



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

***Press Release***

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**Dili District Court tries members of the *Besi Merah Putih* militia for serious crimes committed in 1999**

On 26 May 2011 the Dili District Court tried a serious crimes case that occurred in 1999 after the referendum. This case was registered with the court as Case No. 13/C.Ord/2011. The trial was presided over by a panel of judges comprising João Felgar (international), Rosa Brandão (also an international) and Deolindo dos Santos (national). The Prosecution Service was represented by Franklin A. Furtado (international) and the defendant was represented by José da Silva from the Public Defender's Office.

The trial of the defendant VL, who was a member of the *Besi Merah Putih* (BMP) militia should have also included the defendant VL. However, AdJ has not returned from Indonesia so the public prosecutor and the public defender requested for the court to conduct a separate trial for the other defendant when he returns to Timor-Leste. This request was made in accordance with Article 25 (c) of the Criminal Procedure Code on separated trials. Pursuant to the aforementioned request, the trial of the defendant VL was conducted in accordance with the schedule established by the court.

The Executive Director of JSMP, Luis de Oliveira Sampaio, stated that the trial of a serious crimes case that occurred in 1999 after the referendum is a step that reflects the mandate of the Constitution as set out in Article 160 which states that cases that occurred in the past are liable to criminal proceedings with the national or international courts.

In addition, he stated that even though he has some concerns about this process, namely human resources and the judicial actors' understanding of serious crimes, he encourages all layers of society to trust the court to carry out its functions in accordance with mandate set out in the Constitution.

JSMP welcomes the response of the court to the request from the public prosecutor and the public defender in conducting a separate trial pursuant to Article 25 (c) of the Criminal Procedure Code which provides for the conduct of a separated trial, with or without a formal request, when there is the possibility of delaying the trial of another case.

In this case there are a range of facts that indicate the involvement of the defendant as an active member of the BMP militia in Liquica District, before, during and after the referendum; however the public prosecutor charged the defendant for his involvement in the murder of Patrício Sarmiento Viegas on 6 September 1999 at Pala beach, Liquica. The public prosecutor stated that the defendant's actions were part of a systematic and widespread attack against a civil population with knowledge about the attack. His actions violated Articles 5. 1 (a) and 14 of UNTAET Regulation No. 15/2000.

When the court read out the charges against the defendant VL relating to this involvement in the crisis that occurred in 1999 as a member of the BMP militia, the defendant fully rejected the charges because he told the court that at that time he was with his family and they had departed to Atambua (Indonesia) on 6 September 1999 at 10.00am. The defendant also stated that he did not know why he fled from his residence to live in Indonesia.

Based on JSMP monitoring during the trial, when the judge and public prosecutor questioned the defendant or cross-referenced relevant evidence, the defendant responded in an extremely demonstrative manner and behaved in a way that indicated a lack of respect for the honorable judges. The defendant answered several questions put to him in his capacity as a defendant and tried to reject the questions posed by the honorable judges. For example, one time the defendant responded to the judge: "if you already know, then why are you asking me again?"

After hearing testimony from the defendant VL, the court decided to continue the trial of the member of the BMP militia on 2, 3, 6 and 7 June 2011, to hear testimony from a total of 42 witnesses, according to information obtained by JSMP.

JSMP believes that it is really important for all institutions and parties, both individually and collectively, to respect the strategic role of the judicial institutions in the context of national development. In particular, JSMP hopes that the sovereign institutions of the State can execute their constitutional responsibilities in accordance with the rules set out in the Constitution.

Serious crimes, crimes against humanity and genocide are crimes that have a serious impact on human dignity. Therefore, JSMP urges everyone across the globe to reject these crimes in their entirety, by providing appropriate opportunities and support so that the judicial process can be completed.

JSMP also encourages the defendant to respect the function of the court and requests for the defendant to cooperate during the trial process, and if he does not feel comfortable to speak, then he can exercise his right to provide testimony or to not provide testimony as provided for in Article 60 (c) of the Criminal Procedure Code, rather than reacting in a demonstrative manner towards the court actors during the trial.

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