



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

Press Release

Period : June 2009

Substitute Prosecutor Absent, Hearing Postponed

In accordance with a schedule of hearings prepared for the Suai District Court, a case of attempted murder (14/C.ord/TDS/2008) was scheduled to be heard on 10 June 2009. However, the hearing was postponed because the prosecutor handling the case was a relative of the defendant (the defendant is the nephew of the prosecutor) which under article 51(a) of the Criminal Procedure Code renders the Prosecutor ineligible to act. Under section 39 (a) of the Criminal Procedure Code, judges are disqualified from hearing any case in which they are related to a party appearing before the court. Article 51 (a) of the Criminal Procedure Code states that “the provisions concerning disqualifications and suspicions in respect of judges are applicable to public prosecutors, with the necessary adaptations”.

A prosecutor based in Dili was appointed to replace the initial prosecutor, but was unable to travel to the Suai District Court due to ill health. JSMP observed that the defendant, victim and witnesses nonetheless arrived at the court to attend the hearing, but were informed by the administrative officer on duty that the trial had been postponed. JSMP spoke to a court clerk on duty and asked when the case would be heard, but the court clerk said that no schedule had yet been set, and that it would depend on the availability of judges, who are predominantly based in Dili.

JSMP notes that a limited number of court actors (prosecutors, judges and public defenders) are assigned to district courts other than Dili, and that trials are often postponed or adjourned when a court actor unexpectedly withdraws from a case before the

courts. JSMP strongly recommends that a greater number of court actors must be made available to work in the district courts, so that they can readily respond to unforeseen problems that emerge.

JSMP is also concerned about a complaint made by a court clerk regarding the limited number of administrative staff available to deliver court summons to the districts of Bobonaro, Same, Ainaro and Suai, all of which fall within the jurisdiction of the Suai District Court. JSMP recommends that the Ministry of Justice immediately recruit more staff to streamline the process of case management at the Suai District Court.

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