

BACKGROUND FACTS

15. Viqueque is one of the 13 districts of East Timor and is comprised of five sub-districts namely: Viqueque, Ossu, Lacluta, Uatolari and Uatocarabau.

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16. In 1999, **Lieutenant Colonel Djoko SOEHARSOYO [1]** aka **Joko SUHARSOYO** was the TNI District Military Commander Viqueque [*Komandan* KODIM 1630 – DANDIM 1630] and had effective command and control over all TNI soldiers stationed in Viqueque district during 1999 until he was relieved of his command on or about 15 August 1999.
 17. **Lieutenant Colonel Gustaf HERU [2]** replaced **Djoko SOEHARSOYO [1]** as the TNI Commander of the District Military Command Viqueque [KODIM 1630] from on or about 15 August 1999 and had effective command and control over all TNI soldiers stationed in Viqueque district from that time.
 18. **First Lieutenant MINTON [3]** was the Viqueque district KOPASSUS commander and had effective command and control over all subordinate TNI soldiers stationed in Viqueque district during 1999.
 19. **First Lieutenant Yusuf TANDI [4]** was the TNI Intelligence Section Head at KODIM 1630 and had effective command and control over all subordinate TNI Intelligence Section soldiers stationed in Viqueque district during 1999.
 20. **Head Sergeant Andreas PRAWIN [5]** was a TNI soldier with the Intelligence Section at KODIM 1630. **Andreas PRAWIN [5]** had effective command and control over all subordinate TNI Intelligence Section soldiers stationed in Viqueque district during 1999.
 21. Before 1999, the TNI formed militia groups in East Timor, including civil defence militias called HANSIP [*Pertahanan Sipil*]. These groups were usually trained in the use of weapons and armed by KOPASSUS.
 22. The HANSIP militia group *Makikit* [Eagle] was active in Viqueque district from about 1984. *Makikit* was part of the TNI and was created and trained by KOPASSUS. *Makikit* worked in cooperation with the TNI, particularly with KOPASSUS, to locate soldiers from the Armed Forces for the National Liberation of East Timor [FALINTIL] in and around Viqueque district.

- 23. At the beginning of 1999, a new militia group was formed in Viqueque district and was called *59/75 Junior*. The reason for creating this new militia group was to intimidate and persuade the people of Viqueque district to vote for the autonomy option at the popular consultation. The *59/75 Junior* militia was formed with the active support of the TNI and district administration.
- 24. Many members of *59/75 Junior* militia were also active or former members of the *Makikit* militia. During 1999, the *Makikit* and *59/75 Junior* militias undertook joint operations in and around Viqueque town acting as one militia group.
- 25. As a result of the TNI's superior relationship to the *Makikit* and *59/75 Junior* militias, the TNI had effective command and control over the *Makikit* and *59/75 Junior* militias in Viqueque district throughout 1999.
- 26. In 1999, **Martinho FERNANDES [6]** was the commander of the *Makikit* militia and had effective command and control over its members. As a result of the *Makikit* militia's relationship with the *59/75 Junior* militia, **Martinho FERNANDES [6]** also had effective command and control over the *59/75 Junior* militia.
- 27. **Emiliano Joaquim GOMES [7]** was the deputy commander of the *Makikit* militia and had effective command and control over its members. As a result of the *Makikit* militia's relationship with the *59/75 Junior* militia, **Emiliano Joaquim GOMES [7]** also had effective command and control over the *59/75 Junior* militia.
- 28. Both **Martinho FERNANDES [6]** and **Emiliano Joaquim GOMES [7]** were honorary members of KOPASSUS, a privilege awarded to individuals who had earned the trust and respect of the TNI for their support in fighting against East Timorese resistance to Indonesian occupation.
- 29. During 1999, **Martinho FERNANDES [6]** was also acting District Administrator [BUPATI] for Viqueque district. He was officially appointed to the position on or about 24 August 1999. **Emiliano Joaquim GOMES [7]** was 2nd Assistant to the BUPATI and worked at the District Administrator's office.

