



JUSTICE UPDATE

Period: October 2005

Issue: 19/2005

Court of Appeal Decision on Preventive Detention: ‘The Aguarente Case’ (No. 10/inter/co/05/tr)

On 16 September the Dili District Court conducted a 72-hour detention review hearing in relation to the arrest of a person on suspicion of manufacture and sale of harmful liquor, whose consumption subsequently led to the death of persons.

The suspect admitted to being the owner and manufacturer of the liquor in question and his factory was authorised to operate and manufacture by the Ministry of Industry and Commerce and the Ministry of Health. The suspect also confessed to knowing that methanol and ethanol can cause blindness and even death if consumed, however, he denied having used any of those products in manufacturing the beverage, and asserted that only alcohol was used. According to a police report, tests indicated that the beverage contained ethanol and methanol.

For endangering public safety and, determining that there was a continued existence of that risk, the Dili District Court, ordered that the suspect be detained for a period of 6 months prior to trial, with his detention status to be reviewed every 30 days as required by law (under articles 20.7, 20.8 and 20.9 of UNTAET Regulation 30-2000 as amended by UNTAET Regulation 25-2001).

The defendant lodged an appeal; however, the Court of Appeal upheld the decision of the Dili District Court. As such, the defendant remains in preventive detention, in accordance with the decision at first instance..

Despite the existence of other manufacturers of similar beverages, it was alleged that the victims had purchased and consumed the suspect’s product.

The measures taken by the Dili District Court and the decision of the Court of Appeal were appropriate in the circumstances. Nevertheless, there has been unnecessary delay in the conduct of investigations, which has impeded the disposition of the pre-trial process and will force the Judge to release the suspect when his term of detention expires.

The case will therefore remain at the pre-trial process stage until investigations have been concluded. After the additional investigations are completed there will be another hearing to present witnesses (if there are any), expert evidence and any other evidence gathered during the course of the investigation. Only after that will a trial hearing be set.

JSMP