



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Press Release
19 August 2021

JSMP meets with the Prosecutor General and presents the New Victim Support Unit as well as activities and the discusses the possibility of establishing a Memorandum of Understanding (MoU) in the future

On 18 August 2021 the Judicial System Monitoring Programme-JSMP Team comprising the Executive Director, Coordinator of Legal Research (LRU) and the Training and Advocacy Unit (UTA) and also the Coordinator of the Parliamentary Watch Program (POP), met with His Excellency, the Prosecutor General Alfonso Lopez, at the Office of the Prosecutor General in Dili.

The aim of this meeting was to introduce the new JSMP structure and also present the work of JSMP, especially the new Victim's Support Unit to the Prosecutor General. Also, JSMP conveyed some thoughts, concerns and recommendations linked to the work of the Public Prosecution Service. During this meeting JSMP and the Prosecutor General spoke about further strengthening the working relationship and cooperation between the Public Prosecution Service and JSMP that has existed to date and the possibility of establishing a Memorandum of Understanding (MoU).

During its presentation JSMP firstly thanked the Prosecutor General for promptly accepting JSMP's request and this was a huge honor for JSMP. After presenting the new JSMP structure, JSMP introduced the Victim's Support Unit to the Prosecutor General which has been established to provide legal aid to victims of gender based violence as well as crimes such as the sexual abuse of a minor, rape, domestic violence cases as well as civil cases involving the exercise of parental authority and alimony for minors.

JSMP conveyed concerns to the Prosecutor General about the issue of statute of limitations, coercive measures, standardization of charges and combatting corruption.

Regarding the statute of limitations, JSMP gave an example relating to a case of rape which was archived by the court because after the presentation of evidence and final recommendations the court found that the case had exceeded the statute of

limitations. JSMP considers this to be a very serious situation that harmed the victim because the victim lost her right to justice and this will impede victims from seeking reparations through the formal justice system.

Meanwhile, regarding the issue of coercive measures, JSMP gave an example about a case where the defendant committed sexual abuse characterized as incest in Batugede, where the prosecutor previously requested pre-trial detention, however the court decided to only impose Proof of Identity and Residence, and therefore the defendant then committed aggravated homicide against his wife, who was a witness in this case.

Regarding the standardization of charges, JSMP raised this issue based on JSMP monitoring in the courts and noted that some cases have the same severity, however the charges are different, and in its publications JSMP has always recommended that there be guidelines for charges, especially in cases of gender based violence.

JSMP also thought it was important to discuss the issue of combatting corruption with the Prosecutor General. JSMP believes that combatting corruption is a national struggle and all parties have the obligation to contribute towards reducing corruption, because corruption is pervasive. The State has established the means to combat corruption, through the Anti-Corruption Commission (KAK), to strengthen the work of the Public Prosecution Service and has also created a Law on Measures to Prevent and Combat Corruption to strengthen the work of the Public Prosecution Service and the KAK .

The KAK is like a part of the Public Prosecution Service, therefore JSMP recommends for the Public Prosecution Service and the KAK not to be adversaries but rather to complement each other and strengthen the work of combatting corruption. The State has invested a lot of money in these institutions, and if they don't function well and if the work of these institutions is not valued in relation to investigating cases of corruption, particularly the KAK, this will disadvantage the State because money will have been wasted. Therefore, JSMP requested for the Prosecutor General to consolidate the relationship and cooperation between the Public Prosecution Service and the KAK to fight towards combatting corruption.

Another issue presented by JSMP related to the goods belonging to the State, as some State owned goods have not been used to date and what is worse is that some of them are out of service (their value has decreased or they are not worth anything), which continues to disadvantage the State.

In addition to these issues, JSMP also spoke with the Prosecutor General about the publication of statistics relating to cases handled by the Public Prosecution Service. JSMP requested for a monthly update on the cases being dealt with by prosecutors, so that the public can know the number of cases processed each month and cases that have been decided. The publication of information should be limited to statistics regarding the number of cases, and not including details because this information is legally confidential.

Before responding to these thoughts and concerns, the Prosecutor General thanked JSMP for carrying out an important role in overseeing the justice sector to further improve the work of the justice sector.

In response to the establishment of the Victim Support Unit, the Prosecutor General said that this was an excellent initiative to help victims seek justice, especially for victims of gender based violence such as rape and sexual abuse, and also cases involving the exercise of parental authority. Now there is a discussion on the Draft Law on Child Protection and it is hoped that in the near future this law will be approved and implemented to ensure child protection.

Regarding the statute of limitations, the Prosecutor General believed that this is an issue that can be given consideration by the Public Prosecution Service to make improvements because this relates to the rights of the parties to obtain justice. If the statute of limitations is exceeded and cases are archived this means a denial of justice for the victims and defendants. If these processes take a long time, it can have an effect on defendants, if they have a career or are public figures and are eventually found not guilty.

Meanwhile, regarding the issue of coercive measures, the Prosecutor General said that prosecutors have maintained their stance and continue to request for the courts to apply the appropriate coercive measures based on the nature and seriousness of cases. In a case of sexual abuse and incest, the Public Prosecution Service requested for the court to apply pre-trial detention, however the courts refused and imposed Proof of Identity and Residence and the requirement to report periodically, and in the end the defendant committed the crime of homicide against his wife who was a witness in the case involving the sexual abuse of their child.

Regarding the issue of standardizing charges, the Prosecutor General said that he would give this matter consideration and during the investigative phase it is important to engage in thorough analysis to prepare charges properly. The Prosecutor General also spoke about the Topu Honis case and said that prosecutors have maintained their position to represent the victims.

In relation to corruption, the Prosecutor General said that the Public Prosecution Service and the KAK are not adversaries, and they aim to improve their cooperation in relation to investigations and they have a plan for joint training for KAK investigators and prosecutors. Therefore, the two parties can follow the same procedures when investigating cases of corruption. Finally, regarding the issue of publishing statistics, the Prosecutor General said that this is important and is part of the Public Prosecution Service strategic plan.

Meanwhile, regarding the sharing of information and cooperation between the Public Prosecution Service and JSMP in the future, the Prosecutor General said that there would be a discussion before establishing a Memorandum of Understanding (MOU) with the Public Prosecution Service to define what contribution could be made by JSMP.

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