



Office of the  
Deputy General Prosecutor  
for Serious Crimes  
Timor Leste

## SERIOUS CRIMES UNIT UPDATE

4 February 2004

### SCU: INVESTIGATION AND PROSECUTION

The Serious Crimes Unit was established in 2000 by the United Nations Transitional Authority in East Timor (UNTAET) following UN Security Council Resolution 1272 (1999). As mandated by the United Nations Security Council, the Serious Crimes Unit (SCU) is responsible for conducting investigations and preparing indictments to bring to justice those responsible for Crimes against Humanity and other serious crimes committed in East Timor in 1999. The mandate of the SCU will end in May 2005 and, pursuant to UN Security Council Resolutions 1543 and 1573, the SCU completed all investigations as of 30 November 2004. Therefore, no more indictments will be filed. The SCU has now 9 cases pending in the Special Panels for Serious Crimes and has started its handover procedures.

Since the independence of Timor Leste on 20 May 2002, the SCU has worked under the legal authority of the Prosecutor-General of the Democratic Republic of East Timor (RDTL). Dr. Longuinhos Monteiro is currently the Prosecutor-General. The Office of the Prosecutor-General is divided into two sections: Ordinary Crimes and the Serious Crimes Unit.

The Serious Crimes Unit is headed by the Deputy General Prosecutor for Serious Crimes who reports functionally to the Prosecutor-General and is responsible for managing the investigations and prosecutions of the SCU. **Mr. Nicholas Koumjian was the Deputy General Prosecutor for Serious Crimes from 20 October 2003 until the end of January 2005. The new Deputy General Prosecutor, Mr. Carl de Faria, will be invested in February.**

The SCU is divided into 4 Regional teams comprised of UN prosecutors, legal officers, investigators and trainee staff with separate forensic investigation, evidence management and witness support teams. The Regional Investigation and Prosecution teams cover all 13 districts of East Timor. Due to the end of the investigations, the Regional investigation offices of Maliana, Manufahi and Oecussi were closed. The SCU maintains one investigation team in Dili. The SCU currently has 74 staff members including 34 UN International civilian staff including prosecutors, investigators, forensic specialists and translators as well as 6 UN Police technical assistants and 34 UN national staff including translators and mortuary staff. In addition, 12 East Timorese trainee staff work with SCU including prosecutors, ITU and evidence management staff funded by bilateral funds from the Norwegian Government. A total of 19 East Timorese Police (PNLT) investigators are currently undergoing practical training in SCU with UN investigators and UN Police trainers and 2 PNTL officers working in the SCU witness management team.

### **The New Deputy General Prosecutor**

Mr. Carl de Faria, from Canada is the New Deputy General Prosecutor. He has arrived in Timor Leste on the 4<sup>th</sup> of February and he will be leading the Serious Crimes Unit until its closure in the 20 of May 2005.

Mr. De Faria has been Canada's first Parliamentarian of Portuguese heritage and was sworn in as Minister of Citizenship and Minister Responsible for Seniors, in 2002, after serving as Parliamentary Assistant to the Minister of Citizenship the previous year.

Mr. DeFaria was first elected to the Ontario Legislature in June, 1995 as the Member of Provincial Parliament for Mississauga East. He was re-elected in June, 1999, for a second consecutive term. Mr. DeFaria has also served as the Vice-Chair of the Standing Committee on Justice and Social Policy. Prior to his election, Mr. DeFaria was the senior partner in a law firm with branches in Southern Ontario, practicing in criminal and constitutional law.

He holds a Bachelor of Laws degree from Osgoode Hall and a Bachelor of Arts degree in Economics and Finance from the University of Toronto. While earning his law degree, Mr. DeFaria also worked nights and weekends for two years as an "emergency" social worker for the Peel Children's Aid Society.

## **SCU INDICTMENT INFORMATION**

**Since the work of SCU began, 95 indictments have been filed with the Special Panel for Serious Crimes at Dili District Court indicting a total of 392 persons (However 434 people are said to be defendants in cases before the Special Panel, since some accused are in multiple indictments). SCU indictment charges are currently pending against a total of 317 accused persons.**

Since trials began at the SPSC, a total of 74 defendants have been convicted and 2 defendants acquitted. The SPSC has dismissed 2 SCU indictments against 3 accused with 1 of those dismissed indictments against 2 accused subsequently being re-instated in a Court of Appeal ruling in December 2003<sup>1</sup>. The SCU prosecution has withdrawn a total of 8 the above indictments. 12 of those 317 accused persons are currently on trial or awaiting trial in 9 cases at the SPSC.

