



UDICIALSYSTEM MONITORING PROGRAMME PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

Case Summary

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Summary of the trial process in the Oecusse District Court during the second and third weeks of July 2012

Introduction

For approximately two weeks, between the 10th and 20th July 2012, JSMP monitored trials at the Oecusse District Court.

During this period, JSMP managed to observe hearings in a total of 24 cases, however, in this edition JSMP has included information about 28 hearings. This is because several cases had two¹ or three hearings in succession during the aforementioned two week period.

These cases can be classified into several different categories. However JSMP noted that cases of domestic violence continue to be more prevalent than other categories. 6 cases were categorized as ordinary maltreatment, 17 cases involved domestic violence, and 1 case involved damage to property.

From these 24 cases, there were 16 cases involving domestic violence that received a final decision. In a large number of domestic violence cases the court handed down a fine (13 cases)² and in 3 cases the court handed down suspended sentences and the remaining case was adjourned.

In 4 cases involving ordinary maltreatment the court decided to verify agreements and in 2 cases the court handed down suspended sentences. In the case involving minor damage the court issued an admonishment.

Just like previous editions this case summary aims to disseminate information about the trial process at the Oecusse District Court during the aforementioned two week period.

¹In two cases of domestic violence (Case No. 4/PCO/2011/TDO and Case No. 69/PCO/2011/TDO) the court held two hearings and in one case involving ordinary maltreatment (Case No. 95/PCO/2011/TDO) the court held three hearings.

²Fines handed down by the court ranged from US\$ 22 to US\$ 75

The following information summarizes the hearings that were monitored:

1. Crime of Ordinary Maltreatment, Case No. 85/PCO³/2011/TDO

On 10 July 2012 the Oecusse District Court conducted a hearing in a case involving Ordinary Maltreatment which was registered as Case No. 85/PCO/2011/TDO. This case involved the defendant Carlos Ulan who allegedly committed the crime against the victim Agustinho Seco. This case allegedly occurred on 21 July 2011 in Passabe Sub-District, Oecusse District.

The hearing was presided over by single judge João Ribeiro. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

The hearing commenced with the reading out of the charges by the public prosecutor. The indictment stated that on 21 July 2011 at approximately 9pm the defendant returned home heavily intoxicated. Then the victim abused the defendant with offensive words and the defendant did not accept the victim's behavior so he committed maltreatment against the victim. His actions included punching and kicking the victim several times all over his body, causing him to suffer generalized pain and requiring treatment at the Oecusse Referral Hospital for two days.

In relation to the aforementioned actions the prosecutor charged the defendant with Article 145.1 of the Penal Code on ordinary maltreatment that carries a sentence of 3 years imprisonment or a fine.

During the hearing the victim stated that they had entered into an amicable agreement. In that agreement the defendant gave US\$ 150 as a way of apologizing in accordance with the cultural practices of Oecusse. Therefore, the victim requested for the court to dismiss this case.

Pursuant to Article 262 of the Criminal Procedure Code regarding attempts at conciliation, the court granted the request of the victim and pursuant to Articles 106 and 109 of the Penal Code, as well as Articles 71 and 216 of the Criminal Procedure Code⁴, the court decided to acquit the defendant from all of the criminal charges.

2. Crime of Domestic Violence, Case No. 104/PCO/2011/TDO

On 10 July 2012 the Oecusse District Court was unable to conduct a hearing in a case involving domestic violence which was registered as Case No. 104/PCO/2011/TDO because the victim did not appear in court.

Based on information compiled by JSMP, the hearing was adjourned because the court did not provide a written summons to the victim. The court clerk from the Oecusse District Court said that the summons to attend the hearing could not be delivered because the victim resides in Dili.

³PCO: Ordinary Crimes Process

⁴Article 106 of the TL Penal Code on nature of the crime and Article 109 on waiving or withdrawing a complaint, Article 71 of the Criminal Procedure Code on legitimacy of the aggrieved person and Article 216 of the Criminal Procedure Code on waiving or desisting from a complaint.

The court decided to adjourn the trial in this case until 16 August 2012 at 2.30pm.

3. Crime of Ordinary Maltreatment, Case No.95/PCO/2011/TDO

On 11 July 2012 the Oecusse District Court conducted a hearing in a case involving Ordinary Maltreatment which was registered as Case No. 95/PCO/2011/TDO. The defendant IM allegedly committed the crime against the victim BS. This case allegedly occurred in Buqui Village, Oesilu Sub-District, Oecusse District on 19 January 2011.

The hearing was presided over by single judge João Ribeiro. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

The hearing commenced with the reading out of the charges. The indictment stated that on 19 January 2011 at approximately 7pm the defendant assaulted the victim. The incident occurred because the defendant dismantled a wooden fence belonging to the victim to use as fuel for a cooking fire. Therefore the victim abused the defendant by calling her a "bitch". This statement upset the defendant who attacked the victim by scratching her and throwing her to the ground and she was left naked.

In relation to the aforementioned actions the prosecutor charged the defendant with Article 145.1 of the Penal Code on ordinary maltreatment that carries a sentence of 3 years imprisonment or a fine.

After reading out the charges the court attempted conciliation in this case as provided for in Article 262 of the Criminal Procedure Code. However the victim requested for the trial to continue.

In accordance with this request the court continued the trial to hear the statement of the defendant.

