

# Annotated Leading Cases of International Criminal Tribunals

Timor Leste The Special Panels for Serious Crimes 2001-2003

André Klip and Göran Sluiter (eds.)



# TABLE OF CONTENTS

Table of Contents. 5
Preface by the editors
Preface by Justice Rapoza
Introduction
Part 1 / Preliminary matters
1. Arrest Warrant / Indictment
Decision, <i>Prosecutor</i> v. <i>Francisco Pedro</i> , Case No. 1/2001, SPSC, 22 May 2001
Commentary Brianne McGonigle
2. Provisional release / detention
Judgement (Criminal Appeal No. 2001/1), Prosecutor v. Julio Fernandes (Case No. 2/2000), Carlos Soares Carmona (Case No. 3/2000), Romeiro Tilman, Benjamin Sarmentó (Case No. 18/2001), Joseph Leki (Case No. 5/2000), Mateus Tilman (Case No. 8/2000), Augostino da Costa (Case No. 7/2000), Manuel Goncalves Leto Bere (Case No. 10/2000), Joni Marques, Manuel da Costa, Joao da Costa, Paulo da Costa, Amelio da Costa, Hilario da Silva, Gonsalo dos Santos, Alarico Fernandes, Mautersa Monis, Gilberto Fernandes (Case No. 9/2000), Carlos Soares (Case No. 12/2000) and Anígio de Oliveira (Case No. 7/2001), CoA, 14 February 2001 [Translation by the Editors]41Judgement of Fredrick Egonda-Ntende46
The Request for the Release of the Accused Benjamin Sarmentó, Romerio Tilman and Joao Sarmentó, <i>Prosecutor</i> v. <i>Benjamin Sarmentó, Romeiro Tilman, Joao Sarmentó and Domingos Mendonca</i> . Case No. 18/2001, SPSC, 22 March 2002.
Decision to the Application for Release of the Accused Jose Cardoso Ferreira alias Muzhino, <i>Prosecutor</i> v <i>Joao Franca da Silva, José Cardoso Ferreira and Sabino Gouveia Leite,</i> Case No. 4/2001, SPSC, 27 April 2002
Decision on the Application of Release of the Accused Salvador Soares aka Salvador Leos Marobo, <i>Prosecutor v Salvador Soares</i> , Case No. 7/2002, SPSC, 16 September 2002
Decision to the Application for Release of the Accused Lino de Carvalho, <i>Prosecutor</i> v. <i>Lino de Carvalho</i> , Case No. 10/2001, SPSC, 28 October 2002
Decision on the Application for Conditional Release of Sabino Gouveia Leite, <i>Prosecutor</i> v. <i>Sabino Gouveia Leite</i> . Case No. 4b/2001, SPSC, 17 December 2002
Decision to the Application for Release of the Accused Abilio Méndez Correira, <i>Prosecutor</i> v. <i>Abilio Méndez Córrela</i> , Case No. 19/2001, SPSC, 10 June 2003
Decision to the Application for Release of the Accused Carlos Ena, <i>Prosecutor</i> v. <i>Carlos Ena</i> , Case No. 5/2002, SPSC, 12 June 2003
Commentary Salvador Zappalá

#### Part 2 / Procedural matters

#### 3. Procedural decisions

Ruling of the Court With Respect to the Request of the Defense Relating to the Interference With the	
Defense's Witnesses, Prosecutor v. Salvador Soares, Case No. 7/2002, SPSC, 16 September 2002.	103
Commentary Brianne McGonigle.	.109

