



**WEEKLY SUMMARY - SPECIAL PANEL FOR SERIOUS CRIMES**  
**17- 21 February 2003**

Scheduled cases:

No	Criminal case name	Criminal case number
1	The General Prosecutor v Jose Cardozo (the Lolotoe Case)	04/2001
2	The General Prosecutor v Paulino de Jesus	Not available

NB: selected indictments and case summaries are available on JSMP' s website: [www.jsmp.minihub.org](http://www.jsmp.minihub.org) – from the front page follow the “ Trials” link to the case information page

**I. Criminal case: 04/2001 General Prosecutor v Jose Cardozo**

**Monday 17 February 2003.** Court started at about 9.20 am with cross examination for testimony given by the last prosecution witness in respect to an alleged attack in an area called Sibi, on or about 8 September 1999, in which two unarmed civilians were allegedly killed following heavy shootings by attackers. This attack is alleged to have been carried out jointly by both the Indonesian military (TNI) and the KMMP militia group under the command of Jose Cardozo aka Mouzinho.

In addition, the witness also gave his testimony to the court as to the murder of Antonio França, an independence supporter and member of East Timor' s student solidarity council who was allegedly caught and beaten with sticks and stabbed with swords by the TNI and KMMP militia members under the command of Jose Cardoso aka Mouzinho. The last event featured in the witness' testimony was the murder of Augusto Noronha, a school teacher and a member of CNRT who was allegedly killed by members of the KMMP militia group in Raimea Village on or about 16 September 1999. The court was adjourned to 18 February 2003 and closed at about 5.40 pm

**Tuesday 18 February 2003.** Court started at about 9.35 am with defense counsel cross examining a witness on testimony to the court. During the hearing, the defense asked for a “confront” of two previous witnesses who had testified to the court that Jose Cardoso was among the other attackers in Sibi, given that the last witness said that he was with Jose Cardoso on the road during the attack on the civilians hiding in Sibi and that Jose Cardoso only gave orders. The court said it would give its decision in response to the defense’s request on the following day.

In addition, the prosecution made an application to the court for the withdrawal of charge number 13 in its indictment in regards to crimes against humanity in the form of “*persecution*” . This application was submitted to the court because there was no evidence available to support the charge. The court said it would make its decision on the following day. The court adjourned until 18 February 2003.

The session closed at about 5.27 pm

**Wednesday 19 February 2001.** The court started hearings at about 9.45 am to deliver its decisions on the applications made by the parties on the previous day. The court, in response to the prosecutions’ application to withdraw charge number 13 of the indictment, stated that it would permit the application of the prosecution to withdraw the charge. The court emphasized that such a step had been taken in many other cases including that of the former accused persons who were indicted with Jose Cardoso. The procedure is also based on section 32.2 of United Nations Transitional Administration in East Timor Regulation 2000/30, as amended by regulation 2001/25, which provides that the court may, at the request of the prosecutor, allow amendment of an indictment after the trial has begun or prior to final decision in the case.

In addition, the Dili District Court Special Panel for Serious Crimes also decided to give its permission to the defense counsel to consult with the witness Mr. Candido Fatima, with the following conditions: (\*) That the defense would only question the witness in respect to new facts and not to give him suggestions; (\*) That the consultation should be done in the presence of the prosecution; and (\*) that any consultation made by the prosecution should also be done in the presence of the defense counsel.

The court also pointed out that the reasoning for its decision included that such proceedings had been used in the International Criminal Tribunal for the former Yugoslavia and that the prosecution is an organ of the tribunal, with a role not only to write the indictments, but also to present the prosecution case and provide the facts in order to help the court establish the truth. Thus all witnesses, which ever party calls them, are witnesses of the truth.

This decision was taken by the panel two judges to one. The Honorable Judge Benefeito Mosso Ramos dissented from the majority decision, following his declaration that the issue of consulting the witnesses was clearly solved by Section 36.5 regulation 30/2000 as amended by regulation 25/2001, which states that *a witness shall not be permitted to discuss his or her testimony with another witness or with other interested persons before testifying*. His Honor said he respected the decision of the majority.

In response to this, the prosecution said that it would try to comply with the decision given by the court. However the prosecution stated that it would file an appeal to the court's decision after the court issued its written decision to the parties.

The court was adjourned until 3 March 2003 at 9 am for the defense counsel to prepare his witnesses.

The session closed at about 11.45 am

## **II. Criminal case: 06/2002 General Prosecutor v Carlos Ena and Paulino De Jesus**

**Monday 17 February 2003.** The court was postponed until 9 March 2003 at 9 am. JSMP was told that the court was postponed following the involvement of all the panel members in other trials.

**Wednesday 19 February 2003.** The court was postponed until 21 April 2003 at 9 am.

JSMP was told that the court was postponed following the request for a later date from the public prosecutor

**Thursday 20 February 2003.** No hearings scheduled

**Friday 21 February 2003.** No hearings scheduled