



**JUDICIAL SYSTEM MONITORING PROGRAMME  
PROGRAMA MONITORIZASAUN SISTEMA JUDISIAL**

***Case Summary***

**Period : August 2011**  
**Edition : 15 September 2011**

**Summary of cases tried at the Suai District Court during August  
2011**

**Introduction**

During the first week of August 2011 JSMP conducting monitoring of criminal and civil trials at the Suai District Court. During the first week JSMP managed to observe 5 hearings, namely four cases involving light maltreatment and one case of domestic violence. However the trial of a case involving domestic violence continued on the following day and therefore this summary will cover a total of 6 hearings.

Based on monitoring conducted by JSMP, although the Suai District Court had scheduled hearings for each day, several cases were postponed because those seeking justice did not appear at court, including witnesses and victims, even though they had received written summons to provide testimony in court in order to contribute to the trial process to reveal the facts in accordance with the applicable rules of criminal procedure.

In several of the aforementioned cases suspended sentences were handed down and several others were settled by way of amicable agreement between the parties or because the cases were withdrawn by the parties, and this was accepted by the Suai District Court pursuant to Article 106 of the Timor-Leste Penal Code (regarding the nature of the crime).

As usual, this summary aims to disseminate up to date information about the trial process taking place at the Suai District Court based on monitoring conducted by JSMP during the first month of August 2011.

The following information provides a summary on the trial process:

**1. Crime of Light Maltreatment, Case No.145/PEN/2009/TDS**

On 04 August 2011 the Suai District Court tried Case No. 145/PEN/2009/TDS involving light maltreatment.

This trial was presided over by judge Jose Maria de Araujo (Presiding Judge at the Suai District Court), while the Public Prosecution Unit was represented by Oscar Tavares (international) and the Public Defender's Office was represented by João Henrique de Carvalho.

This trial involved the defendant SdA who allegedly committed light maltreatment against the victim NMA. The indictment of the public prosecutor stated that on 27 July 2009 in Camenasa, Sanfuk Village the defendant committed light maltreatment because the victim and his friends were drinking alcohol and they became drunk and were causing a commotion in the surrounding area, and therefore the defendant took a metal rod and struck the victim in the head.

The public prosecutor charged the defendant under Article 145 of the Penal Code on light maltreatment, which carries a sentence of 3 years imprisonment or a fine.

During the trial the victim testified to the court that the victim and the defendant had reached an amicable settlement and therefore pursuant to Article 71 of the Criminal Procedure Code on the legitimacy of the aggrieved party and Article 107 of the Penal Code on the bearers of the right to file complaint, the court decided to validate the aforementioned amicable agreement.

## **2. Crime of Light Maltreatment, Case No. 31/PEN/2007/TDS**

On 04 August 2011 the Suai District Court conducted a trial in Case No. 31/PEN/2007/TDS concerning light maltreatment. This case involved the defendant VD who allegedly committed the act against the victims AM and DS who are members of PNTL.

This trial was presided over by judge Jose Maria de Araujo (Presiding Judge at the Suai District Court), while the Public Prosecution Unit was represented by Oscar Tavares (international) and the defendant was represented by Public Defender João Henrique de Carvalho.

The incident allegedly occurred on 24 April 2006 in Zumalai Sub-District, Tazilin Village, Bora Ikun Sub-Village. The incident occurred because the two victims who are members of the PNTL wanted to settle a feud between martial arts groups, however the defendant appeared and hit and kicked the two victims.

Based on the aforementioned facts the Public Prosecutor charged the defendant in accordance with Article 145 of the Penal Code on light maltreatment which carries a sentence of three years imprisonment or a fine.

In relation to the prosecutor's charges the public defender told the court that prior to entering the courtroom the defendant and victims had reached an amicable agreement. Pursuant to Article 107 of the Timor-Leste Penal Code (on the bearers of the right to file complaint) the court asked the victims AM and DS about the statement made by the

public defender to the court and the victims told the court that they had forgiven the defendant, however in the future the defendant should not repeat such actions against them or any other persons. Also the defendant apologized to the two victims. Therefore the court accepted the request of the public defender and decided to validate the amicable agreement and close the case.