In the aforementioned trial the defendant stated that at the time of the incident the defendant and the victim scratched each other causing the victim to fall down but the victim did not lose her clothes as stated in the indictment.

However the testimony of the defendant did not match the testimony of the victim. The victim stated that the defendant scratched her back and threw her to the ground and she suffered a bruised forehead and the sarong that she was wearing came off and she was left naked.

After hearing testimony from the defendant and the victim, the court decided to continue the trial on 16 July 2012 at 8am to hear testimony from the other witnesses who have not yet appeared.

4. Crime of Domestic Violence, Case No.69/PCO/2011/TDO

On 12 July 2012 the Oecusse District Court conducted a hearing in a case involving domestic violence which was registered as Case No. 69/PCO/2011/TDO. The defendant in the aforementioned case LK alleged committed the crime against the victim AP (her husband). This case allegedly occurred on 11 January 2011, di Taiboco Village, Pante-Makassar Sub-District, Oecusse District.

The hearing was presided over by single judge João Ribeiro. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

The hearing commenced with the reading out of the charges by the public prosecutor. The indictment stated that on 11 January 2011 at approximately 7pm the defendant threw the victim on the ground. The defendant tried to grab the machete that was hanging over the shoulder of the victim, but suddenly the machete fell from the defendant's hand and slashed the head of the victim.

This case allegedly occurred because the victim asked his daughter to boil some water to make some coffee but the defendant did not give her permission. Therefore, the victim became angry and kicked the saucepan and it struck the defendant. This unsavory act caused the defendant to assault the victim and throw the victim to the ground.

In relation to the aforementioned incident the prosecutor charged the defendant with Article 145 of the Penal Code on ordinary maltreatment as well as Articles 2, 3 and 35 of the Law Against Domestic Violence.

During the trial the defendant exercised her right to remain silent as set out in Article 60 of the Criminal Procedure Code. The court continued with the examination of testimony from the victim. Before the court the victim stated that at that time they did have a fight but after two months they reconciled and were living again as husband and wife.

After hearing the evidence the court requested for the public prosecutor and public defender to make their final recommendations orally regarding the facts and sentencing in accordance with Article 276 of the Criminal Procedure Code.

In his final recommendations the prosecutor maintained his position regarding the facts that had been examined and revealed during the trial. Therefore the prosecutor requested for the court to consider the evidence and hand down a fair punishment against the defendant.

In his final recommendations the public defender requested for the court to hand down a suspended sentence against the defendant with reference to the mitigating circumstances, such as the fact that the defendant has no prior record, has behaved well and took the initiative to seek reconciliation and also that the defendant and victim were now living again as husband and wife.

The court adjourned the trial until 17 July 2012 at 3pm to announce the final decision.

5. Crime of Domestic Violence, Case No.04/PCO/2011/TDO

On 13 July 2012 the Oecusse District Court conducted a hearing in a case involving domestic violence which was registered as Case No. 04/PCO/2011/TDO. The defendant in this case MAU allegedly committed the crime against the victim CO (his wife). This case allegedly occurred on 18 November 2011 in Bobometa Village, Oesilu Sub-District, Oecusse District.

The hearing was presided over by single judge João Ribeiro. The public prosecution service was represented by Afonso Lopes. The defendant was represented by public defender Calisto Tout.

The hearing commenced with the reading out of the charges by the public prosecutor. The indictment stated that on 18 November 2011 at approximately 12.30pm the defendant punched the victim in the nose causing heavy bleeding.

The indictment stated that this incident occurred because the victim and the defendant were arguing about young people who were fighting at a party. Therefore, the defendant felt humiliated and hit the victim.

In relation to this incident the public prosecutor charged the defendant with Article 145 of the Penal Code as well as Articles 2, 3 and 35(b) of the Law Against Domestic Violence.

In response the defendant stated that the charges of the prosecutor were true and he admitted his mistake, and because the defendant confessed the court didn't need to hear testimony from the victim and witnesses.

In his final recommendations the public prosecutor referred to the facts that were revealed during the trial and requested for the court to hand down a fair punishment against the defendant.

The public defender requested for the court to hand down a suspended sentence against the defendant because the defendant had admitted his actions. Also, the defendant expressed regret for his actions and promised not to reoffend in the future.

After hearing the final recommendations the court told the parties that the trial would continue on 18 /07/2012 at 4pm to hear the final decision of the court.

6. Crime of Ordinary Maltreatment, Case No. 95/PCO/2011/TDO

On 16 July 2012 the Oecusse District Court conducted a hearing in a case involving Ordinary Maltreatment which was registered as Case No. 95/PCO/2011/TDO. This case involved the defendant IM against who allegedly committed the crime against the victim BS on 19 January 2011 in Buqui Village, Oesilu Sub-District, Oecusse District.

The hearing was presided over by single judge João Ribeiro. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

In this hearing the court heard testimony from the two witnesses FS and JK. The witness FS testified that when the incident occurred he separated the defendant and the victim who were arguing. However he did not know about the injuries of the victim.

According to the testimony of JK, he did not know about the incident. JK stated that this case allegedly occurred because the defendant dismantled the fence belonging to the victim. Therefore, when the victim asked the defendant "Why did you take this fence down?" the defendant answered "Even if I take it all down no one here will say anything!"