#### Part 3 / Judgements

## 4. Judgements

Sentencing Judgement, Prosecutor v. Joao Fernandes, Case No. 1/2000, SPSC, 25 January 2001.115Dissenting Judgement of Judge Maria Natércia Gusmáo Pereira Regarding the Facts and the Sen-115
tencing for Serious Crimes
Judgement, Prosecutor v. Julio Fernandes, Case No. 2/2000, SPSC, 1 March 2001.     .123       Dissenting Decision and Disagreement of Judge Maria Natércia Gusmáo Pereira on the Analysis of
Facts and Applicable Law
Judgement, Prosecutor v. Carlos Soares Carmona, Case No. 3/2000, SPSC, 8 March - 25 April
2001
Judgement, Prosecutor v. Leonardus Kasa, Case No. 11/2000, SPSC, 9 May 2001
Judgement, Prosecutor v. Manuel Goncalves Leto Bere, Case No. 10/2000, SPSC, 15 May 2001 149
Judgement, Prosecutor v. Carlos Soares, Case No. 12/2000, SPSC, 31 May 2001
Judgement, Prosecutor v. Joseph Leki, Case No. 5/2000, SPSC, 11 June 2001
Judgement, Prosecutor v. Jose Valente, Case No. 3/2001, SPSC, 19 June 2001
Commentary Goran Sluiter
5. Judgements
Judgement, Prosecutor v Francisco dos Santos Laku, Case No. 8/2001, SPSC, 25 July 2001
Judgement, Prosecutor v. Mateus Turnan, Case No. 8/2000, SPSC, 24 August 2001
Judgment, Prosecutor v. Augusto Asameta Tavares, Case No. 2/2001, SPSC, 28 September 2001 229
Judgement, Prosecutor v. Augostino da Costa, Case No. 7/2000, SPSC, 11 October 2001
Commentary Steven Freeland
6. Judgements
Judgement, Prosecutor v. Joni Marques, Manuel da Costa, Joao da Costa, Paulo da Costa, Amelio da Costa, Hilario da Silva, Gonsalo dos Santos, Alerico Fernandes, Mautersa Monis and Gilberto Fernandes, Case No. 9/2000, SPSC, 11 December 2001
Commentary Andre Klip

## 7. Judgements

Sentence, Pre	osecutor v. Anigio de	<i>e Oliveira</i> , Case No	. 7/2001, SPS	C, 27 March 200	2 [Translation by	
the Editors]						. 511
Sentence, Pr	osecutor v. Marcuri	ous José de Deus, C	Case No. 13/2	001, SPSC, 18 A	April 2002	<u>.</u> 523
Judgment, Pa	rosecutor v. Augusto	o dos Santos, Case N	No. 6/2001, S	PSC, 14 May 20	002	531
SPSC, 9 Sep		slation by the Edit	ors]		Case No. 16/2001,	
8. Judgemer	nts					
Judgement, I	Prosecutor v. Franci	<i>sco Soares</i> , Case N	o. 14/2001, S	SPSC, 12 Septem	nber 2002.	567
Partly	Dissenting	Opinion	of	Judge	Ramos	
Judgement, I	Prosecutor v. Gaspa	ord Leki, Case No. 5	/2001, SPSC	, 14 September 2	2002	579
Judgement, I	Prosecutor v. X, Cas	e No. 4/2002, SPS	C, 2 Decembe	er 2002.		589
Commentary	Goreth Kyakuwa.					. 597
9. Judgemer	nts					
Judgement, I	Prosecutor v. Joao F	Franca da Silva, Ca	se No. 4a/200	01, SPSC, 5 Dec	ember 2002.	.609
Judgement,	Prosecutor v. Sabind	o <i>Gouveia Leite</i> , Ca	se No. 4b/20	01, SPSC, 7 Dec	cember 2002	<u>.</u> 637
Commentary	y Kai Ambos and Ou	sman Njikam				.661
10. Judgeme	ents					
Judgement,	Prosecutor v. José C	ardoso Ferreira, C	ase No. 4c/20	001, SPSC, 5 Ap	ril 2003.	671
Judgement,	Prosecutor v. Agusti	inho Atolan, Case N	[o. 3/2003, S]	PSC, 9 June 200	3	.755
Commentary	y Alexander Zahar.					. 762
11. Appeals						
29 June 200					e No. 1/2000, CoA,	
CoA, 29 Jun	_	n by the Editors]			Case No. 4c/2001,	
-	Criminal Appeal No ust 2001 [Translati				<i>a</i> , Case No. 3/2000,	. 785
29 October		by the Editors]			No. 10/2001, CoA,	

Judgement (Criminal Appeal No. 2001/7), Prosecutor v. Julio Fernandes, Case No. 2/2001, CoA,	
29 October 2001 (Translation by the Editors]	.801
Judgement of Judge Egonda-Ntende.	.808
Commentary Pedro Caeiro.	.817
	000
Index.	.839
Contributors and Editors	8/15
	.045