



**JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAM PEMANTAUAN SISTEM YUDISIAL**

Case Summary

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Summary of Cases Heard by the Dili District Court in May 2011

In May 2011 JSMP continued its monitoring activities in the Dili District Court for both serious and ordinary crimes, as well as civil cases. While some cases were delayed, the trials of other cases progressed as per normal.

Based on the observations of JSMP during the month of May, delays in trying cases at the Dili District Court were not caused by the Court itself, but by the parties to proceedings, such as defendants. Also, witnesses failed to attend court to contribute to the search for justice. Consequently, the failure of individuals to respond to court notifications created problems with the trial process and caused delays.

The aim of this case summary is to disseminate up to date information about the trials that were conducted at the Dili District Court in May 2011, based on the observations of JSMP.

The information below provides a summary of the cases heard by the Dili District Court:

1. Crime of Aggravated Murder, Case No. 34/C.Ord/2011/TDD

On 3 May 2011, the Dili District Court conducted a hearing to read out the final decision in Case No. 34/C.Ord/2011/TDD relating to aggravated murder. The alleged incident occurred in Estadu Village, Ermera District on 16 August 2009. The motive for this incident was because the victim, who was the wife of the defendant, had accumulated a lot of debts without the knowledge of the defendant. At that time they had an argument and the defendant killed the victim.

In its final decision the court sentenced the defendant CS to 14 years imprisonment and ordered him to pay compensation of USD 700.00. The defendant had already served 8 months of pretrial detention in Becora prison.

After the Dili District Court announced the aforementioned verdict the lawyer representing the defendant indicated intent to file an appeal against the decision of the court of first instance.

2. Crime of Attempted Murder, Case No. 239/C.Ord/2010/TDD

The Dili District Court on 5 May 2011 conducted a hearing in a case of attempted murder. The defendant QC was charged with the committing the crime against the victim CC.

The victim told the court that the defendant was intoxicated and suddenly attacked him with a knife that was hidden under his jumper. The victim also testified that in addition to being intoxicated, the defendant also suffers from a mental illness and their neighbors were aware of this.

There was no clear motive why the defendant stabbed the victim. Before the court the defendant exercised his right to remain silent and did not speak about the case.

In relation to indications that the defendant was suffering a mental illness, the court will try and have the defendant taken to a hospital to have a medical examination performed. Therefore, the court decided to adjourn the trial until 3 June 2011.

3. Crime of Alleged Corruption and Misuse of Authority, Case No. 266/C.Ord/2010/TDD

On 9 May 2011, the Dili District Court conducted a hearing to announce its decision in a case of alleged corruption and misuse of authority involving the defendants JLG, AMV and JFC.

The court fully acquitted the defendants from all charges in relation to alleged corruption, misuse of authority and illegal appointments. The public prosecutor was unable to present accurate evidence to support his indictment during the entire trial.

The hearing to announce the decision was presided over by a panel of judges comprising João Ribeiro, SH, João Felgar, SH (international) and Alvaro Freitas, SH. The Prosecution Service was represented by Aderito Tilman and the Public Defender's Office was represented by Sergio Hornai, SH and Cancio Xavier.

4. Crime of Murder, Case No. 56/C.Ord/2010/TDD

The Dili District Court on 9 May 2011 conducted a hearing in Case No. 56/C.Ord/2010/TDD relating to murder. In this case the 8 defendants MM, MR, MS, MS, JS, CS, IC and VS were accused of murdering the victims MC and EM. It is alleged that the incident occurred in Uatobou Village, Maubara Sub-District, Liquica District on 18 September 2007.

The public prosecutor charged the 8 defendants pursuant to Article 338 of the Indonesian Penal Code on murder, which carries a sentence of 15 years imprisonment.

6 witnesses testified that they did not see firsthand the defendants kill the two victims. The witnesses received information from several of the defendants and others after the 2 victims died.

The court adjourned the trial to hear testimony from other witnesses on 11 May 2011, at 9.30am.

The trial was presided over by a panel of judges comprising Duarte Tilman, SH, José Gonsalves, SH and João Freitas, SH. The Prosecution Service was represented by Baltazar Ramos, SH and the Public Defenders Office was represented by Cancio Xavier, SH.

5. Land Dispute, Case No. 18/Sivil/2009/TDD

On 10 May 2011 the Dili District Court conducted a hearing in Civil Case No. 18/Sivil/2009/TDD relating to a land dispute between the plaintiff AMS and the respondent AS.