After that they were involved in an argument and finally the defendant choked the victim and threw the victim to the ground then stomped on the face of the victim until the victim started crying.

After hearing testimony from witnesses the court gave an opportunity to the prosecutor and the public defender to make their final recommendations in accordance with Article 276 of the Criminal Procedure Code. In his final recommendations the prosecutor referred to the testimony of the defendant, the victim and the witnesses and asked for the court to consider the evidence and hand down a fair punishment against the defendant.

The public defender in his final recommendations asked for the court to hand down a suspended sentence against the defendant. This request referred to the fact that the defendant had no prior record and this case allegedly occurred because of provocation from the victim. In the aforementioned incident the victim and the defendant attacked each other, and it was not just the defendant hitting the victim.

The final decision is scheduled to be announced on 18 July 2012 at 2pm.

7. Crime of Domestic Violence, Case No.06/PCO/2011/TDO

On 16 July 2012 the Oecusse District Court conducted a hearing to read out its decision in a case involving domestic violence which was registered as Case No. 06/PCO/2011/TDO. This case involved the defendant Filipus Luan who allegedly committed the crime against the victim Lucia Tonu (his wife). This case allegedly occurred on 23 January 2012 in Lifau Village, Pante-Makassar Sub-District, Oecusse District.

The hearing to announce the decision was presided over by single judge António Gantes Gonçalves da Costa (international). The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

Based on the facts proven during the trial, on 23 February 2012 the victim requested money from the defendant to buy some vegetables. However because the defendant did not have money they were involved in an argument and finally the defendant slapped the victim in the mouth causing it to bleed. Also the defendant hit the victim in the head twice and the victim suffered pain.

The court concluded that the defendant was guilty of violating Article 145.1 of the Penal Code and Article 35 (b) of the Law Against Domestic Violence.

After analyzing the facts the court decided to hand down to a sentence in the form of a fine totaling US\$ 60 (sixty dollars) to be paid within 60 (sixty) days. The fine is to be paid in installments of US\$ 1 per day. However, the court emphasized that if the defendant did not fulfill his obligation the defendant would be sent to jail for one month.

8. Crime of Domestic Violence, Case No.49/PCO/2011/TDO

On 16 July 2012 the Oecusse District Court conducted a hearing to read out its final decision in a case involving domestic violence which was registered as Case No. 49/PCO/2011/TDO. This case involved the defendant Marcos Suni who allegedly committed the crime against the victim Juliana Sila (his wife). This case allegedly occurred on 14 November 2011 in Cunha Village, Pante-Makassar Sub-District, Oecusse District.

The hearing was presided over by single judge António Gantes Gonçalves da Costa (international). The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

In its decision the court decided on the facts based on the testimony given by the defendant before the court.

The court found that the defendant had slapped and punched the victim because of US\$ 15 which was actually set aside for the sale of goods, but the victim used it for other necessities.

The court decided that the facts proven during the trial fulfilled the elements of the crime of ordinary maltreatment characterized as domestic violence, as set out in Article 145 of the Penal Code as well as Article 35 (b) of the Law Against Domestic Violence. Therefore, the court decided to order the defendant to pay a fine.

The fine was set at US\$ 37 (thirty seven dollars) to be paid within 75 (seventy five) days, and to be paid in installments of US 50 cents per day.

However, the court emphasized that if the defendant did not pay the fine ordered by the court then he would be sent to prison for 20 days.

9. Crime of Domestic Violence, Case No. 09/PCO/2011/TDO

On 17 July 2012 the Oecusse District Court conducted a hearing in a case involving domestic violence which was registered as Case No. 09/PCO/2011/TDO. The defendant in this case YS allegedly committed the crime against the victim JS (his wife). This case allegedly occurred on 19 September 2011 in Costa Village, Pante-Makassar Sub-District, Oecusse District.

The hearing was presided over by single judge António Gantes Gonçalves da Costa (international). The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

The hearing commenced with the reading out of the charges by the public prosecutor. The indictment of the prosecutor stated that on 19 September 2011 at 5am the defendant hit the victim twice in the forehead causing an injury and swelling.

Then the indictment stated that this case allegedly occurred because the victim yelled at the defendant in front of a lot of people and said “you think you’re the boss!” The defendant did not accept this and maltreated the victim.

In relation to this incident the public prosecutor charged the defendant as the main perpetrator who had carried out his intent in accordance with 145.(1) of the Penal Code. The charges of the public prosecutor were made pursuant to Articles 2, 3 and 35 (b) of the Law Against Domestic Violence.

In response the defendant stated that he had admitted his mistake and accepted that the charges of the prosecutor were true. The defendant also told the court that they had reconciled one day after the incident. He also regretted his actions and promised not to reoffend in the future.

In his final recommendations the prosecutor stated that the defendant had admitted his mistake and therefore the prosecutor requested for the court to hand down a fair punishment against the defendant in accordance with the recommendations of the prosecutor.

The public defender in his final recommendations requested for the court to hand down a lenient punishment against the defendant because at the time of the incident the defendant and the victim were heavily intoxicated. In addition, the defendant also admitted that he was wrong, regretted his actions and the defendant and the victim have reconciled.

The final decision is scheduled to be announced on 18 July 2012 at 2.20pm.

