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The Honourable Attorney-General
Senator George Brandis QC

The Honourable Minister for Justice
M.P. Michael Keenan

Strasbourg, 13 November 2017

Your Excellencies,

As a Member of the European Parliament and an old friend of Timor Leste I have been following closely, since May 2015, the judicial proceedings opened in Dili against Tiago and Fong Fong Guerra, two Portuguese nationals who arrived last week in Darwin and are requesting to be removed/deported to their country, as soon as possible. I second their plea and ask you to speed up their removal from Australia to Portugal as soon as possible.

Otherwise, Australian authorities may be confronted with an arrest warrant and extradition request by the Timor Leste authorities to the Australian Government. That may lead to an extradition procedure between Australia and Timor Leste, possibly in the framework of the UN Model Treaty on Extradition. In accordance with the Australian Extradition Act 1988, I assume that will, nevertheless, involve decisions by Your Excellencies and by magistrates on whether the persons and the offences are "extraditable", whether there are "extradition objections" and in establishing a "prima facie case".

I wish to share with Your Excellencies that I am deeply convinced of the innocence of Mr. and Mrs. Guerra and stand ready at any time, if needed, to testify with Australian authorities or courts with a view to formally raise an extradition objection and help the authorities form the decision to refuse a possible extradition request, since these two persons are victims of a gross miscarriage of justice in the young nation of Timor Leste. I wish to point out to Your Excellency that both Mrs and Mr. Guerra have been cleared of money laundering and document falsification charges, but were sentenced to 8 years in prison by a 1st instance court in Dili for embezzlement ("peculato" in Portuguese), a crime which according to the Portuguese inspired law applicable in Timor Leste requires the defendants to have been agents for the Timor Leste State - which they never were.

For your information, I am enclosing herewith a letter that I and a number of other MEPs have sent to the EU High Representative Federica Mogherini on the flagrant denial of justice to Mr. and Mrs. Guerra in Timor Leste.

*Best regards
Ana Gomes*

Ana Gomes
Member of the European Parliament

Annex: Letter of MEPs to HR Federica Mogherini on justice in Timor Leste



EUROPEAN PARLIAMENT

Ms. Federica Mogherini
High Representative of the European Union for Foreign Affairs and Security Policy and Vice-President
of the European Commission

Brussels, 12 September 2017

Dear High Representative,

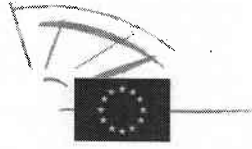
Fong Fong and Tiago Guerra are a Portuguese couple going through a personal ordeal with the incipient Justice system in Timor Leste. That ordeal deeply afflicts their families and friends in Timor Leste, in Portugal, in China and elsewhere.

Attached herewith you will find a summary of a report on the Court proceedings and of the accusations made against Mr. and Mrs. Guerra, who were sentenced to 8 years of prison by the 1st instance Court in Dili last month, convicting them to 8 years imprisonment for embezzlement. It must be noted that neither Mr. nor Mrs. Guerra were ever civil servants or hired by the State of Timor Leste, therefore the accusation of "embezzlement", which supposes any kind of link with the State, is completely mistaken. But more important is the fact that none of the substantive accusations were ever proved in court - there cannot be evidence of crimes they did not commit.

The true culprit is well known to the East Timorese authorities, who hired him as a consultant - Mr. Bobby Boye, a Nigerian-American consultant which was placed in Timor Leste by the Norwegian Aid agency and was later hired by the East Timorese state. He is serving a sentence in the USA where he was detained for fraud and money laundering crimes against the Timor Leste State. Yet, the Timor Leste justice system failed, till this day, to carry out its own accusation against Mr. Bobby Boye and failed, as well, to demand from him and the USA the recovery of the assets he stole from Timor Leste - namely the amount of 859,706.30 USD (plus interest on arrears since 2011), which is at the centre of the accusations against Mr. and Mrs. Guerra.

We know you must be informed about the case, since the EU Ambassador in Timor Leste, as well as the UNDP/UN Resident Representative, the Portuguese and other diplomatic representatives, were present at several sessions of the trial, namely at the reading of the sentence. So was, significantly, the former President and Nobel Prize Awardee Mr. Ramos Horta, who repeatedly and publicly expressed its belief in the innocence of the defendants.

We very much appreciate the interest shown by the EU Ambassador, certainly present upon your instructions. And therefore we believe you understand the damage that this gross miscarriage of



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justice brings to the reputation of the young nation of Timor Leste, with the potential to affect its capacity to attract foreign investors, experts and all sort of much needed professionals.

The EU has consistently supported the people and the nation of Timor Leste, even before independence was achieved in 2002. This year, once again, the EU deployed a EUEOM to observe elections in Timor Leste and was heartened to congratulate its people and authorities for a peaceful, highly participated, well organized and very credible electoral process. We want this EU commitment to continue and further assist Timor Leste in developing institutional and professional capacities, much needed for good governance, consolidating the rule of the law and the enjoyment of human rights for all in Timor Leste.

The poor professional conduct of the prosecution and the judges in Timor Leste, as documented in the case of Tiago and Fong Fong Guerra, shows the need for the EU to step up support and strategically direct efforts into specialized capacity building in the judicial system. Without credible and functioning Justice, it is hard for Timor Leste, or any country, to consolidate democracy.

That is the plea we bring to you. Together with the request that, specifically on the ordeal endured by Mr. and Mrs. Guerra, you take up with the Timor Leste authorities how to ensure that consideration of the appeal, which will follow, will credibly meet international standards. One way would be to ensure that the Appeal Court Judges would be assisted by experienced international judges in reviewing the case.

Best regards,

Carlos COELHO (EPP, Portugal)
Barbara LOCHBIHLER (Greens, Germany)
Juan Fernando LOPEZ-AGUILAR (S&D, Spain)
Marisa MATIAS (S&D, Portugal)
Marietje SCHAAKE (ALDE, Netherlands)
Elly SCHLEIN (S&D, Italy)
Charles TANNOCK (ECR, United Kingdom)
Julie WARD (S&D, United Kingdom)
Bodil VALERO (Greens, Sweden)
Marie-Christine VERGIAT (GUE, France)
Ana GOMES (S&D, Portugal)