The land in dispute is located in Bebora - Dili and is 300 meters squared. The plaintiff or his representative claimed that the aforementioned piece of land belongs to them, and the land was obtained through an auction which was carried out by the Military Court of Surabaya/Indonesia on behalf of Captain AZ in 1996.

Prior to the auction, the land was seized by the Indonesian government because evidence indicated that AZ was involved in a criminal case.

The respondent claimed to be the owner of the land which was obtained from CHH (a Timorese person of Chinese descent) in 1981. In 1982 the front section of the land was leased to *Pertamina* for 25 years.

The witness HH testified that the auction was a scam because he was not informed about the auction by any party including the court during the Indonesian occupation. The land in dispute was registered in the name of the witness but because of the political conflict in 1999, he gave power of attorney to his adopted son AS.

The trial was presided over by a panel of judges comprising Rosa Brandão, SH, João Ribeiro, SH and Alvaro Maria Freitas, SH. The plaintiff was represented by Arlindo Sanches, SH, and the respondent was represented by Pedro Apariçio, SH. Both of the legal representatives were private lawyers.

The court adjourned the trial until 1 June 2011 at 2.30pm to hear testimony from other witnesses.

6. Crime of Murder, Case No. 56/C.Ord/2009/TDD

On 11 May 2011 the Dili District Court adjourned the trial involving the defendants MM, MR, MS, MS, JS, CS, IC and VS who were charged with murdering the two victims MC and EM in Uatobou Village, Maubara Sub-District, Liquica District on 18 September 2007.

The case was adjourned because 4 witnesses who had been summoned failed to attend, and therefore the court adjourned the trial until 1 June 2011 at 9.30am to hear witness testimony.

7. Crime of Attempted Murder, Case No. 170/acara cepat/2011/TDD

On 12 May 2011 the Dili District Court conducted the first hearing in the trial of Case No. 170/acara cepat/2011/TDD relating to attempted murder. This case involved the defendant CS and the victim EP. The alleged incident occurred in Delta 1, near Leader Supermarket, behind the Aimutin Church, Dili at approximately 6.30pm.

The hearing was presided over by a single judge João Felgar, SH (international). The Prosecution Unit was represented by Baltazar Ramos, SH (international), and the defendant was represented by Marcia Sarmiento, SH.

The witness LMG (GNR) from Caicoli HQ explained that on 10 May 2011 at 6.30pm a clash occurred between 2 martial arts groups, but he did not clearly identify the two groups. The witness stated that approximately 15 people were involved in the conflict. When the witness arrived at the scene the two groups started to withdraw and the witness saw that the defendant was holding a knife that was still in its pouch and that is why the witness immediately arrested the defendant.

The public prosecutor asked the court to produce items of evidence such as the knife, and then the court examined the knife and established that the knife was approximately 17 centimeters long and that some blood was on the knife. Based on the evidence, the public prosecutor was convinced that there was a clash between two groups, but it was unclear who stabbed the victim. The public prosecutor charged the defendant with Article 145 of the Timor-Leste Penal Code but because the court did not prove the involvement of the defendant the prosecution requested for the court to free the defendant.

The court ordered the defendant to serve house arrest and adjourned the trial until 13 May at 9.30am to announce the final decision.

8. Crime of Misuse of Drugs, Case No. 47/Crime. S/2011/TDD

On 12 May 2011 the Dili District Court conducted a hearing in a case of misuse of drugs (*sabu-sabu*), involving the two defendants AI and ES. The arrest was carried out by the Police on 9 August 2010, in Pantai Kelapa, Dili.

The trial was presided over by single judge Rosa Brandão (international), the Prosecution Service was represented by Hipolito Expostu, SH and the Public Defender's Office was represented by Sergio de Jesus Hornai, SH and Manuel Expostu, SH.

The trial was adjourned until 24 May 2011 at 9.30am due to the non-attendance of a witness. The two defendants have been in pre-trial detention for 9 months in Becora Prison.

9. Crime of Light Maltreatment, Case No. 33/pidana. S/2011/TDD

On 12 May 2011 the Dili District Court conducted a hearing in a case of light maltreatment allegedly committed by the defendant AB against the victim JA. The alleged incident occurred on 19 May 2008 in Bidau, Dili.