At present, 303 suspects are presumed to be outside of East Timor. This includes 37 Indonesian TNI Military Commanders and Officers, 4 Indonesian Chiefs of Police, 60 East Timorese TNI Officers and soldiers, the former Governor of East Timor and 5 former District Administrators

### **10 Priority Cases and Additional Cases of Crimes against Humanity**

The 10 Priority case indictments include the Liquica church attack, the Suai Church massacre, the September attack on the compound of Bishop Belo, the Maliana Police station attack, and the TNI Battallion 745 killings. A total of 202 accused persons are charged with Crimes against Humanity in the 10 Priority case indictments with 183 of those 202 accused at large in Indonesia.

The **National indictment** issued on 24 February 2003 charges the former Indonesian Minister of Defence and Commander of the Armed Forces, 6 high-ranking Indonesian Military Commanders and the former Governor of Timor Leste with Crimes against Humanity for murder, deportation and persecution during 1999.

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To date, 57 of the 95 indictments issued by SCU charge for Crimes against Humanity against 339 accused persons. These indictments include Crimes against Humanity cases such as the Atabae rape cases, the Baucau indictment and the TNI rape case charging 5 East Timorese TNI soldiers with rape as a Crime against Humanity

## **SCU ISSUED ITS FINAL INDICTMENTS IN DECEMBER 2004**

**In December 2004 the Serious Crimes Unit (“SCU”) filed four new indictments charging 14 individuals with Crimes Against Humanity. Those accused include former militia commanders and military commanders from the Indonesian armed forces (TNI). The charges include sexual assaults, 45 murders, inhumane acts, destruction of property, and forcible transfer of civilians. All of the accused are at large and believed to be currently residing outside of Timor Leste.**

**The four new indictments resulted from the recent completion of investigations in the districts of Ermera, Ainaro and Manufahi. Pursuant to UN Security Council Resolutions 1543 and 1573, the SCU completed all on-going investigations as of 30 November. With the end of investigations, these four indictments will be the last filed by the SCU and bring the final total filings by the unit since its inception in the year 2000 to 95 indictments charging 392 individuals.**

### **The Ainaro Indictment**

On 15 December 2004, the SCU charged Lieutenant Julius Adu (TNI), the former sub-district military commander (DANRAMIL) for Hataudo, Ainaro District, and Cesário Tilman, former TNI soldier and also company commander of the Mahidi militia. Tilman and Adu are charged with the murder of five persons and for the persecution and deportation of civilians from Ainaro District. The indictment alleges that Lieutenant Julius Adu was the "Danramil" (Sub-District Military Commander) in Hataudo and had effective command and control over TNI soldiers stationed there, including Cesário Tilman. In addition to being a soldier, Tilman was appointed the Commander of Company “A” of the Mahidi militia (Mati Hidup Demi Integrasi) (“Die or Live for Integration”). This company operated in Leolima Village in Hataudo Sub-District. Lieutenant Adu is charged with ordering one murder and with command responsibility for four additional murders committed by Tilman. They are jointly charged with the destruction of property and forcible transfer of the local population to West Timor.

### **The Ermera indictment**

On 16 December 2004, the SCU charged Lieutenant Colonel Muhammad Nur, the TNI district military commander for Ermera, First Sergeant Melky, Second Sergeant Hilário and the former Derah Merah militia commanders Lukas Martins, Jeca Pereira and Cipriano da Costa, with the murder of 14 persons, the torture of two men and the repeated rape and murder of one woman.

The crimes alleged were committed between 27 January 1999 and September 1999, in Hatolia and Ermera, Ermera District where the Darah Merah, Aitarak and Pancasila Militias are alleged to have operated in close cooperation with the TNI.

### **The Manufahi indictments**

On 17 December 2004, the SCU field two related indictments focusing on crimes committed by the ABLAI militia in Manufahi district. The first indictment charges the three top commanders and founders of the militia, while the second charges direct perpetrators of killings in the district. .

The first indictment focuses on commanders who organized the militia violence. The indictment charges Nazario Vital dos Santos Corte Real, who is alleged to have been the commander ABLAI and to have co-founded the militia group, TNI Captain Sugyono, co-founder of ABLAI who at the time was the local head of the Kopassus (Special Forces of the Indonesian Army) and Francisco Capela Ferrão who was the vice-commander of militia group. The three are jointly charged with one count of persecutions as a crime against humanity. The campaign of persecutions is alleged to have included the killing of 19 persons, the attempted murder of another, the infliction of serious bodily injury on four persons, the detentions of hundreds of villagers, widespread destruction of property in the district and the forcible transfer of the population to West Timor.

