



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

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The Courts of Timor Leste in 2007

The Dili District Court

The Dili District Court has territorial jurisdiction and also has exclusive jurisdiction over “Serious Crimes” which was exercised by the Special Panel for Serious Crimes (SPSC) between 2000–2005. The mandate of the SPSC came into effect in 2000 and finished on 20 May 2005. During this period 84 defendants were convicted and 3 defendants were fully acquitted. The main languages used at the Dili District Court are Tetum and Portuguese, which can be translated into other languages by court interpreters when required.

At present the Dili District Court is staffed by the following legal officers: 3 international judges, 3 national judges, 2 international prosecutors, 2 national prosecutors, 6 international Public Defenders and 3 national Public Defenders. In addition, legal aid organizations and private lawyers handle civil and criminal cases at the Dili District Court.

Based on observations conducted by JSMP, between January-April 2007 the Dili District Court registered 65 criminal cases and rendered decisions in 120 criminal cases. This total included decisions rendered final and decisions made during the trial phase. The 120 cases decided were a combination of new and old. 10 cases were submitted to the Court of Appeal. In addition to criminal cases, civil cases were also heard.

Obstacles faced by the Dili District Court included a lack of staff in the court registry and the failure of defendants and victims to attend trials after being summoned legitimately by the court. JSMP observed that several cases were decided by the presiding judge in the absence of the defendant and victim.

As mentioned previously, the Dili District Court has exclusive jurisdiction over serious crimes such as Murder, Sexual Crimes, Genocide, War Crimes and Crimes Against Humanity that occurred between 01 January 1999 and 25 October 1999.

Although the SPSC ceased its operation in 2005, the exclusive jurisdiction granted to the Dili District Court continues to apply.

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The Baucau District Court

Currently the Baucau District Court is staffed by 1 international judge, 2 national judges, 2 prosecutors (one international and one national) as well as several public defenders and private lawyers. Based on observations conducted by JSMP, in 2007 the Baucau District Court heard both civil and criminal cases on a continual basis.

Obstacles faced by the Baucau District Court included a lack of police transport which prevented them from escorting parties to hearings at scheduled times, which resulted in adjournments due to the non-attendance of defendants and victims.

The Suai District Court

The Suai District Court currently operates 2-4 days a month. This court is staffed by one national judge, one public prosecutor and one public defender who also attend the Suai District Court 2-4 times a month.

During 2007 the Suai District Court decided 10 minor cases, and heard several criminal and civil cases. Obstacles faced by the Suai District Court included the non-attendance of defendants and victims at hearings due to transportations problems, and for this reason several cases had to be heard in Maliana and Dili. Civil cases proceeded smoothly although no decisions were rendered.

The Oecusse District Court

This court formally commenced its operation on 31 May 2000 in the city of Oe-Cusse, within the enclave of Oe-cusse which was defined as a judicial territory by the government.

During 2007 the Oecusse District Court held approximately 2-4 hearings per month. This court is staffed by one national judge, one national prosecutor and one public defender. Only one legal aid organization is registered at the Oecusse District Court. All the legal officers who operate this court are located in Dili and travel to Oecusse to conduct hearings. In addition, these legal officers also conduct trials in Dili when the parties are residing temporarily in Dili or are in temporary detention at the Becora and Gleno Prisons.

The Timor Leste Court of Appeal

The main function of the Court of Appeal is to reexamine any decision rendered at the first instance within the jurisdiction of Timor Leste, including violations of criminal procedure, violations of procedural and substantive matters pertaining to indictments, inconsistencies with the rendering of decisions, any legal application deemed in conflict with the applicable law as well as errors of fact.

A Supreme Court is yet to be established in Timor Lest and for this reason the Court of Appeal has been granted the authority to carry out the duties and functions of the

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Supreme Court pursuant to Article 164 of the RDTL Constitution, until such time the RDTL Government establishes the Supreme Court of Timor Leste.

During 2007 the Court of Appeal has issued a large number of decisions (*Acordão*) in civil and criminal cases, including administrative decisions relating to the executive and legislative bodies.

Decisions made at the appeal level in criminal cases are called '*Acordão*', and previously a decision would be appealed to the Court of Appeal which would then conduct a trial to hear testimony from the applicant and respondent before rendering its decision. However, in 2007 the new criminal code for Timor Leste came into effect and the Court of Appeal rendered decisions in just a few cases after conducting an examination.

When a decision rendered by a court of first instance during its examination of a civil case does not subscribe to the facts and correct legal procedures the Court of Appeal returns the case file to the lower court and orders for a new trial to be conducted so that the matter can be reexamined in its entirety. We have been assured that this practice is based on the new Civil Procedure Code (currently available only in Portuguese). These decisions rendered at the appeal level relate to outstanding civil cases registered with the district courts whereby appeals were lodged against first instance decisions before the new procedure code was authorised by the National Parliament. It is possible that the Court of Appeal did not consider the universal principle of retroactivity which is set out in Article 31 of the RDTL Constitution.

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