### **3. Crime of Light Maltreatment, Case No. 23/PEN/2011/TDS**

On 05 August 2011 the Suai District Court tried Case No. 23/PEN/2011/TDS involving a land dispute.

This trial was presided over by judge Jose Maria de Araujo (Presiding Judge at the Suai District Court), while the Public Prosecution Unit was represented by Zélia Trindade and the defendant was represented by Public Defender João Henrique de Carvalho.

The defendant GFG was charged with committing the crime of light maltreatment against the victim JDP. The incident occurred because the defendant ordered the National Directorate of Land and Property to measure the victim's land, and at that time the victim was not at home. The victim's wife phoned the victim to inform him that GFG had come to measure their land with a representative from the National Directorate of Land and Property, so the victim immediately came to that location and when JDP arrived at the scene the defendant leaped towards the victim and pushed the victim JDP in the chest and used his hand to strike the victim twice on the cheek.

The public prosecutor charged the defendant under Article 145 of the Penal Code on light maltreatment. The court explained to the two parties that Article 106.3 of the Penal Code stipulates that this case is a semi-public crime of which the prosecution can only be initiated after the right to file complaint has been exercised, and the court adjourned the hearing for 20 minutes to allow the parties to engage in conciliation.

When the hearing continued the victim JDP told the court that he had forgiven the defendant and requested for the defendant not to repeat such acts against others in the future.

After hearing the statement of the victim, pursuant to Article 71 of the Criminal Procedure Code and Article 107 of the Penal Code (on the bearers of the right to file complaint), the court validated this amicable settlement.

### **4. Crime of Domestic Violence, Case No. 35/PEN/2009/TDS**

On 05 August 2011 the Suai District Court tried Case No. 35/PEN/2009/TDS involving domestic violence. This trial was presided over by judge Jose Maria de Araujo (Presiding Judge at the Suai District Court), while the Public Prosecution Unit was represented by Zélia Trindade and the defendant was represented by Public Defender João Henrique de Carvalho.

The defendant IA was charged with committing domestic violence against the victim EV.

The Public Prosecutor charged the defendant under 145 of the Penal Code on light maltreatment as well as Article 35 of Law No. 7/2010 Against Domestic Violence.

In relation to the facts of the case the prosecutor requested for the court to sentence the defendant to three years jail, however the public defender requested for the court to give his client a suspended sentence because the defendant provides for his family (children).

During the trial the defendant did not provide testimony, however the defendant accepted all of the charges leveled against him.

A final decision in this case will be announced on 11 August 2011 at 10am.

### **5. Crime of Light Maltreatment, Case No. 151/PEN/2009/TDS**

On 9 August 2011 the Suai District Court adjourned a hearing in Case No. 151/PEN/2009/TDS involving light maltreatment.

This trial was adjourned by judge Jose Maria de Araujo (Presiding Judge), while the Public Prosecution Unit was represented by Zélia Trindade and the defendant was represented by Public Defender João Henrique de Carvalho.

The trial was adjourned because the defendant AXDS and witness were not present in court. The trial was adjourned until 7 October 2011 at 2pm.

### **6. Crime of Domestic Violence, Case No. 35/PEN/2009/TDS**

On 11 August 2011 the Suai District Court conducted a hearing to read out its decision in Case No. 35/PEN/2009/TDS involving domestic violence.

The hearing to announce the decision was presided over by judge Jose Maria de Araujo (Presiding Judge at the Suai District Court), while the Public Prosecution Unit was represented by Zélia Trindade and the defendant was represented by Public Defender João Henrique de Carvalho.

The court handed down a suspended sentence of 2 years against the defendant in accordance with the charges of light maltreatment and domestic violence.

The court decided to suspend the sentence against the defendant IA based on the evidence presented and also in consideration that the defendant and the victim are husband and wife and they have four children.

For more information, please contact:

Luis de Oliveira Sampaio

Executive Director of JSMP

Email: [luis@jsmp.minihub.org](mailto:luis@jsmp.minihub.org)

Landline: 3323883