

RESOLUTION OF THE RDTL NATIONAL PARLIAMENT, n. 11/2014 of 24th October,

In relation to the need for an Audit in the Justice Sector

(Unofficial translation)

The Democratic Republic of Timor-Leste is a Democratic Constitutional State based on the rule of law, respect for human rights and respect for the human person. The public authorities are founded on the principle of separation of powers, which still implies interdependence and mechanisms for enforcement.

In exercising its powers of supervision and control of the public bodies, it is the National Parliament who has the competence to follow the various sectors of the public administration, in the broadest sense, through which the Justice Sector is part.

It is part of the Justice Sector the set composed by the State bodies that administrate the Justice, constitutionally enshrined, such as the courts, the public prosecution office, the public defender office, and the criminal police bodies, such as the Anti-Corruption Commission. The integrated functioning of these organizations is a response to concrete cases submitted before the courts, whether such cases has civil or criminal nature. This process through which the justice is administered, and that according to the laws of our country, only the State can provide, must be credible, independent, transparent, effective, efficient, expeditious and fair. The referred structure of the organs of the Justice Sector is regulated by several laws and regulations that make up the collection of judicial law or laws related to these judicial laws.

In this sense, the Justice System of Timor-Leste has been called to solve processes which complexity is regularly increasing, being tested every day, either by citizens of Timor-Leste or by foreigners who turn to such system. A paradigmatic example of this complexity, both in terms of size, either in terms of its sophistication, is the set of legal proceedings, under which the contractors on oil exploration Bayu-Undan sued the State in more than 50 complex processes related with international taxation matters and those procedures has been brought before the national court as well.

These proceedings, like many others, have revealed some of the weaknesses that our judicial system, still young, is suffering. And that is not only because the subjects discussed in such processes are very specific, putting in proof our human resources capabilities and the responsiveness of the courts, but also because there are numerous incidents related to legal irregularities, both substantive and procedural, that is contaminating processes, exposing the country to external threats and, as a consequence, threatening our national security. Taking into account that the justice system of Timor-Leste is quite young, the Government has been forced in the recent years to hire to our courts and prosecution office, international professionals, from countries with more developed legal systems, in order to provide training to the Timorese technicians and to empower the functioning of our judicial system.

However, in fact, what has been observed is that these external professionals, rather than empowering our judicial system and equips the Timorese staff with appropriate technical knowledge, revealed a lack of technical capacity to achieve the purposes for which they were hired. Also, the Anti-Corruption Commission has hired professionals of foreign nationality to educate and to train the public servants attached to that judicial organ.

However, the performance of these professionals have not proved to be satisfactory, since it is public that the Anti-Corruption Commission has not acted in accordance with the criminal evidence that such institution takes note, in the sense of promoting the proper investigations in relation to such facts.

Given the above, in order to meet the legitimate expectations that the Timorese people legitimately deposited in their courts, and, as well, given the need to undertake an evaluation in relation to the functioning of the Justice Sector as a whole, and since the activities of over the past fourteen years of the organs that make up the Justice System allows to reach clear conclusions about the present and future needs of our judiciary system, the National Parliament resolves in accordance with the provisions stated in the Article n. 92 of the Constitution of the Democratic Republic of Timor-Leste, the following:

- 1) urge the Government, while the organ responsible for implementing the policies in the area of the Justice, to conduct a thorough technical audit on the functioning of the sector, including:
 - a) the operation of the Courts, the Prosecutors, the Public Defender and the Anti-Corruption Commission;
 - b) the articulation of the prosecution with the criminal police;
 - c) The need to make legislative changes and drafting new laws;
 - d) Human resources and the trend "Timorization" of the sector;
 - e) The economic efficiency of the sector and the implementation of external assistance; f) the articulation of the formal system and the reinforcement of traditional justice mechanisms.
- 2) In order to mark the 15th anniversary of the creation of the Justice Sector, it is recommended a presentation of the findings of that audit to the National Parliament and to the public at the beginning of 2015.
- 3) As a transitional measure, and without prejudice that any order may be reverse in the future, should cease immediately, for reasons of force majeure and national interest, any existing contract and renewals of international judicial staff hired, including international advisors, appointed to perform in the Court, in the Public Prosecutor, in the Public Defender Office, the Anti-Corruption Commission and, also, in the Judicial Training Centre.
- 4) In attention to the preceding paragraph, the Government shall promote the creation of mechanisms to overcome the difficulties related to human resources that may result from the termination and non-renewal of external contracts.
- 5) The internationals hires to the Justice Sector, under protocols and memorandum of understanding signed between the Timorese State and foreign entities, shall, henceforth, for reasons of coordination of the referred protocols and, as well, for reason of economic rationality, to be coordinated by the relevant authorities of the Government.

This Resolution shall enter into force on the day following its publication in the Official Gazette.

Approved on 24th October, 2014.

To be published.

The President of the Parliament,
Vicente da Silva Guterres