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Timor-Leste: Victims' rights and independence of judiciary threatened by arbitrary removal of judicial officers

Decisions by the Timor-Leste parliament and government to arbitrarily terminate the contracts of foreign judicial officers and judicial advisors will have a negative impact on victims and their right to an effective remedy, said Amnesty International. The move also raises serious concerns about judicial independence in the country.

On 24 October, the Timor-Leste Parliament passed a resolution calling on the government as part of an “audit” of the judicial system to terminate immediately all existing contracts and contractual renewals of foreign judicial workers, including foreign judges, prosecutors, public defenders and judicial advisors. The resolution cited “national interests” as a basis for the termination and called into question the competence and integrity of foreign judges and prosecutors.

Shortly afterwards, and on the same day, the government issued a resolution terminating all existing contracts of foreign judicial officers on the basis of *force majeure* (Acts of God) and national interest. On 28 October, the President of the Court Appeals issued a directive to chief justices stating that the resolution had no legal effect and called on all foreign judges to continue their functions. However, three days later on 31 October the government issued another resolution ordering the Immigration Service to immediately revoke the work permits of eight foreign judicial officers and demanding that the individuals leave the country within 48 hours. All eight have since left. Furthermore, Amnesty International understands that all international judges and prosecutors have now also left the country.

Amnesty International is concerned that the sudden departure of judicial officers will have a significant impact on Timor-Leste's fragile judicial system, which is already experiencing a backlog of court cases. In particular, the organization is concerned about the impact on victims whose cases will now be subject to retrials, and who now face further delays in accessing their right to an effective remedy. Amnesty International is also concerned that cases being retried include cases of domestic violence and sexual assault, which make up the vast majority of cases before Timor-Leste's courts. Victims – mainly women and children – may be subjected to further traumatization and victimization if required to testify again in new court cases.

In addition to delaying access to an effective remedy for victims, Amnesty International believes that the actions of the Timorese Parliament and government amount to undue interference in the judiciary's functioning and is in contravention of Timor-Leste's Constitution. Article 119 guarantees the independence of the Courts, while Article 121 (3) states that “judges have security of tenure and, unless otherwise provided for by law, may not be transferred, suspended, retired or removed from office”. Judges can only be removed from office by the Superior Council of Magistrates and prosecutors by the Superior Council for the Public Prosecution.

Some local activists have raised concerns that the terminations may be linked to a number of corruption cases involving government officials or lawmakers that are being investigated or have been prosecuted or adjudicated by foreign judicial officers.

Amnesty International is also concerned that the removal of these judicial officers will undermine the prosecution of those accused of crimes against humanity and gross human rights violations committed in the context of the 1999 independence referendum in Timor-Leste. Foreign judicial officers with expertise in international criminal law have been involved in providing support for the investigation and prosecution of such cases over the last decade. The removal will also disrupt legal training in Timor-Leste, as some of those who have since left had been teaching at the Legal Training College.

Amnesty International urges the government and parliament to rescind their decisions to terminate the judicial officers so as to ensure the integrity of the judiciary as well the effective functioning of the judicial system in the country. Any decision to remove judges, prosecutors, or other judicial officers should be taken in accordance with procedures established in law, and subject to independent review.

Judges, prosecutors and public defenders, mostly from Portuguese-speaking countries, have formed part of Timor-Leste's judicial system since independence in 2002. Others work as judicial advisers in with the Anti-Corruption Commission and the Judicial Training Centre.