FORMATION OF THE 59/75 JUNIOR MILITIA

30. Sometime at the beginning of 1999, Filomeno SARMENTO, a civil servant with the district administration in Viqueque, attended a meeting at the TNI Sub-regional Military Command 164 headquarters in Dili. He also met with the Governor of East Timor, Abilio Soares at about this time.
31. Upon Filomeno SARMENTO's return to Viqueque district, he met with many people to organize the new militia group, *59/75 Junior*. It was these people who became the members and leaders of the *59/75 Junior* militia in Viqueque district, including Filomeno SARMENTO who was joint Battalion Commander of the *59/75 Junior* militia.
32. The *59/75 Junior* militia was also known as the *Pasukan Pejuang Intergrasi* [PPI – Integration Fighters' Force], *Barisan Pejuang Intergrasi* [BPI – Integration Fighters' Front], *Naga Merah* [Red Dragon] and *Besi Merah* [Red Iron].
33. On or about 10 April 1999, the *59/75 Junior* militia was formally inaugurated in Viqueque district. The inauguration ceremony was held in the centre of Viqueque town directly opposite KODIM 1630. Present at the ceremony, among others, were: **Djoko SOEHARSOYO [1]**; **MINTON [3]**; **Yusuf TANDI [4]**; **Andreas PRAWIN [5]**; **Martinho FERNANDES [6]**; and the leaders and members of *59/75 Junior* and *Makikit* militias.
34. Also present at the ceremony was Eurico Guterres, who was the deputy commander of the Integration Fighters' Force [PPI] and commander of the *Aitarak* militia, Cancio Lopes de Carvalho, commander of the *Mahidi* militia, and Joanico Belo, commander of the *Tim Saka* militia. Eurico Guterres was flown to and from the inauguration ceremony in a TNI helicopter. **Djoko SOEHARSOYO [1]** and **Martinho FERNANDES [6]** walked from KODIM 1630 to the ceremony in the company of Eurico Guterres, Cancio Lopes de Carvalho and Joanico Belo.

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35. During the ceremony Eurico Guterres made a speech in which he stated that East Timor would remain integrated with Indonesia, dead or alive. He continued, stating that all civil servants were required to support autonomy and if they refused the *59/75 Junior* militia would arrest them. He also stated that those people who did not support the autonomy option at the popular consultation would be killed.
 36. The leaders of the *59/75 Junior* militia invited specific individuals to attend the militia inauguration. Those that did not attend were put on a list as being independence supporters. This list determined who would be killed.

TNI AND DISTRICT ADMINISTRATION'S CONTROL OF, AND SUPPORT FOR, THE MILITIAS

37. During 1999, the *Makikit* and *59/75 Junior* militias, acting together with TNI soldiers and the district administration, carried out a widespread and systematic attack against the civilian population of Viqueque.
38. The *59/75 Junior* and *Makikit* militias worked in close cooperation with the TNI and the district administration in Viqueque district. The TNI and the district administration supported the militias' activities allowing the commanders and members of the *59/75 Junior* and *Makikit* militias to commit acts of violence against the civilian population of Viqueque district with impunity.
39. Sometime at the beginning of 1999, **Djoko SOEHARSOYO [1]** assigned KOPASSUS soldiers to lead and control the newly created militia group, *59/75 Junior*. **Djoko SOEHARSOYO [1]** explained to the KOPASSUS soldiers that the purpose of the militia was to suppress, by force if necessary, independence supporters from promoting the independence campaign and to use threats and intimidation in order to convince people to vote for the autonomy option at the popular consultation.
40. **Djoko SOEHARSOYO [1]** told the KOPASSUS soldiers to report directly to him on militia activities. **MINTON [3]**, the KOPASSUS Commander for Viqueque district, was second in command of militia activities.

- 41. **Djoko SOEHARSOYO [1], Gustaf HERU [2], MINTON [3]** and other TNI soldiers planned many of the crimes that the *59/75 Junior* and *Makikit* militias committed. TNI soldiers from KODIM 1630 and *59/75 Junior* and *Makikit* militia members undertook joint operations against independence supporters.

- 42. **MINTON [3]** worked directly with soldiers from KODIM 1630's intelligence section, including **Yusuf TANDI [4]** and **Andreas PRAWIN [5]**, as well as the leaders of the militias, including **Martinho FERNANDES [6]** and **Emiliano Joaquim GOMES [7]**, planning arrests, tortures and killings of independence supporters. They also planned the destruction of property and deportations or forcible transfers of the population of Viqueque district.

- 43. These crimes were planned at regular meetings. **MINTON [3], Yusuf TANDI [4]** and **Andreas PRAWIN [5]** attended these meetings with the leaders of *59/75 Junior* and *Makikit* militias. **Martinho FERNANDES [6]** and **Emiliano Joaquim GOMES [7]** also attended these meetings.

- 44. During 1999, **Djoko SOEHARSOYO [1], MINTON [3], Yusuf TANDI [4], Andreas PRAWIN [5]** and **Martinho FERNANDES [6]** all ordered *59/75 Junior* militia members to kill independence supporters. **Djoko SOEHARSOYO [1]** specifically ordered Antero SARMENTO aka Antero AIN A'AT, a civil servant working with the TNI and the other joint Battalion Commander of the *59/75 Junior* militia, to kill independence supporters. **Yusuf TANDI [4]** and **Andreas PRAWIN [5]** also ordered Antero SARMENTO to intimidate and arrest independence supporters. **Gustaf HERU [2]** ordered TNI soldiers from KODIM 1630 and the leaders of the militias to destroy all buildings and other property in Viqueque district following the announcement of the result of the popular consultation.

