



JUDICIAL SYSTEM MONITORING PROGRAMME PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

Press release

08 August 2008

Oecusse District Court

A judge at the Oecusse District Court has been permanently residing in Oecusse since July 2008. However, he still occupies a room at the courthouse because furniture has not yet been made available, which hopefully will be provided at the start of August. Members of the Prosecution Unit and Public Defenders Office still travel between Dili and Oecusse because no accommodation is available. In July a public defender was unable to travel to Oecusse. To date, prosecutors, public defenders and judges have stayed in several rooms at the Oecusse District Courthouse. JSMP confirmed that a tender has been organized for the rehabilitation of the Prosecution Office as well as accommodation for a prosecutor and the rehabilitation will be completed by the start of August. The building that is going to be rehabilitated and provided to the Prosecutor is currently being occupied by a local. The person insists that he will not vacate the premises and is demanding compensation.

JSMP confirmed with Antonio Elu, Chief of the Public Defenders Administration Section for Oecusse District, that several issues including transport have prevented a public defender from traveling to Oecusse. To date, public defenders have always had to catch a lift with prosecutors or judges from Dili to Oecusse, as per diems are insufficient and also due to the lack of accommodation and an office. He stated that funding has been allocated for the reconstruction of the Public Defenders Office but no information is available about when the rehabilitation will start. When he was asked about the accommodation for Public Administration the chief of administration said that the public defender will temporarily occupy the office and then will move into a house once it has been rehabilitated.

When JSMP contacted a court clerk from the Oecusse District Court he said that it is difficult for defendants to access legal aid from public defenders because there is no consultation between lawyer and client. Therefore the administration section of the court often contacted private lawyers from *Fundasaun Fatu Sinai Oecusse* (FFSO) to provide representation to defendants free of charge. This has been carried out to make it easier for defendants to organize consultations with legal representatives, and to enable smooth communication between lawyers and clients (in the Baiqueno language). According to the schedule established during the middle of July 2008 the Oecusse District Court was supposed to examine 9 cases of light maltreatment, however only five cases were examined. The other four cases had to be postponed due to the non-

attendance of defendants, victims or witnesses. At the start of July the Oecusse District Court also attempted to resolve six civil cases through reconciliation, which included breach of contract and debt recovery, however the respondents did not respond to the summons (notification) issued by the court even though they were contacted by lawyers.

JSMP is also very concerned with the circumstances of the victims, defendants and witnesses who were summoned by the court. JSMP observed that some of the victims, defendants and witnesses did not have the economic capacity to comply with the summons issued by the court, namely to pay the costs of transport and food. We recommend to the Court, the Prosecution Unit and the Public Defenders Office to provide funds to ensure that the judicial process will be more effective in the future.

JSMP is very concerned about the lack of clarity about when the office and accommodation for the public defender are going to be rehabilitated. We recommend for the Ministry of Justice to immediately carry out the rehabilitation to respond to existing problems. We are also concerned that an individual is occupying the house that is going to be rehabilitated to accommodate a prosecutor. We recommend for this issue to be resolved amicably. JSMP supports the efforts of private lawyers from FFSO who are providing legal representation to defendants because of advantages in terms of communication and consultation.

JSMP is also concerned with the lack of transport for PNTL in Oecusse to deliver summons to defendants, witnesses and victims who live in remote areas. We recommend for short term solutions such as the provision of transport from international police and long term solutions such as the need for the government to issue a policy (Secretary of State for Security) to provide adequate and ongoing transport. JSMP contacted the PNTL Commander of the Investigations Unit, Bernardo Freitas, who stated that the main problem encountered is transport, and this makes it extremely difficult to deliver summons. The Investigations Section of the PNTL only has one vehicle and one motorcycle; however they both currently need to be repaired.

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