The second Manufahi indictment charges three persons alleged to be direct perpetrators of killings in the district. Those charged are Guilhermino Marçal, the ABLAI militia commander for the sub-district of Same, Lieutenant Sumino, then the Same sub-district military commander, and José Laranzeira who is alleged to have been an ABLAI militia company commander. The three accused are charged with a total of seven murders. One murder was allegedly committed in the house of Guilhermino Marçal, which also served as the ABLAI headquarters in Same sub-district. Two other murders occurred on 24 September 1999 during an alleged deportation operation organized by Lieutenant Sumino. Sumino chased and shot Marten Gaspar Soares with a M16 rifle and ordered the killing of another civilian, which was carried out by José Laranzeira.

### **TRIALS AT THE SPECIAL PANELS FOR SERIOUS CRIMES**

The Special Panels of Judges at Dili District Court was set up in 2000 by UNTAET to hear cases of Crimes against Humanity and serious crimes from the 1999 period. The three Special Panels for Serious Crimes in Timor Leste are comprised of two International Judges and one East Timorese Judge. At present, **9 cases with a total of 12 defendants** are currently proceeding or are scheduled to commence at the Special Panels for Serious Crimes in the coming months.

#### **Ongoing trials**

On the first week of February at the Special Panels for Serious Crimes started the trial of Aparício Guterres a former Dadrus Merah Putih Militia member who was indicted by the SCU on the 18 June 2004. The defendant is charged with murder, as Crime Against Humanity, for taking part in the murder of 13 in September 1999, in the sub-district of Maliana, Bobonaro.

In the case of the Deputy General Prosecutor against Mateus Punef and Januário da Costa, also on trial, seven of the 26 witnesses of the Prosecution have been heard by a Special Panel presided by Judge Florit. The two former Sakunar militia members from Oecussi district were indicted on the 26 August 2003 and charged with murder, extermination, persecution and other inhumane acts as Crimes Against Humanity.

**It is expected that the Special Panel issue the Final Decision in the case of the Deputy General Prosecutor against Domingos Amati and Francisco Matos on the 14 of February.** These two former Aitarak militia members were charged with murder in violation of section 8

of UNTAET Regulation 2000/15 and article 340 of the Indonesian Penal Code. Both defendants were previously tried and convicted to 6 years in prison for Crimes Against Humanity on 25 November 2004.

Since trials began at the Special Panels in 2001, a total of **74 defendants have been convicted with 2 defendants having now been acquitted** of all charges. Those convicted in trials include East Timorese TNI soldiers, East Timorese militia members and an East Timorese Falintil resistance fighter. Of the 74 defendants convicted by the SPSC around 40% (27 defendants) have received sentences of under 10 years imprisonment from the Special Panels with 13 of those 27 defendants receiving sentences of 5 years or under.

### **Marculino Soares Sentenced To 15 Years In Prison For Crimes Against Humanity**

On the 1<sup>st</sup> of December 2004, a Special Panel for Serious Crimes of Dili District Court, presided by Judge Oscar Gomes, rendered its final decision in the case of the Deputy General Prosecutor against Marculino Soares. The former Besi Merah Putih militia commander charged with murder, other inhumane acts and persecution as Crimes Against Humanity, was convicted for all charges, and sentenced to 15 years in prison (13 for the count of murder and 2 years for the count of other inhumane acts).

Marculino Soares was indicted by the SCU, on 25 July 2003 for participating in the attack on Manuel Carrascalão`s house on the 17 April 1999, which resulted in the death of 12 persons, and serious injuries to 9 others. At the time of the attack, the defendant was a Besi Merah Putih militia commander from the village of Guico, sub-district of Liquiça. On that day he ordered his men to go to a rally in Dili, from where the attack was launched. The group led by Marculino Soares joined the attack. "It has been proven that Marculino Soares personally participated in the organization and execution of the attack", stated the presiding Judge. The defendant is in custody since 20 January 2003 and therefore his time in prison will end in January 2018.

### **8 Former Aitarak Militia Members Convicted**

**On 25 November 2004, the Special Panels for Serious Crimes issued the final decision in the case of the Deputy General Prosecutor against "Alarico Mesquita and others". 8 former Aitarak militia members were convicted of persecution, abduction and torture as a crime against humanity. With these verdicts, 72 persons have now been convicted by the Special Panels for Serious Crimes.**

The Special Panel for Serious Crimes of Dili District Court, presided by Judge Maria Natércia Pereira found that the defendants Alarico Mesquita and Florindo Moreira, were guilty of persecution, abduction and torture, as a crime against humanity and sentenced them to 6 years and 8 month in prison. Domingos Amati and Francisco Matos were found of the same charges and were sentenced to 6 years. Lourenço Tavares, Laurindo da Costa, Mateus Guterres and Angelino da Costa were found guilty of torture and they were all sentenced to 5 years in prison.