10. Crime of Domestic Violence, Case No.66/PCO/2011/TDO

On 17 July 2012 the Oecusse District Court conducted a hearing to read out its final decision in a case involving domestic violence which was registered as Case No. 66/PCO/2011/TDO. This case involved the defendant Mateus Caunan who allegedly committed the crime against the victim SantiSone (his wife). This case allegedly occurred on 15 April 2011 in Bobometa Village, Oesilu Sub-District, Oecusse District.

The hearing to announce the decision was presided over by single judge António Gantes Gonçalves da Costa (international). The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

The decision outlined the facts that were established during the trial. Namely, that the defendant was guilty of slapping and chasing the victim because she wasn't looking after their children properly.

In accordance with the aforementioned facts, the court was convinced that the defendant was guilty of committing the crime of ordinary maltreatment characterized as domestic violence in violation of Article 145 of the Penal Code as well as Article 35 (b) of the Law Against Domestic Violence.

After examining the entire process, the court handed down a sentence in the form of a fine totaling US \$ 30 (thirty dollars) against the defendant. The defendant must pay this fine within 60 days at a rate of 50 cents per day.

The court also emphasized that if the defendant does not pay the fine the defendant will be sent to prison for 20 days.

11. Crime of Domestic Violence, Case No.100/PCO/2011/TDO

On 17 July 2012 the Oecusse District Court conducted a hearing to read out its final decision in a case involving domestic violence. This case was registered as Case No. 100/PCO/2011/TDO. This case involved the defendant Lamberto Elo who allegedly committed the crime against the victim Marta Sanaunu on 19 October 2011, in Costa Village, Pante-Makassar Sub-District, Oecusse District.

The hearing to announce the final decision was presided over by single judge António Gantes Gonçalves da Costa (international). The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Sebastião Amado de Almeida.

Based on the facts established during the trial, at the time of the incident the victim and the defendant were arguing because the victim had ignored the request of the defendant to go and construct a fence. Because the victim refused, the defendant kicked the victim once in the back. The court was convinced that the defendant committed the crime of ordinary maltreatment characterized as domestic violence against the victim.

Therefore the court decided to hand down a sentence in the form of a fine totaling US \$ 22 (twenty two dollars) against the defendant and the fine must be paid within 45 days. The fine is to be paid in installments of 50 cents per day.

The court reminded the defendant that if he does not fulfill his obligations he will be sent to prison for 10 days.

12. Crime of Ordinary Maltreatment, Case No.254/PCO/2011/TDO

On 17 July 2012 the Oecusse District Court conducted a hearing in a case involving Ordinary Maltreatment which was registered as Case No. 254/PCO/2011/TDO. This case involved the defendant Marcos Siki who allegedly committed the crime against the victim Joao dos Santos on 11 July 2011, in Costa Village, Pante-Makassar Sub-District, Oecusse District.

The hearing was presided over by single judge António Gantes Gonçalves da Costa (international). The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

In this hearing the court validated an agreement reached in this case because the two parties (the victim and the defendant) submitted an amicable agreement. This validation process was carried out pursuant to Article 106 (nature of the crime) and Article 109 (withdrawing a complaint) of the Penal Code as well as Article 71 (maintaining order in procedural acts) and Article 216 (waiving or desisting from a complaint) of the Criminal Procedure Code.

13. Domestic Violence, Case No.13/PCO/2011/TDO

On 17 July 2012 the Oecusse District Court conducted a hearing in a case involving domestic violence which was registered as Case No. 13/PCO/2011/TDO. This case involved the defendant Domingos Noel who allegedly committed the crime against the victim Sara Naikleu on 10 October 2011, in Costa Village, Pante-Makassar Sub-District, Oecusse District.

The hearing was presided over by single judge António Gantes Gonçalves da Costa (international). The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

The indictment of the public prosecutor stated that on the morning of 10 October 2011 the defendant was looking for some palm wine for the people (tradespeople) who were building a house. However the defendant returned home at 2pm. Therefore, an argument took place between the victim and the defendant and then the defendant hit the victim once in the face and choked the victim. These acts caused the victim to experience pain in the face and neck.

In relation to the aforementioned incident the prosecutor charged the defendant with Article 145.1 of the Penal Code as well as Articles 2, 3 and 35 of the Law Against Domestic Violence.

The defendant testified to the court that all of the charges made by prosecutor were true. As the defendant admitted the facts, the court didn't need to hear testimony from the victim and witnesses. Therefore the court gave an opportunity to the prosecutor and the public defender to make final recommendations.

In his final recommendations the prosecutor referred to the facts that were examined and proven during the trial and requested for the court to hand down a fair punishment against the defendant.

The public defender requested for the court to hand down a sentence that is proportional because the two parties have reconciled. Also, the defendant expressed regret for his actions and promised not to reoffend in the future against the victim or any other person.

After hearing the final recommendations the court immediately issued its final decision. The court decided to order the defendant to pay a fine totaling US\$ 60 (sixty dollars). This fine must be paid within 120 days at 50 cents per day.

The court requested for the defendant to pay this fine within the prescribed time limit, if not the defendant will be immediately sent to prison for 80 days.