- 45. **Djoko SOEHARSOYO [1]**, as Commander of KODIM 1630, gave automatic rifles to *59/75 Junior* militia leaders. Both **Martinho FERNANDES [6]** and **Emiliano Joaquim GOMES [7]** also had automatic rifles issued by the TNI in 1999.

46. During the lead up to the popular consultation, **Martinho FERNANDES [6]**, as District Administrator, received money from the Indonesian Government to promote the autonomy option at the popular consultation. This promotion was known as the socialization of autonomy. Some of this money, allocated at the discretion of **Martinho FERNANDES [6]** and **Emiliano Joaquim GOMES [7]**, was given directly to the leaders of the *59/75 Junior* militia.
47. Filomeno SARMENTO and Alvaro de JESUS, who was Deputy Battalion Commander of the *59/75 Junior* militia, would prepare requests for money, which would then be authorized for payment by **Martinho FERNANDES [6]**. *59/75 Junior* militia members were paid about 250,000 Indonesian rupiah per month. Alvaro de JESUS would pay the money to the militia members.
48. The Council for Provincial Government was the forum to which citizens could lodge complaints. **Djoko SOEHARSOYO [1]**, as District Military Commander KODIM 1630, and **Martinho FERNANDES [6]**, as District Administrator, both attended Council for Provincial Government meetings in Viqueque. In early August 1999 the issue of militia killings was specifically raised at a Council meeting. Both **Djoko SOEHARSOYO [1]** and **Martinho FERNANDES [6]**, who attended this meeting with **Yusuf TANDI [4]**, told the people of Viqueque they were safe. However, **Djoko SOEHARSOYO [1]**, **Martinho FERNANDES [6]** and **Yusuf TANDI [4]** did nothing to stop the militia violence in Viqueque district. Several days after this meeting, TNI soldiers from KODIM 1630, *59/75 Junior* and *Makikit* militia members killed three people in Viqueque town.

MURDER OF DOMINGOS SOARES APARICIO (3 MAY 1999)

49. Domingos Soares Aparicio was an influential independence supporter. Sometime in the afternoon on or about 3 May 1999, Aparicio was arrested by *59/75 Junior* and *Makikit* militia members and taken to a community building, which the militia used as a base. The building was next to the sports field in old Viqueque town and about 200 meters from KODIM 1630.

50. The following *59/75 Junior* and *Makikit* militia members, among others, participated in the arrest: Antero SARMENTO, Alvaro de JESUS as well as Celestino Joao SEGURADO, Francisco MAKEREREK aka Sicu MAKEREREK, both *59/75 Junior* platoon leaders, and Antonio ALVES aka Antonio MAKAU an active *59/75 Junior* militia member. After the militia members arrested Aparicio, Antero SARMENTO ordered the militia to take him to the militia base.
51. While held at the militia base, Aparicio was repeatedly beaten with sticks, punched and kicked by TNI soldiers, *59/75 Junior* and *Makikit* militia members until his body and face were swollen, bruised and red.
52. The following TNI soldiers, *59/75 Junior* and *Makikit* militia members, among others, were at the militia base: **MINTON [3]**, **Yusuf TANDI [4]**, **Andreas PRAWIN [5]**, Filomeno SARMENTO, Antero SARMENTO, Alvaro de JESUS, Jose Gomes BAPTISTA, Deputy Company Commander of the *59/75 Junior* militia, Vicente PINTO, another *59/75 Junior* militia platoon leader, Celestino Joao SEGURADO, Francisco MAKEREREK and Antonio ALVES as well as Vasco GOMES and Fahik ABA aka Lela RUBIK, who were both active *59/75 Junior* militia members.
53. Filomeno SARMENTO and Alvaro de JESUS punched and kicked Aparicio. Jose Gomes BAPTISTA and **MINTON [3]** burned him with cigarettes.
54. Francisco MAKEREREK and Antonio ALVES beat Aparicio with sticks.
55. **Andreas PRAWIN [5]**, Filomeno SARMENTO, Antero SARMENTO and Alvaro de JESUS all questioned Aparicio during his detention and torture.
56. **Andreas PRAWIN [5]**, Filomeno SARMENTO, Antero SARMENTO and Alvaro de JESUS asked Aparicio, among other things, if he wanted independence or autonomy. Aparicio answered yes to everything he was asked and was beaten repeatedly.