The panel of judges accepted found that the eight accused, members of the Aitarak militia, were directly involved in the events that occurred in the afternoon of 8 May 1999, when a number of Aitarak militia members at a militia roadblock in Akanunu, Hera sub-district, Dili district, have abducted, tortured two persons.

This incident was a part of the campaign of violence orchestrated in the area of Hera, Dili district, by the Aitarak militia, between April and September 1999. The Aitarak militia in Hera operated from a number of militia posts and they manned a number of roadblocks at which they stopped persons traveling between Dili and Baucau and arrested, assaulted and killed persons they suspected of being pro-independence supporters.

All the defendants have already started to serve sentence. The Special Panels are expected to issue the written decision on the 6 of December.

### **8 More Convictions For Crimes Against Humanity**

**On 16 November 2004, the Special Panels for Serious Crimes issued final decisions on two cases convicting eight persons of murder as a crime against humanity. With these verdicts, 63 persons have now been convicted by the Special Panels for Serious Crimes.**

#### **The conviction of one former Sakunar militia**

On 16<sup>th</sup> November 2004 a Special Panel for Serious Crimes of Dili District Court, rendered its final decision in the case of the Deputy General Prosecutor against Mateus Lao. Lao was found guilty of murder as a crime against humanity and sentenced to 8 years in prison.

The panel of judges presided over by Judge Brigitte Schmid found that Mateus Lao was a Sakunar militia member from Passabe, Oecussi district and that he was directly involved in the murder of Josef Maknaun. The victim was killed on 9<sup>th</sup> September 1999, while he was trying to escape to West Timor with his family.

#### **7 Defendants plead guilty**

Also on the 16<sup>th</sup> of November, a Special Panel for Serious Crimes of Dili District Court presided over by Judge Siegfried Blunk, rendered the final decision on the cases of the Deputy General Prosecutor against Agostinho Cloe, Agostinho Cab, Lazarus Fuli, Antonio Lelan, Lino Beno and Domingos Metan, who had each pled guilty to murder as a crime against humanity.

The panel of judges accepted found that the six accused, members of the Sakunar militia, were directly involved in the murder of 3 persons in Netensuan Village on the 16 September 1999. Agostinho Cab, Lazarus Fuli, Antonio Lelan, Lino Beno and Domingos Metan were each sentenced to 5 years in prison while Agostinho Cloe was given a 4 year sentence.

The other defendant involved in this case, being Anton Lelan Sufa, had also pled guilty and was convicted on the 8 November 2004. The Special Panel of judges, presided by Judge Blunk found him guilty of two murders and one count of other inhumane acts. The 7 defendants were ordered to start serving their sentences on the 25 November 2004.

### **SCU RELATED INFORMATION**

#### **SCU and the Commission on Reception, Truth and Reconciliation (CAVR)**

Between October 2002 and February 2004, SCU has received a total of 1542 statements from CAVR in relation to deponents from across the districts of Timor Leste volunteering for

the CAVR Community Reconciliation Process. SCU has examined every statement received from the CAVR against the SCU database of suspects who are believed to have participated in serious crimes in 1999. From the 1542 statements received SCU has exercised its jurisdiction in 86 cases stopping those individuals from entering into Community Reconciliation agreements due to suspected participation in serious crimes.

### **SCU Training**

The Serious Crimes Unit continues to provide training to national trainee staff through bilateral funds from the Norwegian Government. Five trainee prosecutors who have worked at SCU since 2002 are now gaining practical experience working in the national public prosecution service under the Deputy Prosecutor General for Ordinary Crimes. Four trainee prosecutors work on SCU Prosecution teams while a data-coder, an evidence custodian and five IT trainee staff work in SCU support teams.

### **SCU PNTL Investigation Training Programme**

With the completion of the intensive training course in investigations, 19 PNTL officers are presently assigned to SCU operational investigation teams. Under the supervision of UNPOL, the PNTL officers are undergoing a practical training program in the continuation of their training at SCU. They have completed Fase I of the program and they are starting now Fase II, concerning specific investigation procedures.

**FOR MORE INFORMATION CONTACT: Tel 723 0615, [scu@un.org](mailto:scu@un.org) and visit [www.scu-dili.org](http://www.scu-dili.org)**