



Versaun Tetum iha pajina 3.

**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>



**Tribunál Distritál Oekusi
Komunikadu Imprensa
26 Maiu 2021**

**Tribunál Distritál Oekusi adia julgamentu ba kazu “Topu Honis”
JSMP husu atu uza meu alterativu ho telekonferénsia**

Iha 24 Maiu 2021, Tribunál Distritál Oekusi (TDO) kontinua halo adiamentu ba prosesu julgamentu kazu “Topu Honis” ne’ebé ajenda ona atu rona filafali deklarasaun arguidu nian.

TDO adia prosesu julgamentu ba kazu ne’e tanba arguidu no nia advogadu sira inklui maioria lezada sira la marka prezensa iha Oekusi (iha hela Dili) tanba la hetan billete aviaun. Nune’e mós prokuradór titulár na’in rua maski desloka ona ba Oekusi maibé kumpri hela auto-karantina iha Oekusi, nu’udar kumprimentu ba protokolu saúde ba prevensaun Covid-19 durante loraun 14.

Relasiona ho adiamentu ne’e, JSMP hanoin, kumprimentu ba serka sanitária no protokolu prevensaun Covid-19 nian ne’e mós prezisa tau iha konsiderasaun hodi evita transmisaun Covid-19 bele haklekar ka habelar tan ba fatin seluk. Mezmu nune’e, JSMP hanoin katak tuir loloos adiamentu hanesan ne’e la bele akontese bebeik, tanba prosesu ne’e kleur ona no bele fó impaktu ba efikasias produsaun prova sira tuir provizaun Kódigu Prosesu Penal¹.

“Tribunál tuir loloos bele uza meu seluk hodi bele nafatin hala’o julgamentu iha situasaun serka sanitária nia laran, hanesan JSMP ninia publikasaun sira antes ne’ebé husu ba tribunál sira atu hanoin no kria mekanizmu julgamentu apropriadu seluk nu’udar opsauun alternativa ba tempu naruk hanesan telekonferénsia, importante mak tenke kumpri prosedimentu sira ne’ebé iha Kódigu Prosesu Penal no Lei Protesaun Testemuña. Ida ne’e, tanba JSMP hanoin katak sei iha possibilidade atu iha tan deklarasaun Estadu Emerjénsia, serka sanitaria no mós konfinamentu obrigatória iha futuru”, dehan Diretora Ezekutiva JSMP, Sra. Ana Paula Marçal.

Julgamentu ho meu telekonferénsia ne’e, Tribunál Distritál Suai no Dili uza ona no fasilita duni tribunál sira hodi kontinua halo julgamentu ho lais no la fó impaktu ba prova sira ne’ebé antes ne’e prodús ona. Ezemplu ba kazu tentativa omisídiu simples ho Nú. Prosesu 0016/20

¹ Bele haree iha provizaun pontu 5) Artigu 250 lakon efikasias ba prova sira ne’ebé prodús ona iha Tribunál

BBBBL ne'ebé tribunál Distritál Suai prezide hodi rona deklarasaun lezadu no testemuña ne'ebé hela iha Dili no labele desloka ba Munisípiu tanba situasaun serka sanitaria no konfinamentu obrigatóriu iha Dili².

Julgamentu kazu “Topu Honis” primeiru realiza iha 23 Feveireiru 2021 no konsege rona deklarasaun arguidu nian. Depoisde rona tiha deklarasaun arguidu nian, TDO marka fali ba iha 22 Marsu 2021 ho ajenda rona deklarasaun lezada sira ne'ebé maioria husi Dili, maibé la konsege rona lezada sira nia deklarasaun tanba lezada sira la marka prezensa iha tribunál (aplikasaun serka sanitária no konfinamentu obrigatóriu iha Dili). Nune'e, iha momentu ne'ebá TDO adia tan julgamentu kazu ne'e ba iha 24 Maiu 2021 ho ajenda rona deklarasaun foun husi arguidu nian tanba deklarasaun ne'ebé antes arguidu fó lakon ona nia efikasias (Artigu 250 KPP). Maibé iha 24 Maiu 2021, TDO kontinua halo adiamentu ba prosesu kazu ne'e ho razaun sira ne'ebé temi ona iha leten. Bazeia ba observasaun JSMP nian, prokuradór na'in ida ne'ebé durante ne'e hala'o knaar iha Ministériu Públiku Oekusi nian mak substitui prokuradór titulár hodi rona de'it adiamentu ba prosesu kazu ne'e.

JSMP mós haree katak kauza husi prokuradór titulár sira la marka prezensa iha julgamentu ne'e tanba prazu ba karantina lora 14 seidak termina no defeza mós la marka prezensa tanba la hetan billete. Nune'e, JSMP hanoin, se prokuradór no defeza sira hakarak partisipa direta iha audénsia ne'e ka la halo audénsia ho telekonferénsia, tuir loloos, Prokuradór titulár no defeza sira ne'ebé iha Dili tenke halo planu ba sosa billete no kalkulasaun ba tempu kuarantena bele termina molok lora julgamentu nian hahú, nune'e sei la fó impaktu ba julgamentu ne'e. Ezemplu mak juis kolektivu ida husi Dili konsege desloka antes no kumpri auto kuarantena lora 14 antes julgamentu hahú.

JSMP hanoin katak kuandu prosesu ne'e han tempu naruk bele lori implikasaun ba iha vítima no mós arguidu nia direitu asesu ba justisa. Nune'e JSMP hanoin opsaun di'ak liu mak uza telekonferénsia.

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² Informasaun kompletu bele haree iha JSMP ninia publikasaun iha: <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-ih-tribunal-21-Maiu-2021.pdf>