



Press Release
Baucau District Court
6 May 2022

**Court Clerk from the Baucau District Court did not comply with court instruction
Trial had to be adjourned**

On 3 May 2022 the Baucau District Court adjourned the trial of a case involving simple offences against physical integrity and the use of a bladed weapon, Case Number 0007/19. BCVMS, because a court clerk did not comply with an instruction from the court to notify the parties.

“Court Clerks are obliged to comply with court instructions to notify the parties to participate in procedural acts in accordance with the competence given to them (judicial officers) in the law, so that they don’t undermine the rights of parties to obtain justice in their case,” said Ms. Ana Paula Marçal, Executive Director of JSMP.

Article 91 (1) and (3) of the Criminal Procedure Code on notices says that the notification summons the parties to appear or take part in a procedural act and the parties who are given competence to issue the notice are court clerks, police officers or other law-enforcement agents in accordance with an instruction or as ordered by the court registry. This means that when parties are going to take part in a procedural act they need to be notified by the party given competence in the law.

In this case, the presiding just in the court room informed that on 17 June 2021 the presiding judge issued an instruction to the assigned court clerk to notify the parties, namely the defendant, victim and witness, to attend the trial on 3 May 2022, at 09:00am, however the assigned court clerk did not execute the instruction so the parties did not receive any information and did not appear in court.

In response the prosecution and defence requested for the court to adjourn this case and notify the parties. Therefore, the judge issued an instruction to adjourn the trial until 17 January 2023, at 09:00am. Also, the judge asked for the assigned court clerk to present a justification why he did not provide the notification within five days.

JSMP noted that the instruction of the judge given to the court clerk to notify the parties allows for enough time, almost 10 months, and the court also has enough facilities such

as an operational vehicle and 3 KLX model motorcycles that the Baucau District Court received on 21 September 2021 specifically for notifications. Therefore, JSMP believes that such problems should not occur.

JSMP hopes that the parties granted competence in the law to provide notifications will comply with their obligations so as to not undermine the parties seeking justice through the formal justice system.

The adjournment of the trial was presided over by Judge Florensia Freitas. The Public Prosecution Service was represented by João Marques and the defendant was represented by Public Defender Grigório Maria Lourdes de Lima.

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