



**JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL**

Case Summary

Period : February 2012
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Summary of cases tried at the Oecusse District Court in February 2012

Introduction

During the third week (21st-24th) of February 2012 JSMP continued its monitoring activities at the Oecusse District Court.

Based on monitoring conducted by JSMP during the aforementioned period at the Oecusse District Court, it was noted that hearings did not start on time or in accordance with the trial schedule because the victims or the defendants arrived late and some cases could not be tried because the victims and defendants did not appear in court. In addition, on 22 February 2012 the Oecusse District Court did not conduct a trial because this was a major Catholic holiday (day of ashes).

Over a period of 3 working days JSMP managed to monitor a total of six cases, comprising four cases of domestic violence and 2 cases of minor assault. From the four cases of domestic violence, the court issued final decisions in two cases, and the other two cases were adjourned because the victims and defendants did not appear in court.

In regards to the two cases of minor assault, the court validated a settlement because just before the commencement of the trial the two parties (victim and defendant) entered into an amicable agreement.

As usual this summary is aimed at disseminating up to date information to the public relating to cases tried at the Oecusse District Court during the third week of February 2012.

This summary will complement a summary regarding trial activities at the Oecusse District Court that took place during the second week of February 2012. We wish to clarify that this summary regarding the Oecusse District Court can not cover the entire month because JSMP researchers do not reside permanently in the aforementioned jurisdiction.

The following information provides a summary of the cases heard during the aforementioned period.

1. Crime of minor assault, Case No. 77/PCO/2011/TDO

On 21 February 2012 the Oecusse District Court validated a settlement in a case involving minor assault that was registered as Case No. 77/PCO/2011/TDO. The crime was allegedly committed by the defendant Abilio Suni against the victim Leonardo Elo in Sanane Sub-Village, Pante-Makassar Sub-District, Oecusse District on 8 April 2011.

This validation process was presided over by single judge João Riberio. The Public Prosecution Service was represented by Afonso Lopes and the defendant was represented by public defender Calisto Tout.

The court validated the settlement because prior to the commencement of the trial the victim and the defendant entered into an amicable agreement. The declaration was submitted to the court on 30 January 2012 by the court clerk Vicente Colo and the court accepted the amicable agreement between the parties, however the court requested the defendant to refrain from committing such crimes in the future.

2. Crime of Domestic Violence, Case No. 159/PCO/2011/TDO

On 21 February 2012 the Oecusse District Court conducted a hearing in a case of domestic violence that was registered as Case No. 159/PCO/2011/TDO. The crime was allegedly committed by the defendant Vicente Ufe against two victims who were his wife and daughter (Marçelina Sale and Maria Rosita Ufe) in Cunha Village, Pante-Makassar Sub-District, Oecusse District on 10 April 2011.

The hearing was presided over by single judge João Ribeiro. The Public Prosecution Service was represented by Afonso Lopes and the defendant was represented by public defender Sebastião Nheu Amado.

According to the prosecutor's indictment, on 10 April 2011 at approximately 8pm the defendant accused the victim Marçelina Sale of being unfaithful and saying that their daughter was not his child. In relation to this accusation the victim and the defendant started arguing and while the victim was still talking the defendant grabbed her around the neck and threw her to the ground, and when the defendant tried to stomp the victim their daughter Maria Rosita Ufe managed to block the defendant and stop him from beating her mother. When the victim Maria Rosita Ufe intervened, the defendant kicked her on her side. As a result of the defendant's actions the victim fainted and vomited and was then taken to the Oecusse Referral Hospital for four days of treatment.

In relation to the aforementioned facts the Public Prosecution Service charged the defendant with violating Article 145 of the Penal Code as well as Article 35 of Law No. 7 /2010 Against Domestic Violence.

During the trial the defendant chose to remain silent in accordance with Article 60 (c) of the Criminal Procedure Code. However, the two victims supported the charges of the Public Prosecution Service regarding what they experienced.

In his final allegations the public prosecutor requested for the court to order the defendant to pay a fine. The public prosecutor believed that based on the testimony given by the two victims it had been proven that the defendant had committed the crime of domestic violence as charged.

The defence requested for the court to hand down a suspended sentence against the defendant because he was a first time offender and also because the two victims have forgiven the defendant for his actions.

