



**Oekusi District Court
Press Release
26 May 2021**

**Oekusi District Court adjourns trial of “Topu Honis” case
JSMP urges the use of a teleconference as an alternative method**

On 24 May 2021 the Oekusi District Court again adjourned the trial of the “Topu Honis” case with a hearing scheduled to hear the final statement of the defendant.

The Oekusi District Court has adjourned the trial of this case because the defendant and his lawyers, as well as most victims, are not present in Oekusi (are in Dili) because they did not get plane tickets. The two prosecutors handling this case are in Oekusi but are complying with self-quarantine in Oekusi, to comply with health protocols for Covid-19 prevention for a period of 14 days.

In relation to this delay, JSMP believes that compliance with the local area confinement for public health reasons and Covid-19 prevention protocols also need to ensure that Covid-19 does not spread to other locations. Even so, JSMP believes that such delays cannot continue to happen all of the time, because this process has taken a long time and it could impact on the production of evidence in accordance with the provisions of the Criminal Procedure Code.¹

“The Court could actually use another method so the trial can continue during local area confinement for public health reasons, and a previous publication from JSMP urged the courts to consider using or creating another appropriate mechanism to conduct trials as a long term alternative, such as teleconferencing. It is important to comply with the procedures set out in the Criminal Procedure Code and the Law on Witness Protection. This is because JSMP believes that it is possible that another State of Emergency could be declared, or local area confinement for public health reasons and also a compulsory lockdown in the future”, said the Executive Director of JSMP, Ms. Ana Paula Marçal.

The Suai District Court and Dili District Court have used teleconferences, and this enabled these courts to continue trials without delays and there was no impact on the evidence that

¹ Refer to the provisions of Article 250.5 about proof produced during the trial losing its validity

had been examined previously. One example is the case of attempted homicide registered as Case No. 0016/20 BBBBL which was tried by the Suai District Court to hear the statements of victims and witnesses who were residing in Dili and could not travel to the municipality because of local area confinement for public health reasons and a mandatory lockdown in Dili.²

The trial of the “Topu Honis” case started on 23 February 2021 and the statement of the defendant was heard. After hearing the statement of the defendant, the Oecusse District Court adjourned the trial until 22 March 2021 to hear the statement of victims who mostly reside in Dili, but the court could not hear the statements of the victims because they did not appear in court (due to the application of local area confinement for public health reasons and mandatory lockdown in Dili). Therefore, at that time the Oekusi District Court adjourned the trial again until 24 May 2021 to hear a new statement from the defendant because the previous statement of the defendant has lost its validity (Article 250 of the Criminal Procedure Code). However on 24 May 2021 the Oecusse District Court again adjourned the trial of this case for the reasons outlined above. Based on JSMP observations, one prosecutor who has been carrying out his duties at the Oecusse District Public Prosecution Service substituted the prosecutor handling this case just to hear the adjournment of proceedings in this case.

JSMP also observed that the reason the prosecutor handling this case was not present during the trial was because the 14 day quarantine period had not ended and members of the defence were also not present because no ticket was available. Therefore, JSMP believes that if the prosecution and defence want to directly participate in the hearing or do not wish to conduct the hearing via a teleconference then the prosecutor handling the case and the members of the defence team in Dili need to plan ahead and purchase a ticket and calculate that the quarantine period will expire before the day of the hearing, so that there is no impact on the trial. For example, if a panel of judges comes from Dili they need to travel earlier so that they can spend 14 days in self-quarantine before the trial commences.

JSMP believes that if these proceedings take a long time it could have implications for the victim and the defendant in relation to their right to access justice. Therefore JSMP believes that the better option would be to use a teleconference.

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² For more information please refer to the JSMP publication at: <https://jsmp.tl/wp-content/uploads/JSMP-kongratula-Tribunal-sira-uza-meu-telekonferensia-hodi-halao-julgamentu-no-husu-atu-audensia-ba-leitura-desizaun-sira-halo-iha-tribunal-21-Maiu-2021.pdf>

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