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57. A short time later, **Yusuf TANDI [4]** said to **MINTON [3]** that Aparicio admitted he was an independence supporter and as such would be killed.
 58. Later that evening, Filomeno SARMENTO, Alvaro de JESUS and Jose Gomes BAPTISTA ordered Celestino Joao SEGURADO and his *59/75 Junior* and *Makikit* militia members to go Beobe Cemetery.
 59. At the cemetery, Celestino Joao SEGURADO ordered some *59/75 Junior* and *Makikit* militia members to dig a grave.
 60. A short time later, *59/75 Junior* and *Makikit* militia members took Aparicio to the Beobe Cemetery. At the cemetery Aparicio was blindfolded and his hands were tied behind his back. He was led to the gravesite, which had been dug by the militia.
 61. Once at the gravesite, Aparicio was pushed into the grave. The *59/75 Junior* and *Makikit* militia members present then took turns to stab Domingos Soares Aparicio with a sword. The militia members who stabbed Aparicio were, among others, Jose Gomes BAPTISTA, Vicente PINTO, Celestino Joao SEGURADO, Francisco MAKEREK, Antonio ALVES, Vasco GOMES and Fahik ABA.
 62. A militiaman then said to the *59/75 Junior* and *Makikit* militia members present to fill in the grave. Vicente PINTO and Fahik ABA, among others, filled in the grave.

MURDER OF MATEUS SOARES MUNIS BERE (4 MAY 1999)

63. Mateus Soares Munis Bere was an independence supporter. On or about 4 May 1999, Bere was in old Viqueque town. Sometime in the afternoon he was standing outside a shop when a group of *59/75 Junior* militia members approached him. Among the group was Celestino Joao SEGURADO.

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64. One of the militia members present ordered Bere to accompany him to the militia office. Bere refused. The militia member then hit Bere on his back with a metal rod. Bere fell to the ground and the militia members picked him up by his arms and dragged him towards a community building, which was used by the militia as a base. The building was next to the sports field in old Viqueque town and about 200 meters from KODIM 1630. While dragging Bere towards the militia base, the militia members kicked and punched him. At the time of his arrest Bere was carrying an East Timor independence document.
 65. Later that evening, Bere was seen at the back of Filomeno SARMENTO's house in Beobe, which was the 59/75 Junior militia's headquarters. Bere's face and body was bruised. Among the 59/75 Junior militia members present at the house were Filomeno SARMENTO, Antero SARMENTO and Alvaro de JESUS who were standing around Bere.
 66. Bere died that evening. Vicente PINTO and another militiaman were seen carrying the body of Bere from the militia's headquarters. Bere's body was later recovered from a shallow grave at Beobe near the headquarters.

MURDER OF FERNANDO DE JESUS SOARES (10 MAY 1999)

67. Fernando de Jesus Soares was a resident of Bibileo village. On or about 10 May 1999, Fernando Soares was riding his bicycle near the KOPASSUS post at Buikarin. At this time, 59/75 Junior militia members Vicente PINTO, Vasco GOMES, Armandio Soares aka Akai, Kai Funuk and Kai Lakuk approached Fernando Soares and grabbed hold of him. Vicente PINTO, Vasco GOMES and the other three militiamen then dragged Fernando Soares to the ground, shouting "kill him".
68. Vicente PINTO, Vasco GOMES and the other three militiamen started to hit Fernando Soares with sticks. These sticks were about one meter in length. They were also kicking Fernando Soares and stomping on his body and head while he was lying on the ground.

Vicente PINTO, Vasco GOMES and the other three militiamen beat Fernando Soares for a long time. Fernando Soares was bleeding from his eyes, ears and mouth and had been screaming until he lost consciousness.

After this, Vicente PINTO, Vasco GOMES and the other three militiamen dragged Fernando Soares to the KOPASSUS post. They continued beating him while they dragged him there. When they reached the KOPASSUS post, they took Fernando Soares inside. Fernando Soares was beaten to death by the militia and buried at Beobe Cemetery. Fernando Soares has not been seen since.

IRDER OF ELDEFONSO FERREIRA (27 JUNE 1999)

- 1. Eldefonso Ferreira was an independence supporter. On or about 10 April 1999, 59/75 Junior militia leaders Filomeno SARMENTO, Antero SARMENTO and Alvaro de JESUS went to Ferreira's house, with other armed militia members, including Antonio ALVES. At the house they asked Ferreira's wife where her husband was, stating that they knew he was working for FALINTIL.
- 2. On or about 27 June 1999, Ferreira and 13 other men were hiding from the militia at Anawain, Viqueque. On that day a group of armed 59/75 Junior militia members, including Antonio ALVES and Fahik ABA, arrived at Ferreira's hiding place. Antonio ALVES was armed with a sword. Fahik ABA was armed with a machete.
- 3. When the militia arrived at the hiding place, Ferreira and other men fled. While Ferreira was running away, a militiaman threw a rock at him hitting him and causing him to fall down. Militia members, including Antonio ALVES and Fahik ABA, grabbed hold of Ferreira and repeatedly stabbed him. The mutilated body of Ferreira was later recovered from a mud pit near where the militia had attacked him.