14. Crime of Domestic Violence, Case No.69/PCO/2011/TDO

On 17 July 2012 the Oecusse District Court conducted a hearing to read out its final decision in a case involving domestic violence which was registered as Case No.69/PCO/2011/TDO. The defendant in this case Lucia Kolo was charged with committing the crime against the victim António Pereira. This case allegedly occurred on 11 January 2011 in Ulas Village, Taiboko Sub-District, Oecusse District.

The hearing was presided over by single judge João Ribeiro. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

Based on the facts established during the trial, the court confirmed that the defendant was guilty of committing the crime of domestic violence. In relation to these acts the court concluded that the defendant had violated Article 145.1 of the Penal Code as well as Article 35 (b) of the Law Against Domestic Violence. Finally the court handed down a prison sentence of one year against the defendant which was suspended for one year and six months.

15. Crime of Ordinary Maltreatment, Case No.65/PCO/2012/TDO

On 18 July 2012 the Oecusse District Court conducted a hearing in a case involving Ordinary Maltreatment which was registered as Case No. 65/PCO/2011/TDO. The defendant in this case Jose Kehi allegedly committed the crime against the victim Marcos Oki. This case allegedly occurred on 14 October 2011 in Pante-Makassar Sub-District, Oecusse District.

The hearing was presided over by single judge António Gantes Gonçalves da Costa (international). The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

The indictment of the public prosecutor stated that on 14 October 2011 the defendant punched the left ear of the victim causing the victim to fall down and experience pain in the aforementioned area.

In relation to this act the prosecutor charged the defendant under Article 145.1 of the Penal Code.

Before the court the defendant testified that the victim had actually attacked him first when the defendant tried to approach the victim who was refusing to attend a weekly meeting. The defendant also stated that the victim punched the table and had provoked the situation.

However the victim stated that it was true that he did not want to attend the meeting because meetings were taking place nearly every day. In meetings the defendant always abused the victim saying "*stupid graduate*". Therefore the victim did not accept this and punched the table.

The two witnesses summoned to the court, Julia Nenu and Agustino Fune, corroborated the testimony of the victim. Namely, that the defendant had made comments against the victim and provoked the situation causing them to attack each other.

After hearing testimony from the defendant, the victim and the witnesses, the court asked the parties to make their final recommendations. In his final recommendations the prosecutor maintained his original charges and requested for the court to hand down a fair punishment against the defendant.

The public defender in his final recommendations asked for the court to hand down a suspended sentence against the defendant. This request was made based on the original argument of the public defender that the victim had hit the defendant first, so the defendant responded by committing an act described as self defence.

The court was convinced that the actions of the defendant fulfilled the elements of Article 145 of the Penal Code. Therefore the court decided to hand down a sentence in the form of a fine totaling US\$ 45 (forty five dollars) to be paid within 45 days within installments of US\$ 1 per day.

If the defendant does not pay the fine ordered by the court the defendant will be sent to prison for 30 days.

16. Crime of Domestic Violence, Case No.80/PCO/2011/TDO

On 18 July 2012 the Oecusse District Court conducted a hearing in a case involving domestic violence which was registered as Case No. 80/PCO/2011/TDO. The defendant in this case António Bisa allegedly committed the crime against the victim Angelina Punef. This case allegedly occurred on 17 March 2011 in Mahata, Costa Village, Pante-Makassar Sub-District, Oecusse District.

The hearing was presided over by single judge António Gantes Gonçalves (international). The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

The indictment of the prosecutor stated that on 17 March 2011 at approximately 9am the defendant ordered the victim to go to the fields but the victim refused because the defendant

himself didn't go to the fields. Because the victim did not do what the defendant wanted, he slapped her twice on both of her cheeks.

In relation to the aforementioned incident the prosecutor charged the defendant with Article 145.1 of the Penal Code as well as Articles 2, 3 and 35 of the Law Against Domestic Violence.

Before the court the defendant admitted all of the charges against him. Therefore the court did not need to hear testimony from the victim and witnesses, and proceeded to hear final recommendations.

In his final recommendations the prosecutor requested for the court to hand down a fair punishment against the defendant.

The public defender requested for the court to hand down a proportional sentence because the parties had reconciled and the defendant had demonstrated regret and promised not to reoffend against the victim or anyone else.

In its final decision the court decided to hand down a sentence of 8 months imprisonment against the defendant to be suspended for two years. The court also emphasized that during the probationary period if the defendant is involved in a crime the court will send the defendant to jail for 8 months.

17. Crime of Ordinary Maltreatment, Case No.82/PCO/2011/TDO

On 18 July 2012 the Oecusse District Court conducted a hearing in a case involving Ordinary Maltreatment which was registered as Case No. 82/PCO/2011/TDO. This case involved the defendant Imaculada Negue who allegedly committed the crime against the victim Domingos Elo. This case allegedly occurred on 7 July 2011 in Takueno Village, Oesilu Sub-District, Oecusse District.

The hearing was presided over by single judge António Gantes Gonçalves (international). The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Sebastião Nheu de Amado.

The hearing commenced with the reading out of the charges by the public prosecutor. The indictment stated that on 7 July 2011 at approximately 9am the defendant assaulted the victim. The defendant attacked the victim with a branch from a coffee tree and hit the victim twice on the cheek. The aforementioned actions caused the victim to suffer pain all over his body and on his cheek.

In relation to these actions the prosecutor charged the defendant under Article 145.1 of the Penal Code on ordinary maltreatment that carries a sentence of 3 years imprisonment or a fine.

