



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

Press Release

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**OECUSSE DISTRICT COURT CONDUCTS HEARING IN
CORRUPTION CASE**

On 23 May 2007 the Oecusse District Court convened a hearing in a case of alleged corruption involving a defendant named Marcos Seo, a public servant from the Oecusse District Health Service. The aforementioned hearing was presided over by a Panel of Judges consisting of Victor P (International Judge), Antonio Helder do Carmo and Constancio Basmerri (National Judges). The prosecution unit was represented by Domingos Bareto and the defendant was represented by his lawyer Jose Pedro Camões from a local Legal Aid Organization (LBH-TL).

A Panel of Judges from the Oecusse District Court convened this hearing to examine a total of 20 witnesses who had been summoned by the public prosecutor to appear before the court.

The defendant was charged with committing corruption pursuant to Article 418 and Article 419 (2) of the Indonesian Penal Code (IPC), abuse of power (Articles 421 and 423 IPC), falsification of documents (Article 263 IPC) as well as using public facilities for private use (Article 415 IPC). The aforementioned criminal acts were allegedly committed by the defendant in 2004 in the Office of the Oecusse District Health Service.

At this stage of the trial, the Oecusse District Court examined the witnesses who were in attendance. A number of witnesses were still yet to provide testimony or be examined by the court so the trial was adjourned until next month. Based on court monitoring conducted by JSMP, not a single witness gave testimony in relation to this alleged case of corruption.

It was also revealed that the defendant had been stood down as a public servant and that his salary had been withheld since 1 June 2005 and would continue to be withheld until such time the court hands down its final decision, pursuant to an edict issued by the East Timor Vice Minister of Health, dated 25 May 2005.

The defendant MS lodged a complaint with the Office of the Ombudsman for Human Rights and Justice in relation to the edict issued by the Vice Minister of Health that had authorized his suspension from the public service and the withholding of his salary until the issuance of a final decision by the court, as the defendant felt that this edict had violated his human rights and constituted a misuse of power. On 6 February 2007, the Office of the Ombudsman

recommended that the East Timor Minister of Health revoke the aforementioned edict as it was considered to be in violation of the defendant's rights and in conflict with the applicable law of East Timor, in particular Law No. 08/2004 (Public Service Statute). In its recommendation, the Office of the Ombudsman believed that the Minister and Vice Minister of Health had violated the human rights of the defendant and misused their power.

Article 80 (5) of Law No. 08/2004 states that there are two types of suspension:

- a). *A punishment of suspension ranging between 20 and 120 days,*
- 2). *A punishment ranging between 121 and 240 days.*

This period of suspension prescribed is the maximum amount of time a public servant can be suspended in relation to the commission of a particular type of act. The aforementioned Law fails to prescribe a definitive period of suspension. For this reason, the Office of the Ombudsman believes that the aforementioned edict is in conflict with the law and has violated the rights of the defendant.

Pursuant to statements made by the defendant and his lawyer to JSMP, the Minister and Vice Minister of Justice refused or ignored the recommendation made by the Office of the Ombudsman, and continued to suspend the defendant and withhold his salary, valid from the date that the aforementioned edict was issued until such time a final decision is issued by the court.

In this case, JSMP recommends that decision making at all levels should be made pursuant to the applicable law and should uphold the presumption of innocence. JSMP also recommends that the aforementioned case, together with a number of other cases of alleged corruption already registered with the Prosecution Unit, should be immediately processed in accordance with the applicable law in East Timor.

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