

Timorese Court of Appeal without enough judges to respond to cases

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Lack of judges and delays in the appointment and promotion of judges are the working conditions of the Timor-Leste Court of Appeals, the only higher court in the country, with multiple processes blocked for lack of a quorum, according to sectoral sources.

At this point, the Court only has two operating judges, with President Guilhermino da Silva away for health problems.

Several openings for judges cannot be filled because they cannot meet the conditions for the evaluation of lower court judges and their possible promotion to the Appeals Court, explained sources in the Timorese judicial sector heard by Lusa.

For appointments and promotions it is necessary for judges to be evaluated by judges from higher categories, which in this case should be provided by Portugal under the bilateral cooperation protocol in the area of justice signed with Timor-Leste on 25 February.

Judicial sources confirmed to Lusa that the selection process is still under way to hire at least five judges, for the Judicial Training Centre and the Court of Appeal, a number that may increase later.

The delay in the process was due to several aspects, such as elections in the Portuguese Superior Judiciary Council and the lack of agreement on the modality of payment to the judges who will be in Timor-Leste under a contract between with the States of the two countries, according to the Ministry of Justice and Court of Appeal sources.

It is still unclear, for example, who will pay the judges' salaries - Portugal or Timor-Leste - explained the same sources.

In the case of Timor-Leste, the Court of Appeal failed to have financial autonomy in aspects such as the recruitment of international technical assistance in 2015, a decision which, at the time, drew criticism from the president of this panel, Guilhermino da Silva.

The [Portuguese] Ministry of Justice rejected the criticism saying that hiring international technical assistance, once partially subsumed in the budget of the bodies and institutions in the justice sector, "was entered in the budget the Ministry of Justice, remaining, however, available for the same end".

There is no timetable yet for the arrival of the [Portuguese] judges in Timor-Leste. Until this situation is resolved, the work of the Court of Appeal continues to be limited, with civil case decisions practically stopped and decisions on criminal proceedings and others to be heard with the use of the first instance judges to fill the quorum, according to explanations from Lusa's sources.

This implies, however, that cases such as appeals from decisions of the Audit Chamber (Câmara de Contas - CC) are blocked because the law states that the judicial panel to review any appeals must be different from those who signed the initial decision.

This is what happens with the appeals from the three contracts already flunked by the Audit Chamber for three projects submitted by the Timorese government, which were halted still several months ago.

At issue is the decision from last November not to grant CC prior approval to the largest contract in the country, \$720 million, signed with South Korea's Hyundai Engineering & Construction for the design and construction of the Suai Supply Base, known as the Tasi Mane Project and considered essential to oil exploration activities in the Timor Sea. On November 11, the Government appealed to the Court of Appeals but the process cannot move forward.

The same occurs with two other agreements flunked by the CC, for more than two months, a loan contract loan and an implementation contract for drainage works in the city of Dili.

In a statement, the Government said that the appeals were filed "more than 50 days ago, without there having been any response from the Court", and it is therefore considering filing a complaint.

"Once the government has not yet been notified of the distribution of these processes to the responsible judges, the Council of Ministers considers presenting a complaint to the President of the Court of Appeal for the failure or irregularity of this distribution," said the executive.

The Government points out that the previous refusal to approve the loan agreement implies that the Government "cannot execute the loan agreement with preferential interest to finance the construction of drainage infrastructure for the capital of the country."

"The refusal of approval for the execution of the works contract prevents the Government from carrying out these drainage works, fundamental to control floods which cyclically occur in the city," noted the statement of the executive.

Original Portuguese article at http://www.rtp.pt/noticias/mundo/tribunal-de-recurso-timorese-sem-juizes-suficientes-para-dar-resposta-a-processos_n923100