



Case Status Eurico Guterres

Updated 5 July 2002

I. SUMMARY OF CASE:

Accused: Eurico Guterres

Summary of Case:

Eurico Guterres, as a superior or Deputy Commander of the group calling itself PPI or superior or Commander of the group Aitarak, was indicted on 31 May 2002 with crimes against humanity. There are two charges:

1. Murder as a crime against humanity in violation of Art.9(a) using Art.42(2) (Civilian/Police Command Responsibility).
2. Assault as a crime against humanity in violation of Art.9(h) using Art.42(2) (Civilian/Police Command Responsibility).

Factual allegations

This case is in relation to the attack on the house of Manuel Viegas Carrascalao on 17 April 1999. According to the prosecution, the factual allegations are as follows:

On Saturday 17 April 1999 at around 0900 Eastern Indonesian time there was a ceremony for the establishment of Pamswakarsa attended inter alia, by Abilio Jose Osorio Soares (Governor of East Timor), Domingos Soares (Bupati of Dili), Mathius Maia (Mayor of Dili), Joao Da Silva Tavares (Commander of PPI and leader of the Halilintar group), the accused (as Deputy Commander of PPI and also commander of Aitarak), Jose Ximenes (Member of the group Aitarak). They gathered in front of the Governor's office, along with East Timorese persons from several districts, among them the groups Besi Merah Putih from Maubara in Liquisa, Halilintar from Ermera and Aitarak from Dili carrying various weapons such as bow-and-arrows, spears, machetes, spearing instruments, stabbing instruments, firearms and rakitan guns.

At the ceremony, the accused gave a speech, inter alia, with the following words:

- All CNRT leaders should be finished;
- Kill the leaders of CNRT;
- Pro-independence supporters should be killed;
- Kill Manuel Viegas Carrascalao;
- The Carrascalao family should be killed;
- Kill Leandro Isaac, David Dias Ximenes, Manuel Viegas Carrascalao;
- Kill the family of Manuel Viegas Carrascalao.

At the time, the accused and his group (Aitarak and PPI) knew that in Manuel Carrascalao's house located at Jl. Antonio De Carvalho No. 13 Dili, East Timor at that time were 136 refugees from several outlying districts, including Maubara, Liquisa, Turiscai, Alas and Ainaro.

That several of the refugees, including Alfredo Sanches, Florindo de Jesus, Santiago do Santos, Victor dos Santos, Saturnino de Oliveira were in Manuel Viegas Carrascalao's house because they felt afraid of the group calling itself PPI and Aitarak that had been terrorising and intimidating since January 1999 in several locations including Maubara Liquisa, Turiscai, Alas and Ainaro. And they (the refugees) wanted to shelter in Manuel Viegas Carrascalao's house because they heard that Manuel Viegas Carrascalao was neutral.

Further, after hearing the speech from the accused at the ceremony in front of the governor's office, masses comprised of Aitarak, PPI dispersed and went to attack the house of Manuel Viegas Carrascalao, and the house of Leandro Isaac, while the accused who had made a provocative speech did not take efforts to prevent or stop the masses under his command/control or direction from going and attacking the house of Manuel Viegas Carrascalao, and the house of Leandro Isaac.

Then the mass comprising Aitarak with inter alia, Ameo, Agus, Idis, Jose Rineto, Lusiano and Andre, PPI and members of TNI dressed in the uniform of pro-integration carried out an attack and destroyed the house of Leandro Isaac by shooting with pistols three times at the front door and three times at car park at the back of the house and they destroyed everything in the house.

Thereafter the mass attacked and killed (first charge) and assaulted (second charge) the people at the house of Manuel Viegas Carrascalao by using several types of weapon, including automatic weapons used by the military, rakitan firearms, machetes and spears. As a result of the attack several persons who were inside the house died, namely:

1. Mario Manuel Carrascalao (Manelito)
2. Raul Dos Santos Cancela
3. Afonso Ribeiro
4. Rafael Da Silva
5. Alberto Dos Santos
6. Joao Dos Santos
7. Antonino Do Santos
8. Crisanto Dos Santos
9. Cesar Dos Santos
10. Agustino B.X. Lay
11. Eduardo De Jesus
12. Januario Perreira

Three people were wounded, namely Victor Dos Santos (Apin), Alfredo Sanchez and Florindo de Jesus.

In addition, the house of Manuel Viegas Carrascalao suffered damage, namely doors and windows, cars, computers, photocopiers, fax machines and household items.

Alleged basis of criminal responsibility:

1. Murder as a Crime against Humanity

According to the prosecution Eurico Guterres did not control his subordinates in a correct and proper manner, that is as superior of the Aitarak group and or deputy commander or superior of the PPI. He knew or deliberately ignored information that clearly showed that his subordinates were committing or had just committed gross violations of human rights amounting to murder committed as part of a

widespread or systematic attack directly aimed at the civilian population. The accused did not take the appropriate and necessary steps within his competence to prevent or stop the actions of his subordinates or to surrender the perpetrators to the offices with responsibility for investigation and prosecution.

Specifically, the accused was able to control his subordinates, but nevertheless he failed to take the necessary and appropriate steps that is preventing and stopping the attack and murder at the house of Manuel Viegas Carrascalao or the accused failed to take any or the necessary steps to prevent or stop the acts or surrender the perpetrators to the legitimate authorities for investigation, prosecution and punishment.

2. Assault as a Crime against Humanity

Eurico Guterres did not control his subordinates in a correct and proper manner, he knew or deliberately ignored information that clearly showed that his subordinates were committing or had just committed gross violations of human rights amounting to assault committed as part of a widespread or systematic attack directly aimed at the civilian population and the accused did not take the appropriate and necessary steps within his competence to prevent or stop the actions of his subordinates or to surrender the perpetrators to the offices with responsibility for investigation and prosecution.

Specifically, the accused was able to control his subordinates but nevertheless he failed to take the necessary and appropriate steps that is preventing and stopping the attack and assault of the masses at the house of Manuel Viegas Carrascalao or the accused failed to take any or the necessary steps to prevent or stop the acts or surrender the perpetrators to the legitimate authorities for investigation, prosecution and punishment.

Possible sentences if convicted:

Convictions under Art.42 (command responsibility) carry the same sentences as direct perpetration. Therefore, a conviction under Art. 9(a) for murder as a crime against humanity may lead to punishments ranging from death or life in prison to a maximum of 25 (twenty-five) years in prison and no less than a minimum of 10 (ten) years in prison. A conviction under Art.9(h) for assault as a crime against humanity may lead to a maximum sentence of 20 (twenty) years in prison and to a minimum of 10 (ten)years in prison.