



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

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JSMP is concerned with the effectiveness and efficiency of the implementation of the Law on Criminal Investigations Organizations especially in cases of gender based violence (GBV)

On 14 June 2022 the National Parliament approved a Law on Criminal Investigations Organizations and this law was promulgated by the President of the Republic on 8 July 2022. This law was published in the State Gazette as Law No. 9/2022, on 13 July. This law is aimed at regulating the organization and functioning of criminal investigations within the scope of the criminal procedure law. The fundamental aim is to improve the efficiency of the judicial system relating to criminal investigations and the effectiveness of combatting crime. This also includes the coordination and cooperation of policies internally and at the international level.

Therefore the Law on the Criminal Investigations Organizations defines the competence of judicial organs, especially the National Police of Timor-Leste (PNTL) and the Police Forensic and Criminal Investigations (PSIK) in attending to cases. Also, it regulates the obligations of the criminal police, special measures of criminal investigations, and cooperation, both between the criminal police bodies and other relevant entities.

“JSMP appreciates the initiative of members of parliament to create this law because it defines and spells out the competencies of the criminal investigations bodies, especially the PNTL and the PSIK. However, JSMP questions the effectiveness and efficiency of implementation regarding the competencies of the PNTL and PSIK. For example, how they attend to cases of GBV (for example domestic violence and sexual violence). JSMP is concerned because often these cases involve one defendant but there are many types of cases (serious and simple) with more than one victim. Considering this reality, when the law is implemented it will cause confusion during the investigative phase because the defendant will be investigated by the PNTL and the PSIK based on the competencies set out in the law,” said the Executive Director of JSMP, Ms. Ana Paula Marçal.

In relation to the definitions and division of competencies, since the PSIK was created, JSMP has recommended that a clear explanation be provided about the competencies of PSIK, KAK and PNTL or other criminal investigations bodies, to avoid conflict or overlapping between these bodies. However, JSMP believes that the definition and

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division of competencies between the PNTL and the PSIK in this law will cause confusion and inefficient handling of cases.

For example, a case that could cause confusion during the investigation phase is where Defendant A commits the crime of mistreatment of a minor against his son and also commits the crime of homicide against his wife. Based on the division of competencies, the crime of mistreatment of a minor is dealt with by the PNTL and homicide is dealt with by the PSIK.

In another example, Defendant B commits the crimes of threats and attempted homicide against his wife. The crime of threats is dealt with by the PNTL and will the crime of "*attempted homicide*" be investigated by the PSIK or the PNTL? If the PSIK is responsible for investigating attempted homicide, this will also cause confusion and the investigative process will not be effective or efficient. With this division of competencies, investigations will be conducted by these two institutions in cases involving a single defendant.

Therefore, JSMP believes that this will cause confusion regarding the services provided by the two institutions during the investigative phase and will not achieve the fundamental aims of this law to improve the efficiency of the judicial system to ensure the efficiency and effectiveness of criminal investigations in combatting crime.

Also, JSMP is concerned about the efficiency of the process in attending to cases linked to the competence of the PNTL as set out in Article 9.2 that when the PSIK is not deployed to the municipalities, PNTL is obliged to investigate cases that fall within the competence of the PSIK based on guidance from the Public Prosecution Service. JSMP believes that this mechanism will increase bureaucracy in the processing of cases in the future.

In addition to concerns about the implementation of the competencies of the PNTL and the PSIK in attending to cases, JSMP also questions the human resources of PSIK to respond to the competencies attributed to the PSIK in the law. PSIK has only one building at the national level and has no branches in the municipalities, including the Special Administrative Region of Oecusse-Ambeno. JSMP also questions the sensitivity of PSIK in attending to cases of GBV, as for many years the PNTL-VPU have been providing these services in this nation.

In relation to these concerns, JSMP recommends for the decision makers to consider, analyze and examine the real context in Timor-Leste to improve this law to clearly define the competencies of the PNTL and PSIK to avoid confusion. Therefore, JSMP also recommends for the effective promotion of institutional cooperation and coordination in relation to responding to criminal cases.

JSMP will also prepare an opinion to express JSMP's thoughts in relation to this law.

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