The court tried to achieve conciliation based on Article 262 of the Criminal Procedure Code. However the victim refused the attempts at conciliation. Therefore, the court proceeded to hear the testimony of the defendant.

During the trial the defendant admitted that all of the facts were true in accordance with the indictment of the prosecutor. As the defendant admitted the facts in this case the court proceeded to hear final recommendations.

In his final recommendations the public prosecutor requested for the court to hand down a fair sentence against the defendant. In addition, the public defender also requested for the court to hand down a proportional punishment because the defendant was a first time offender and had demonstrated remorse for his actions.

The court decided to hand down a sentence in the form of a fine totaling US\$ 22 (twenty two dollars) to be paid within 45 days at 50 cents per day. The court reminded the defendant that if he does not fulfill his obligations he will be sent to prison for 30 days.

18. Crime of Domestic Violence, Case No.88/PCO/2011/TDO

On 18 July 2012 the Oecusse District Court conducted a hearing in a case involving domestic violence which was registered as Case No. 88/PCO/2011/TDO. The defendant in this case Aleixo Tefa allegedly committed the crime against the victim Maria Lao. This case allegedly occurred on 26 March 2011 in Costa Village, Pante-Makassar Sub-District, Oecusse District.

The hearing was presided over by single judge António Gantes Gonçalves. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Sebastiao Nheu de Amado.

The hearing commenced with the reading out of the charges by the public prosecutor. The indictment of the prosecutor stated that on 26 March 2011 at 7pm the defendant slapped the victim once on the cheek and dragged the victim out of the house causing the victim to feel pain and suffer an injury to her right thigh.

In his indictment the prosecutor also stated that this case allegedly occurred because of a misunderstanding between the defendant and the victim about a pig that was sold by the defendant for US\$ 52, however the defendant used the money for gambling.

In relation to the aforementioned incident the prosecutor charged the defendant with Article 145.1 of the Penal Code as well as Articles 2, 3 and 35 of the Law Against Domestic Violence.⁵

Before the court the defendant admitted all of the evidence in relation to the aforementioned incident and demonstrated remorse. The defendant also said that they had reconciled.

In his final recommendations the prosecutor maintained his original charges in accordance with the facts proven during the trial and requested for the court to hand down a prison sentence of 1 year against the defendant to be suspended for 2 years.

The public defender referred to the mitigating circumstances such as the fact that the defendant had admitted the charges, had expressed remorse, the parties have reconciled and are living together and the defendant is the head of the family and they have three children. Therefore the public defender requested for the court to hand down a proportional punishment against the defendant.

After considering all of the circumstances the court decided to punish the defendant with a fine of US \$ 30 to be paid within 60 days at 50 cents per day.

⁵Article 145.1 of the TL Penal Code on ordinary maltreatment and Articles 2, 3 and 35 of Law No.07/2010.

19. Crime of Domestic Violence, Case No.16/PCO/2011/TDO

On 18 July 2012 the Oecusse District Court conducted a hearing in a case involving domestic violence which was registered as Case No. 16/PCO/2011/TDO. The defendant in the aforementioned case Simao Eco allegedly committed the crime against the victim Rozita Neno. This case allegedly occurred on 1 December 2011 in Usitasae Village, Oesilu Sub-District, Oecusse District.

The hearing was presided over by single judge António Gantes Gonçalves. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Sebastiao Nheu de Amado.

The hearing commenced with the reading out of the charges by the public prosecutor. In his indictment the prosecutor stated that on 1 December 2011 at 5pm the defendant hit the victim on her right leg with a piece of wood. This case allegedly occurred because of a misunderstanding between the defendant and the victim about firewood.

In relation to the aforementioned incident the prosecutor charged the defendant with Article 145.1 of the Penal Code as well as Articles 2, 3 and 35 of the Law Against Domestic Violence.

Before the court the defendant admitted his guilt in accordance with the charges. Therefore, the court didn't need to hear testimony from the victim.

In his final recommendations the public prosecutor requested for the court to hand down a fair sentence against the defendant.

The public defender requested for the court to hand down a proportional sentence based on the general circumstances of the defendant. For example, the defendant cooperated with the court, the defendant admitted all of the charges against him, had demonstrated remorse and was a first time offender.

The court decided that the actions of the defendant had fulfilled the elements of Article 145 of the Penal Code as well as Articles 2, 3 and 35 of the Law Against Domestic Violence.

The court handed down a sentence in the form of a fine totaling US \$ 30 (thirty dollars). This fine must be paid within 60 (sixty) days in installments of 50 cents per day. If the defendant does not fulfill his obligations, the defendant will be sent to prison for one month.

20. Crime of Ordinary Maltreatment, Case No.95/PCO/2011/TDO

On 18 July 2012 the Oecusse District Court conducted a hearing to read out its final decision in a case of ordinary maltreatment which was registered as Case No. 95/PCO/2011/TDO. This case involved the defendant Isabel Mala who allegedly committed the crime against the victim Balbina Sufa. This case allegedly occurred on 19 January 2011 in Bobometa Village, Oesilo Sub-District, Oecusse District.

The hearing was presided over by single judge João Ribeiro. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

At the commencement of the hearing it was established that the defendant had committed the crime as charged, based on the testimony of the defendant, the victim and the witnesses. Therefore, the court concluded that the actions of the defendant fulfilled the elements of the crime of ordinary maltreatment as set out in Article 145 of the Penal Code. .