The trial was presided over by single judge João Ribeiro, SH, the Prosecution Service was represented by Reinato Bere Nahak, SH, and the Public Defender's Office was represented by Calisto Tout, SH.

The defendant and the witness AR testified that at the time of the incident they were arguing and the defendant hit the witness AR. The victim saw what happened and tried to separate the two of them but the victim was struck, so the victim responded with a kick, and the defendant managed to grab the leg of the victim and stab the victim with a small knife.

Based on the facts revealed during the trial, the public prosecutor stated that the victim was indeed stabbed with a small knife and therefore the actions of the defendant violated Article 145 of the Timor-Leste Penal Code on light maltreatment.

The decision will be announced on 27 May 2011 at 9.00am.

10. Crime of Theft, Case No. 57/C.Ord/2011/TDD

On 16 May 2011 the Dili District Court adjourned the trial of a case involving the defendant AS. It is alleged that the defendant stole rice from a rice warehouse in Bebora, Dili in 2008 (date unknown).

The trial was adjourned until 8 July 2011 at 2.00pm due to the non-attendance of the defendant in court. If the defendant fails to appear on the aforementioned date then the trial will continue in his absence.

The trial was presided over by single judge João Ribeiro, SH, the Prosecution Service was represented by Baltazar Ramos, SH and the Public Defender's Office was represented by Manuel Exposto, SH.

11. Crime of Suspected Embezzlement and Corruption, Case No. 364/C.Ord/2009/TDD

On 17 May 2011 the Dili District Court conducted a hearing in Case No. 364/C.Ord/2009/TDD relating to suspected embezzlement and corruption, involving the defendant RB (state official) which allegedly occurred in 2002.

The hearing was conducted for the purpose of examining testimony from the 4 witnesses CAS, APG, CA and AD. None of the 4 witnesses knew about the generator/diesel belonging to the State that was leased by the defendant to JC in 2002.

The Public Prosecutor charged the defendant pursuant to subsections (1) and (2) of Indonesian Law No. 31/1999 on Anti-Corruption for the crime of leasing a state owned generator/diesel to another person with the intention of enriching oneself and one's family. The defendant was also charged with violating Article 372 and 374 of the Indonesian Penal Code relating to the embezzlement of state assets and corruption.

The trial was presided over by a panel of judges comprising João Ribeiro, SH, Antonio Fonseca, SH, and José Gonsalves, SH. The Prosecution Service was represented by Domingos Barreto, SH and the defendant was represented by Fernando de Carvalho, SH from the Public Defender's Office.

The court adjourned the trial until 15 June at 2pm to hear the testimony of other witnesses.

12. Crime of Murder due to negligence, Case No. 44/C.Ord/2011/TDD

On 18 May 2011 the Dili District Court conducted a hearing in a case of murder due to negligence allegedly committed by the defendant DX against the victim GM, which occurred on the main road in Fatuhada, on 24 July 2010.

At the time of the incident at approximately 10.00pm the defendant was driving a minibus and struck the victim who was riding a motorcycle along the main road in Fatuhada, right in front of the petrol station. The victim suffered a broken leg, serious injuries to his arms and face and as a result the victim died on the spot.

In his testimony to the court the defendant stated that at the time of the incident the defendant heard a loud noise coming from the tyre of the minibus but the defendant did not know that the victim was under the vehicle. Then the defendant stopped his vehicle in front of Landmark Supermarket and got out to check the condition of his vehicle. At that time many people came carrying stones and pieces of wood and told the defendant that he had struck someone. At the same time the police arrived on the scene and the defendant was taken to the police station.

The court questioned the four witnesses CM, CV, MTM and JA. The witnesses stated that they did not actually witness the incident.

Even though the incident occurred due to negligence of the defendant who had no motive to take the life of another, the defendant's lack of care resulted in the death of another person. Therefore the defendant was charged with violating Article 140 (1) and (2) of the Timor-Leste Penal Code on the criminal act of negligence causing death which carries a sentence of 4 years imprisonment or a fine.

The trial was presided over by single judge Rosa Brandão (international). The Prosecution Service was represented by Domingos Barreto, SH and the defendant was represented by Manuel Gutteres, SH from the Public Defender's Office.

The final recommendation will be heard on 27 May 2011 at 10.00pm.

For more information, please contact:

Casimiro dos Santos

Acting Director of JSMP

Email: casmiro@jsmp.minihub.org

Landline: 3323883