



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

## ***Case Summary***

Period : January 2012

Edition : 13 February 2012

### **Summary of cases tried at the Baucau District Court in January 2012**

#### ***Introduction***

In January 2012 JSMP returned to its main activity of monitoring the trial of cases in all of the jurisdictions, including the Baucau District Court. As usual, these monitoring activities are intended to closely follow how the court institutions are functioning, with a focus on Baucau District Court in this summary.

This monitoring process noted the cases that were scheduled for trial, that including cases categorized as serious crimes as well as minor crimes.

JSMP conducted its court activities in the second and third weeks of January 2012 in the Baucau District Court. Based on JSMP monitoring, trials were not conducted as usual because sometimes in a single day only one case was heard or even no cases at all, even though the court had already set its trial schedule. Throughout our monitoring we noted that several cases were not tried because the local prosecutor was attending training for three consecutive days in Dili between 16 - 18 January 2012.

During the aforementioned two week period JSMP was able to monitor 6 cases which were listed in the trial schedule of the court. These cases involved five serious crimes and 1 minor crime. The cases were categorized as follows: 1 case of ordinary maltreatment, 2 cases of serious maltreatment, 2 cases of rape and one case of fraud and misuse of authority.

From the aforementioned six cases, there were 2 cases (1 case of ordinary maltreatment and 1 case of serious maltreatment) that were decided by the court. However 2 case concerning sexual

assault or rape are still being tried and the case involving serious maltreatment and the case involving fraud/misuse of authority were adjourned because the public prosecutor did not appear in court.

Like previous case summaries that were issued in 2011, this case summary is aimed at disseminating up to date information about the results of monitoring conducted by JSMP in relation to trials conducted at the district court.

The following information provides a summary of the trial process.

### **1. Crime of Rape, Case No. 45/Crm.C/2011/TDB**

On 09 January 2012 the Baucau District Court continued a trial in a case of rape that was registered as Case No. 45/Crm.C/2011/TDB. This case involved the defendant SS and the crime was allegedly committed against the victim LdSSF on 26 September 2009 in Aiten Sub-Village, Maabat Village, Manatuto Sub-District, Manatuto District.

The trial of this case was conducted by a panel of judges comprising Ângela F. Belo (presiding judge), José Gonsalves and António J. Fonseca Monterio de Jesus. The public prosecution service was represented by Adérito Tilman and the defendant was provided with legal representation by the public defender Gregório de Lima.

Due to the specific nature of this case the trial was closed to the public. A court clerk informed JSMP that the trial had reached the stage of hearing the final allegations. After hearing the final recommendation from the prosecutor and the final plea from the defence the court decided to adjourn the case until 20/1/2012 to announce the decision.

### **2. Crime of ordinary maltreatment, Case No. 165/Crm.S/2011/TDB**

On 11 January 2012 the Baucau District Court conducted a trial in a case of ordinary maltreatment. This case was registered as Case No. 165/Crm.S/2011/TDB. This crime was allegedly committed by the defendant DES against the victim GCC on 18 May 2011 at the Santa Maria Gorete Catholic Primary School in Viqueque.

The trial of this case was presided over by single judge Afonso Carmona. The public prosecution service was represented by Pascasio de Rosa Alves and the defendant was represented by public defender Gregório de Lima.

In relation to this matter the judge Afonso Carmona proposed an amicable agreement. The two parties welcomed this initiative and the court proceeded to validate the peaceful agreement, however the two parties were asked to refrain from the same behavior in the future.

### **3. Crime of serious maltreatment, Case No. 33/PID.S/2003/TDB**

On 16 January 2012 the Baucau District Court conducted a trial in a case of serious maltreatment. This case was registered at the court as Case No. 33/PID.S/2003/TDB. The crime was allegedly committed by the defendant FdS against the victim MdS. This case allegedly occurred on 24 September 2002 in Nahareca Village, Ossu Sub-District, Viqueque District.

In this case the public prosecutor charged the defendant under Article 354 of the Indonesian Penal Code.

During its monitoring activities JSMP noted that this case was decided in 2005 however the decision could not be executed or enforced because the decision was lost before it was announced. In light of this fact the judge Ângela F. Belo summoned the parties (defendant and victim) to enter into an amicable agreement. As part of this amicable agreement the parties agreed to a peaceful settlement. Then the court issued a document validating the amicable agreement to be signed by both parties.

#### **4. Crime of fraud and misuse of authority, Case No. 94/Crm.C/2011/TDB**

According to the court schedule of the Baucau District Court, the 17 January was set for the trial of a case involving fraud and misuse of authority. This case involved two defendants (DS and RJ). This case was considered a crime against the State because the defendants violated their duties as public servants. This case allegedly occurred on 18 March 2009 in a government office in the Baucau region.

However, the trial of this case did not take place because the public prosecutor did not appear in court. The presiding judge decided to adjourn the trial until 19 March 2012.

#### **5. Crime of serious maltreatment, Case No. 231/Crm.C/2009/TDB**

According to the trial schedule a case involving serious maltreatment was set to be heard on the same day, namely 17 January 2012. This crime was allegedly committed by the defendant AJ against the victim LJ in Iliomar Sub-District, Lautem District.

JSMP was unable to gather accurate information in this case regarding the chronology of events because the date of the incident was not explained clearly.

The trial of this case could not continue because the public prosecutor did not appear in court. Therefore the court decided to adjourn the matter without specifying a date to continue the trial.

#### **6. Crime of Rape, Case No. 26/Crm.C/2011/TDB**

On 19 January 2012 the Baucau District Court conducted a trial in a case of rape. This case was registered as Case No. 26/Crm.C/2011/TDB. The crime was allegedly committed by the defendant AF against the victim LESP and it is suspected that the incident occurred on 18 May in Ossu, Viqueque District.

The trial continued with the examination of testimony from the defendant, the victim and witnesses.

The trial was led by a panel of judges comprising José Gonsalves (presiding judge), Afonso Carmona and Ângela F. Belo. The public prosecution service was represented by Pascásio de Rosa Alves and the defendant was represented by Marçal Ximenes Guterres from the ECM Legal Aid Organization.

In the aforementioned hearing the court heard testimony from the defendant, the victim and two witnesses who had been summoned by the court. After hearing their testimony the court asked the public prosecutor to make his final allegations.

After hearing the final recommendation from the public prosecutor and the final plea from the defence, the court concluded the hearing and asked the parties to reappear in court on 9 February for the announcement of the final decision in this case.

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