MURDER OF CARLOS SARMENTO, ROGERIO AMARAL AND MARIANO SOARES
(11 AUGUST 1999)

74. On or about 10 August 1999, the University Students Solidarity Council of East Timor [*Dewan Solidaritas Mahasiswa*] officially opened a students' centre in Viqueque town at the Barcelona Store. The centre was located at Beloi on the main road in the northern part of Viqueque town next to the Cuha River. The Solidarity Council intended to use the centre as a base while promoting the independence vote in Viqueque district.
75. Sometime in the evening, on or about 10 August 1999, *59/75 Junior* militia members, including Filomeno SARMENTO and Manuel da SILVA aka MANARUSA, an active member of the militia and a civil servant working for KOPASSUS, attended at the students' centre. At this time, Manuel da SILVA fired a homemade gun into the ceiling of the building causing the people there to flee. However, the militia caught and detained Josefina Baptiste who had been at the centre. Filomeno SARMENTO asked Baptiste where the students kept their guns and grenades. Manuel da SILVA kicked Baptiste. Filomeno SARMENTO then ordered Baptiste's release.
76. On or about the morning of 11 August 1999, *59/75 Junior* and *Makikit* militia members met with TNI soldiers. That same morning a large group of independence supporters gathered at the students' centre and erected a roadblock. The people at the roadblock were armed with swords, spears and slingshots.
77. *59/75 Junior* and *Makikit* militia members, with Filomeno SARMENTO in command, walked towards the roadblock having come from a TNI compound, which was located about 400 meters south of the students' centre on the same section of road. The *59/75 Junior* and *Makikit* militia members were armed with homemade guns, which they fired at the people gathered at the roadblock.
78. When the militia arrived at the roadblock the people gathered there threw stones at them. The militia members retreated and returned to the TNI compound.

Immediately thereafter, the *59/75 Junior* and *Makikit* militia members returned to the roadblock with TNI soldiers, including **MINTON [3]**, **Yusuf TANDI [4]** and **Andreas PRAWIN [5]**. The TNI soldiers were armed with automatic rifles. Some *59/75 Junior* and *Makikit* militia members were now also armed with automatic rifles.

Yusuf TANDI [4] ordered the TNI soldiers and militia members to shoot at the people gathered at the roadblock. Filomeno SARMENTO ordered the militia to shoot also. TNI soldiers, including **Yusuf TANDI [4]** and **Andreas PRAWIN [5]**, *59/75 Junior* and *Makikit* militia members shot at the people gathered at the roadblock and shouted insults about independence. After the TNI soldiers and militia members started firing, the people gathered at the roadblock fled.

1. On or about 11 August 1999, Rogerio Amaral was in Beloi near the roadblock. Amaral was throwing rocks at the TNI soldiers and militia. The TNI soldiers and militia members started shooting at him. He was shot and fell to the ground. Amaral died as a result of his injuries.
2. Later that day Francisco MAKEREK ordered his militia members to secure a gravesite behind the militia headquarters in Beobe. Filomeno SARMENTO and other militia members retrieved Amaral's body. Filomeno SARMENTO ordered the militia to bury Amaral's body behind the militia headquarters in Beobe.
33. On or about 11 August 1999, Mariano Soares was in Beloi near the roadblock. When the TNI soldiers and militia members started shooting, Mariano Soares ran east across the Cuha riverbed and up a hill on the eastern riverbank.
84. At that time **MINTON [3]**, **Yusuf TANDI [4]** and **Andreas PRAWIN [5]**, who were near the roadblock, ordered TNI soldiers and militia members to shoot Mariano Soares. TNI soldiers, including **Yusuf TANDI [4]** and **Andreas PRAWIN [5]**, and militia members started shooting at Mariano Soares.
85. Mariano Soares was shot in the back of the head and fell down. Mariano Soares died as a result of his injuries and was buried the following day.

6. On or about 11 August 1999, Carlos Sarmiento was in Beloi near the roadblock. When the TNI soldiers and militia members started shooting, he ran northwest towards the mountains. TNI soldiers and militia members, including **Andreas PRAWIN [5]** and Manuel da SILVA, followed Sarmiento and were firing automatic rifles at him.
37. **Andreas PRAWIN [5]** and Manuel da SILVA shot Sarmiento causing him to fall down. Manuel da SILVA proceeded up to where Sarmiento was and shot him at close range. Sarmiento died as a result of his injuries and was buried the following day.