In accordance with the aforementioned facts the court handed down a two year prison sentence that was suspended for three years.

After the completion of the trial the presiding judge read out the judgment and asked the convicted person to refrain from committing another crime against anyone for the next three years, because if the convicted person commits any crime then the competent authorities will immediately take him to prison to enforce the initial two year sentence handed down by the court.

3. Crime of Domestic Violence, Case No. 86 /PCO/2011/TDO

On 23 February 2012 the Oecusse District Court conducted a trial in a case of domestic violence registered as Case No. 86/PCO/2011/TDO. This crime was allegedly committed by the defendant Carlos Sane against the victim Jaçinta Pereira (his wife) on 5 January 2011 in Fatuk Esu Village, Passabe Sub-District, Oecusse District.

The trial was presided over by single judge João Ribeiro. The Public Prosecution Service was represented by Jacinto Babo Soares, and the defendant was represented by public defender Sebastião Nheu Amado de Almeida.

The indictment stated that on 5 January 2011 at approximately 8am the victim cooked a small amount of rice and the defendant was angry and slapped the victim. The victim did not accept the behavior of the defendant and the victim asked for the key to the cupboard so she could get her clothes and go to her family. However because the defendant would not give her the key the victim took a piece of metal to pry open the cupboard and damaged the lock. The defendant got even angrier and took a branch and hit the victim in the face and then kicked her in the face four times and hit her once on her side.

As a result of these actions the victim suffered injuries to her face and side and received treatment at the Passabe Health Centre and was immediately released.

In relation to these facts the Public Prosecutor charged the defendant under Article 145 of the Penal Code as well as Article 35 of Law No. 7 /2010 Against Domestic Violence.

During the trial the defendant openly admitted that he beat his wife for cooking a small amount of rice. The victim stated that she was kicked three times in the face, was hit once with a branch in the face and was hit once on her side. After the incident the victim went to her family and then went and made a complaint to the police.

In his final allegations the public prosecutor requested for the court to hand down a fair and proportional punishment based on the facts that were presented during the trial.

The defence requested for the court to hand down a suspended sentence against the defendant because he was a first time offender and has three small children. In addition the parties had reconciled before the commencement of the trial.

Based on the evidence presented throughout the trial the court decided to hand down a prison sentence of one year to be suspended for a period of one year and six months.

4. Crime of minor assault, Case No. 87/PCO/2011/TDO

On 23 February 2012 the Oecusse District Court validated a settlement in a case involving minor assault that was registered as Case No. 87/PCO/2011/TDO. The crime was allegedly committed by the defendant AN against the victim AC on 6 April 2011 in Usapin Sub-Village, Abani Village, Passabe Sub-District, Oecusse District.

The hearing to validate the settlement was presided over by single judge João Riberio. The Public Prosecution Service was represented by Jacinto Babo Soares and the defendant was represented by public defender Calisto Tout.

The court decided to validate this settlement because during the trial the victim requested for the court to halt proceedings because the parties had reconciled.

5. Crime of domestic violence, Case No. 88 /PCO /2011/TDO

On 24 February 2012 the Oecusse District Court adjourned a case of domestic violence registered as Case No. 88/PCO/2011/TDO. This crime was allegedly committed by the defendant HSS against the victim HSA on 24 March 2011 in Taiboko Villlage, Pante-Makassar Sub-District, Oecusse District.

The trial was adjourned because the victim and the defendant did not appear in court in accordance with the schedule previously set by the court. According to a court clerk the defendant and the victim had received a summons from the court. The parties did not justify their absence. The court has not yet decided on a new date to try this case.

6. Crime of domestic violence, Case No. 89/PCO/2011/TDO

On 24 February 2012 the Oecusee District Court adjourned a case of domestic violence that was registered as Case No. 89/PCO/2011/TDO. This crime was allegedly committed by the defendants (NM no SS) against the victim AL on 27 March 2011 in Sanane Sub-Village, Costa, Village, Pante-Makassar Sub-District, Oecusse District.

The trial was adjourned because the victim and the defendants did not attend court in accordance with the predetermined schedule, even though the defendants and the victim had received a summons from the court clerk. The parties did not justify their absence. The court has not yet decided on a new date to try this case.

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