Based on analysis of the aforementioned facts the court ordered the defendant to pay a fine of US \$ 60 (sixty dollars). The fine must be paid within 60 (sixty) days in installments of US\$ 1 per day. However if the defendant fails to do so, the defendant will be sent to prison for 45 days.

21. Crime of Domestic Violence, Case No.04/PCO/2011/TDO

On 18 July 2012 the Oecusse District Court conducted a hearing to read out its final decision in a case involving domestic violence which was registered as Case No. 04/PCO/2011/TDO. This case involved the defendant Miguel A'u who allegedly committed the crime against the victim Cicilia Ole. This case allegedly occurred on 18 November 2011 in Bobometa Village, Oesilo Sub-District, Oecusse District.

The hearing to announce the final decision was presided over by single judge João Ribeiro. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

Based on the evidence proven during the trial, the defendant was found guilty of committing the crime of domestic violence in accordance with 145 of the Penal Code as well as Articles 2, 3 and 35 of the Law Against Domestic Violence.

The court decided to sentence the defendant to a prison sentence of one year, to be suspended. However, the defendant will be sent to prison for 1 year if he commits any crimes.

22. Crime of Domestic Violence, Case No.153/PCO/2011/TDO

On 19 July 2012 the Oecusse District Court conducted a hearing in a case involving domestic violence which was registered as Case No. 153/PCO/2011/TDO. This case involved Antonio Sila who allegedly committed the crime against the victim Ana de Jesus Mala (his wife). This case allegedly occurred on 4 March 2011 in Bobometa Village, Oesilo Sub-District, Oecusse District.

The hearing was presided over by single judge António Gantes Gonçalves. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Sebastiao Nheu de Almeida.

The hearing commenced with the reading out of the charges by the public prosecutor. The indictment stated that on 4 March 2011 on the way back from school the defendant asked the victim for money for a traditional ceremony. However the victim did not hand over the money and the defendant became angry and hit the victim on her back several times with a rope used to tether a horse.

In relation to the aforementioned incident the prosecutor charged the defendant with Article 145.1 of the Penal Code as well as Articles 2, 3 and 35(b) of the Law Against Domestic Violence.

During the trial the defendant admitted all of the charges against him, therefore the court proceeded with the final recommendations.

In his final recommendations the public prosecutor requested for the court to hand down a fair sentence against the defendant. The public defender requested for the court to consider the general circumstances of the defendant and hand down a proportional punishment against the defendant. For example, the defendant had admitted all of the facts, had demonstrated remorse, the parties had reconciled and they were living as husband and wife.

Based on the aforementioned facts and evidence the court concluded that the defendant had violated Article 145.1 of the Penal Code as well as Articles 1, 2, 3 and 35 of the Law Against Domestic Violence as charged by the public prosecutor.

The court handed down a sentence in the form of a fine totaling US\$ 75 (seventy five dollars). The defendant must pay the fine within 75 (seventy five) days with installments of US\$ 1 per day. In addition the defendant must pay court costs of US\$ 20.

23. Crime of Domestic Violence, Case No.47/PCO/2011/TDO

On 19 July 2012 the Oecusse District Court conducted a hearing in a case involving domestic violence which was registered as Case No. 47/PCO/2011/TDO. This case involved the defendant Juliana Colo who allegedly committed the crime against the victim Helena Siki (his mother). This case allegedly occurred on 31 December 2011 in Costa Village, Pante-Macassar Sub-District, Oecusse District.

The hearing was presided over by single judge António Gantes Gonçalves. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Sebastiao Nheu de Almeida.

The hearing commenced with the reading out of the charges by the public prosecutor. In the indictment the prosecutor stated that on 1 January 2012 at 9am the victim went to ask for US\$ 10 that the defendant had borrowed. However the defendant shouted out "*how much money do you have?*", and then the defendant pulled the victim's hair, punched the victim in the eye and punched the victim in the mouth causing injury.

In relation to the aforementioned incident the prosecutor charged the defendant with Article 145.1 of the Penal Code as well as Articles 2, 3 and 35 of the Law Against Domestic Violence.

During the trial the defendant confirmed that she had committed the crime as charged by the prosecutor. Therefore, the court proceeded with the final recommendations.

In his final recommendations the public prosecutor requested for the court to hand down a fair sentence against the defendant. The public defender made the same request when asked by the court to make his final recommendations.

Based on the aforementioned facts and the concurrence of the prosecutor and the public defender, the court decided to hand down a sentence in the form of a fine totaling US\$ 22 (twenty two dollars) against the defendant. This fine must be paid within 45 (forty five) days with installments of 50 cents per day.

24. Crime of Serious Maltreatment, Case No.42/PCO /2011/TDO

On 19 July 2012 the Oecusse District Court conducted a hearing in a case involving Serious Maltreatment which was registered as Case No. 42/PCO/2011/TDO. The defendant in this case Julião Gração Queno allegedly committed the crime against the victim Agustinho Quebo on 27 December 2011 in Cunha Village, Pante-Macassar Sub-District, Oecusse District.

The hearing was presided over by single judge António Gantes Gonçalves. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Sebastiao Nheu de Amado.