MURDER OF MARIA MARTINS (18 SEPTEMBER 1999)

88. From about mid-September 1999, TNI soldiers, *59/75 Junior* and *Makikit* militia members threatened many people in each sub-district of Viqueque and forced them to go to Beaco port; loaded them onto Indonesian naval ships; and transported them to West Timor, Indonesia. Residents of Beaco were ordered by TNI soldiers and militia to go to West Timor or they would be killed.
89. Maria Martins was a resident of Beaco and an elderly invalid. When TNI soldiers and militia members came to Beaco to transport the residents to West Timor, Martins did not leave her house. Sometime in the early afternoon on or about 18 September 1999, TNI soldiers and militia, some carrying automatic rifles, started burning the houses in Beaco. Martins' house was one of those set on fire.
90. Martins was still in her house when it was set on fire and attempted to crawl away, however, before she was able to do so, her hair and clothes caught fire. Later that day Martins' burnt body was found near the ruins of her house and buried at Beaco's cemetery.

DESTRUCTION OF PROPERTY

- 91. On or about 15 August 1999, **Gustaf HERU [2]** replaced **Djoko SOEHARSOYO [1]** as the District Military Commander of KODIM 1630. Sometime thereafter **Gustaf HERU [2]** held a meeting with TNI soldiers at KODIM 1630. He told the TNI soldiers that because East Timor would be independent, destroy all property, houses and buildings in Viqueque district as they belong to Indonesia. On or about 6 September 1999, **Yusuf TANDI [4]** ordered TNI soldiers from KODIM 1630 to burn the houses at Uaimori, Viqueque district.
- 92. **Gustaf HERU [2]** also had a meeting with **MINTON [3]**, **Martinho FERNANDES [6]**, **Filomeno SARMENTO**, **Antero SARMENTO** and **Alvaro de JESUS**, among others, where they agreed to burn all the houses and buildings in Viqueque district.
- 93. Between the announcement of the popular consultation on 4 September 1999 and 25 October 1999, TNI soldiers, *59/75 Junior* and *Makikit* militia members destroyed over 1900 buildings and houses throughout Viqueque district by arson.

DEPORTATION OR FORCIBLE TRANSFER

- 94. Following the announcement of the popular consultation on 4 September 1999 TNI soldiers in Viqueque district began to register people for travel to West Timor, Indonesia.
- 95. The people of Viqueque district were required to go to KODIM 1630 to register their names and the number of family members who would travel. If the people did not register, they were visited by TNI soldiers, *59/75 Junior* and *Makikit* militia members and threatened. People were told that they should leave Viqueque district or they would be killed. After registration, the civilians were informed by TNI soldiers to return to their homes and that they would be collected later.

96. On or about 10 September 1999 the deportation or forcible transfer of the civilian population of Viqueque began. Many travelled by civilian or military vehicles to Beaco port from where they were transported to West Timor by Indonesian military ships.

PERSECUTION

97. Between 1 January 1999 and 25 October 1999, TNI soldiers, *59/75 Junior* and *Makikit* militia members persecuted the civilian population of Viqueque district East Timor. The persecution violated the fundamental rights of civilians by discriminatory acts against those who were believed to be supporters of East Timor's independence, and after the announcement of the popular consultation, against all East Timorese as an act of revenge for voting against the autonomy proposal. The persecution included the following acts:

- a. Murder as described in paragraphs **49 to 90** of this indictment;
- b. Torture as described in paragraphs **49 to 62** of this indictment;
- c. Widespread and systematic destruction of personal property, buildings, houses and other infrastructure as described in paragraphs **88 to 93** of this indictment. Most buildings were destroyed by arson and occurred in the towns, villages and sub-villages of Viqueque sub-district, Lacluta sub-district, Ossu sub-district and Uatolari sub-district, located in Viqueque district East Timor;
- d. Deportation or forcible transfer of parts of the civilian population of Viqueque district as described in paragraphs **88 to 90** and paragraphs **94 to 96** of this indictment; and
- e. The denial of the right to employment, freedom of movement and proper judicial process as described in paragraphs **1 to 96** of this indictment.

V. GENERAL ALLEGATIONS

CRIMES AGAINST HUMANITY

For each count charging crimes against humanity under Section 5 UNTAET Regulation 2000/15, the acts and omissions of **Lieutenant Colonel Djoko SOEHARSOYO [1]**, **Lieutenant Colonel Gustaf HERU [2]**, **First Lieutenant MINTON [3]**, **First Lieutenant Yusuf TANDI [4]**, **Head Sergeant Andreas PRAWIN [5]**, **Martinho FERNANDES [6]** and **Emiliano Joaquim GOMES [7]**, as described in this indictment, were undertaken as part of the widespread and systematic attack directed against the civilian population of Viqueque district East Timor, targeting in particular those who were believed to be supporters of independence for East Timor, and each accused had knowledge of the attack.

