



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

Press Release

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Dili District Court postpones hearings in trials related to Domestic Violence and Sexual Abuse.

During January and February of 2007, JSMP's Women's Justice Unit court monitors observed that Dili District Court has been postponing the hearings for all cases related to domestic violence and sexual assault. JSMP monitored the eight cases which appeared before the court: five of domestic violence and three of sexual assault and in all cases the hearings were postponed.

The reason for postponing the hearing in a trial is as follows: if the defendant is not present on the fixed day, at the trial hearing, the hearing will be postponed. The WJU notes that after the first hearing and questions posed to the defendant by the Judge, most of the defendants stayed free, because the Judge did not impose pre-trial detention.

WJU understands that according to Article 256 of the Criminal Procedure Code,¹ when a defendant fails to appear at the hearing, the law still gives him the benefit of justifying his absence. If the defendant does not justify his absence during the period of five days following the failed hearing, the Judge fixes a new date for the hearing, imposes a fine and issues an arrest warrant to ensure that the defendant will be present at the new hearing date that the court must fix. When the defendant manages to justify the absence, he or she will be notified of the new date for the hearing including the warning that if he/she fails to appear at the hearing and if his lawyer is present at the hearing it will be held and the defendant will be trailed "in absentia".

In spite of the situation described above, WJU commends the Dili District Court's willingness to deal with cases of domestic and sexual violence, especially because there are a large number of these cases. We are pleased that in the cases where the

¹ CRIMINAL PROCEDURE CODE Art 256

1. Where the defendant fails to appear at the hearing, having been duly notified, the hearing shall be postponed before evidence begins to be presented.

2. Failure to justify the absence within five days implies the payment of a fine and the issuance of an arrest warrant in order to ensure the defendant's presence at the hearing to be held on the reset date.

3. Should the defendant justify his or her absence, he or she shall be notified of the reset date for the trial with the warning that, in the case of a new absence, the trial shall be held in absentia and that he or she shall, for all possible purposes, be represented by his or her defender.

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defendants fail to appear in Court, the Court acts according to the law, by fixing the new date of trial and making the new date public.

WJU recommends:

- The court should take the necessary measures to assure the presence of the defendant at the hearing, as the defendant's presence is compulsory according to Article 253(1) of the Criminal Procedure Code.
- In cases of domestic and sexual violence the court should impose restrictive measures on defendants, such as pre-trial detention, according to Article 191 of the Criminal Procedure Code and followings of the PPC; this would avoid the defendant's absence from the hearing.
- The court should implement the mandate of Article 256(2), in order to prevent the absence of the defendant from the hearing's new fixed date, when the first date failed. That is, the court should issue an arrest warrant so the police can bring the defendant to the hearing. This would enable the court to proceed with the hearing in the presence of the defendant which is a fundamental fair trial guarantee and also help protect the defendant's rights.

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