



JUDICIAL SYSTEM MONITORING PROGRAMME

PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

Press Release

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All parties are unsatisfied and disappointed by lack of effective coordination between the Prosecution Service and the Baucau District Court

In accordance with the agenda established by the Baucau District Court, two criminal cases were scheduled to be heard on 17 January 2012. The first case involved the misuse of money and misuse of authority, registered as Case No. 94/Crm.C/2011/TDB, and the other case involved serious maltreatment and was registered as Case No. 231/Crm.C/2009/TDB.

However the two hearings could not take place because the prosecutor was absent. Based on information provided to JSMP by staff from the prosecution service, the prosecutors are attending 3 days of training in Dili between 16-18 January 2012.

The Executive Director of JSMP, Luis de Oliveira Sampaio, stated that although JSMP understands that a range of obstacles exist in relation to the observance of the predetermined schedule, JSMP urges all judicial authorities to improve the efficiency of their coordination between these relevant institutions to avoid undue delays and also to avoid undermining the interests of the parties who have observed their summons to appear in court.

Article 48 of the Timor-Leste Criminal Procedure Code states that the Public Prosecution Service is the holder of the criminal action and it is incumbent upon it to cooperate with the court in disclosing the truth and in applying the rule of law by complying, in very procedural intervention, with strict criteria of legality and objectivity.

Article 260.1 of the Timor-Leste Criminal Procedure Code states that the absence of either the public prosecutor or the defender never justifies the postponement of the hearing. Also, Article 260.2 states that the public prosecutor shall be replaced by his or her legal substitute and the

defender by a competent person, preferably a lawyer or law graduate, under the penalty of irreparable nullity.

JSMP has observed that despite the fact that the law imposes an obligation on the judicial institutions to engage in coordination and substitution in order to avoid obstructing the trial process, in reality the prosecution service is unable to comply with the provisions of Article 260. Moreover, the prosecution service has not effectively communicated with the courts to avoid disadvantaging the parties involved in the process. JSMP has observed that the parties are very concerned because they have done their best to be present in court and have complied with the summons issued by the court, however unfortunately when they arrive in court the scheduled hearing does not take place.

During an informal meeting with court clerks, JSMP was informed that the courts will raise this issue with the Prosecutor-General, Ana Pessoa, so that the matter can be addressed.

In relation to the aforementioned situation, the parties who have travelled to court to attend a hearing are very concerned and upset, because they have spent their time and money to attend court to participate in the legal process concerning their case, only to find out that the hearings are constantly delayed.

In relation to these matters JSMP urges all of the judicial institutions to ensure that there is more effective communication between the prosecution service and the courts, as well as lawyers and public defenders, to avoid any obstacles and especially to avoid disadvantaging the parties who have spent their own time and money to respond to court summons. JSMP hopes that this experience will be an important lesson for the future.

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