INDIVIDUAL CRIMINAL RESPONSIBILITY

Lieutenant Colonel Djoko SOEHARSOYO [1], **Lieutenant Colonel Gustaf HERU [2]**, **First Lieutenant MINTON [3]**, **First Lieutenant Yusuf TANDI [4]**, **Head Sergeant Andreas PRAWIN [5]**, **Martinho FERNANDES [6]** and **Emiliano Joaquim GOMES [7]** are individually responsible as co-perpetrators for the commission of crimes against humanity by a group of persons acting with a common criminal purpose; as they each committed; ordered, solicited or induced; and aided and abetted the commission of these crimes, and each, acting with a common purpose, contributed to the commission of these crimes, as detailed in this indictment pursuant to Section 14 of UNTAET Regulation 2000/15.

Section 14.3 of UNTAET Regulation 2000/15 states, among other things, that an individual shall be criminally responsible and liable for punishment for a crime if that person:

- ... (a) commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;*
- (b) orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;*
- (c) for the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission;*

(d) in any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

- (i) be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the panels; or
- (ii) be made in the knowledge of the intention of the group to commit the crime ...

RESPONSIBILITY OF COMMANDERS AND OTHER SUPERIORS

Lieutenant Colonel Djoko SOEHARSOYO [1], Lieutenant Colonel Gustaf HERU [2], First Lieutenant MINTON [3], First Lieutenant Yusuf TANDI [4], Head Sergeant Andreas PRAWIN [5], Martinho FERNANDES [6] and Emiliano Joaquim GOMES [7] are criminally responsible for the crimes of their subordinates alleged in this indictment pursuant to Section 16 of UNTAET Regulation 2000/15. Section 16 states that, a superior is responsible for the criminal acts of his subordinates if he:

... knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrator thereof.

VI. CHARGES AGAINST THE ACCUSED

Pursuant to the above, the Deputy General Prosecutor for Serious Crimes charges:

COUNT 1: CRIMES AGAINST HUMANITY – MURDER

By their acts and omissions in relation to the events described in paragraphs 15 to 87 of this indictment Lieutenant Colonel Djoko SOEHARSOYO [1], First Lieutenant MINTON [3], First Lieutenant Yusuf TANDI [4], Head Sergeant Andreas PRAWIN [5], Martinho FERNANDES [6] and Emiliano Joaquim GOMES [7] are each responsible as individuals pursuant to Section 14.3(a)(b)(c)(d) of UNTAET Regulation 2000/15 and as superiors pursuant to Section 16 of UNTAET Regulation 2000/15 for the murder of Domingos Soares Aparicio, Mateus Soares Munis Bere, Fernando de Jesus Soares, Eldefonso Ferreira, Rogerio Amaral, Mariano Soares and Carlos Sarmiento as part of the widespread and systematic attack directed against a civilian population of Viqueque district East Timor, with knowledge of the attack, and thereby committed a CRIME AGAINST HUMANITY – MURDER, a crime stipulated under Section 5.1(a) UNTAET Regulation 2000/15.

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COUNT 2: CRIMES AGAINST HUMANITY – TORTURE [Domingos Soares Aparicio]

By their acts and omissions in relation to the events described in paragraphs 15 to 62 of this indictment **Lieutenant Colonel Djoko SOEHARSOYO [1], First Lieutenant MINTON [3], First Lieutenant Yusuf TANDI [4], Head Sergeant Andreas PRAWIN [5], Martinho FERNANDES [6] and Emiliano Joaquim GOMES [7]** are each responsible as individuals pursuant to Section 14.3(a)(b)(c)(d) of UNTAET Regulation 2000/15 and as superiors pursuant to Section 16 of UNTAET Regulation 2000/15 for the torture of Domingos Soares Aparicio as part of the widespread and systematic attack directed against a civilian population of Viqueque district East Timor, each with knowledge of the attack, and thereby committed a CRIME AGAINST HUMANITY – TORTURE, a crime stipulated under Section 5.1(f) UNTAET Regulation 2000/15.

COUNT 3: CRIMES AGAINST HUMANITY – MURDER [Maria Martins]

By their acts and omissions in relation to the events described in paragraphs 15 to 48 and paragraphs 88 to 90 of this indictment **Lieutenant Colonel Gustaf HERU [2], First Lieutenant MINTON [3], First Lieutenant Yusuf TANDI [4], Head Sergeant Andreas PRAWIN [5], Martinho FERNANDES [6] and Emiliano Joaquim GOMES [7]** are each responsible as individuals pursuant to Section 14.3(a)(b)(c)(d) of UNTAET Regulation 2000/15 and as superiors pursuant to Section 16 of UNTAET Regulation 2000/15 for the murder of Maria Martins as part of the widespread and systematic attack directed against a civilian population of Viqueque district East Timor, with knowledge of the attack, and thereby committed a CRIME AGAINST HUMANITY – MURDER, a crime stipulated under Section 5.1(a) UNTAET Regulation 2000/15.

**COUNT 4: CRIMES AGAINST HUMANITY – DEPORTATION OR FORCIBLE
TRANSFER OF POPULATION**

By their acts and omissions in relation to the events described in paragraphs 15 to 48, paragraphs 88 to 90 and paragraphs 94 to 96 of this indictment **Lieutenant Colonel Gustaf HERU [2]**, **First Lieutenant MINTON [3]**, **First Lieutenant Yusuf TANDI [4]**, **Head Sergeant Andreas PRAWIN [5]**, **Martinho FERNANDES [6]** and **Emiliano Joaquim GOMES [7]** are responsible as individuals pursuant to Section 14.3(a)(b)(c)(d) of UNTAET Regulation 2000/15 and as superiors pursuant to Section 16 of UNTAET Regulation 2000/15 for the deportation or forcible transfer of the civilian population of Viqueque district as part of the widespread and systematic attack directed against the civilian population of Viqueque district East Timor, with knowledge of the attack, and thereby committed a CRIME AGAINST HUMANITY – DEPORTATION OR FORCIBLE TRANSFER OF POPULATION, a crime stipulated under Section 5.1(d) of UNTAET Regulation 2000/15.

COUNT 5: CRIMES AGAINST HUMANITY – PERSECUTION

Between 1 January 1999 and September 1999, by his acts and omissions in relation to the events described in paragraphs 1 to 87 and paragraph 97 of this indictment, **Lieutenant Colonel Djoko SOEHARSOYO [1]** is responsible as an individual pursuant to Section 14.3(a)(b)(c)(d) of UNTAET Regulation 2000/15 and as a superior pursuant to Section 16 of UNTAET Regulation 2000/15 for the persecution of an identifiable group or collectivity on political and national grounds within East Timor as part of the widespread and systematic attack directed against the civilian population of Viqueque district East Timor, with knowledge of the attack, and thereby committed a CRIME AGAINST HUMANITY – PERSECUTION, a crime stipulated under Section 5.1(h) of UNTAET Regulation 2000/15.

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COUNT 6: CRIMES AGAINST HUMANITY – PERSECUTION

Between 1 January 1999 and 25 October 1999, by their acts and omissions in relation to the events described in paragraphs 1 to 97 of this indictment, **First Lieutenant MINTON [3]**, **First Lieutenant Yusuf TANDI [4]**, **Head Sergeant Andreas PRAWIN [5]**, **Martinho FERNANDES [6]** and **Emiliano Joaquim GOMES [7]** are each responsible as individuals pursuant to Section 14.3(a)(b)(c)(d) of UNTAET Regulation 2000/15 and as superiors pursuant to Section 16 of UNTAET Regulation 2000/15 for the persecution of an identifiable group or collectivity on political and national grounds within East Timor as part of the widespread and systematic attack directed against the civilian population of Viqueque district East Timor, with knowledge of the attack, and thereby committed a **CRIME AGAINST HUMANITY – PERSECUTION**, a crime stipulated under Section 5.1(h) of UNTAET Regulation 2000/15.

COUNT 7: CRIMES AGAINST HUMANITY – PERSECUTION

Between July 1999 and 25 October 1999, by his acts and omissions in relation to the events described in paragraphs 1 to 48 and paragraphs 88 to 97 of this indictment, **Lieutenant Colonel Gustaf HERU [2]** is responsible as an individual pursuant to Section 14.3(a)(b)(c)(d) of UNTAET Regulation 2000/15 and as a superior pursuant to Section 16 of UNTAET Regulation 2000/15 for the persecution of an identifiable group or collectivity on political and national grounds within East Timor as part of the widespread and systematic attack directed against the civilian population of Viqueque district East Timor, with knowledge of the attack, and thereby committed a **CRIME AGAINST HUMANITY – PERSECUTION**, a crime stipulated under Section 5.1(h) of UNTAET Regulation 2000/15.

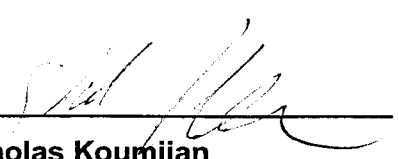
VII. LIST OF VICTIMS

The list of victims which forms a part of this indictment is attached and marked "Annex A".

VIII. LIST OF EVIDENCE

The list of evidence in support of this indictment is attached and marked in "Annex B".

27 October 2004



Nicholas Koumjian

Deputy General Prosecutor for Serious Crimes