In this hearing the court validated an agreement in this case because the victim and the defendant had entered into an amicable settlement on 4 March 2012.

According to the written agreement the defendant must give a buffalo and money totaling US\$ 400 to compensate the victim for his suffering. This agreement was validated by the court pursuant to Articles 106 and 109 of the Penal Code as well as Articles 71 and 216 of the Criminal Procedure Code.

25. Crime of Domestic Violence, Case No.15/PCO/2011/TDO

On 19 July 2012 the Oecusse District Court conducted a hearing in a case involving domestic violence which was registered as Case No. 15/PCO/2011/TDO. The defendant in this case Cipriano Sequeira allegedly committed the crime against the victim Juliana Quelo. This case allegedly occurred on 11 November 2011 in Costa Village, Pante-Macassar Sub-District.

The hearing was presided over by single judge António Gantes Gonçalves. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Sebastiao Nheu de Amado.

The hearing commenced with the reading out of the charges by the public prosecutor. According to the indictment at 9am on 11 November 2011 the victim saw that someone had removed his cassava. Suddenly the defendant who was on the other side of the fence thought he heard something, namely he thought that the victim accused him of stealing the cassava. Therefore the defendant abused and slapped the victim twice on the cheek and caused the victim to suffer pain.

In relation to the aforementioned incident the prosecutor charged the defendant with Article 145.1 of the Penal Code as well as Articles 2, 3 and 35 of the Law Against Domestic Violence. In his testimony before the court the defendant admitted his guilt. However, the defendant promised to the court not to repeat his actions against the victim (his wife).

In his final recommendations the prosecutor requested for the court to hand down a sentence in accordance with the prosecutor's charges against the defendant.

The public defender requested for the court to apply a suspended sentence against the defendant because he admitted his actions before the court, had demonstrated remorse and had promised not to reoffend in the future against the victim or anyone else.

Based on analysis of the aforementioned facts the court ordered the defendant to pay a fine of US \$ 22 (twenty two dollars). This fine must be paid within 45 (forty five) days with installments of 50 cents per day, if not the defendant will be immediately sent to prison for 10 days.

26. Crime of minor property damage, Case No.19 / PCO/ 2011/TDO

On 19 July 2012 the Oecusse District Court tried a case involving minor property damage and the court settled this case on the same day. This case was registered as Case No.19/PCO/2011. The defendant in this case Francisco Fatubai allegedly committed the crime against the victim Juliana Taena (his mother). This case allegedly occurred on 9 December 2011 in Costa Village, Pante-Macassar Sub-District.

The hearing was presided over by single judge António Gantes Gonçalves. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Sebastiao Nheu de Almeida.

The hearing commenced with the reading out of the charges by the public prosecutor. In the indictment the prosecutor stated that on 9 December 2011 the defendant requested money from the victim because the victim had just received an elderly person's benefit from the government of US\$ 180. The victim gave US\$ 5 but the defendant refused because the defendant wanted more. Therefore, the defendant became angry and smashed some pots, glasses and plates.

In relation to his actions the prosecutor charged the defendant with Article 258 of the Penal Code.⁶

Before the court the defendant admitted that he had damaged the aforementioned goods as stated in the charges of the prosecutor. After hearing testimony from the defendant, the court proceeded to hear final recommendations.

In his final recommendations the public prosecutor requested for the court to hand down a fair sentence against the defendant.

The public defender in his final recommendations stated that the defendant had cooperated with the court during the trial and therefore he asked for the court to hand down a suspended sentence against the defendant.

In its final deliberations the court found the defendant guilty of violating Article 258 of the Penal Code on minor property damage, but because the defendant had demonstrated good behavior and was a first time offender the court decided to hand down a sentence in the form of an admonishment against the defendant as set out in Article 82 of the Penal Code.

27. Crime of Domestic Violence, Case No.55/PCO/2011/TDO

On 19 July 2012 the Oecusse District Court conducted a hearing in a case involving domestic violence which was registered as Case No. 55/PCO/2011/TDO. This case involved the defendant

⁶Article 258 of the Penal Code states that "Any person who wholly or partially destroys, causes damage to, defaces or renders unusable the property of another is punishable with up to 3 years imprisonment or a fine".

Izabel Oematan who allegedly committed the crime against the victim Andre Neno on 3 August 2011, in Taiboko Village, Pante-Macassar Sub-District, Oecusse District.

The hearing was presided over by single judge António Gantes Gonçalves. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Sebastiao Nheu de Amado.

In the indictment the prosecutor stated that on 3 August 2011 the defendant and the victim were arguing about some rice. Due to this misunderstanding the victim became angry and shoved the defendant who fell down, then the defendant stood up and took a branch from a coffee tree and hit the victim in the eye causing bleeding and swelling.

In relation to the aforementioned incident the prosecutor charged the defendant with Article 145.1 of the Penal Code as well as Articles 2, 3 and 35(b) of the Law Against Domestic Violence.

In his testimony before the court the defendant admitted his guilt and promised not to repeat his actions against the victim (his wife). After hearing testimony from the defendant, the court asked the prosecutor to deliver his final recommendations.

In his final recommendations the public prosecutor requested for the court to hand down a fair sentence against the defendant. The public defender stated that the defendant had demonstrated good will, had admitted his actions and had demonstrated remorse, therefore the public defender requested for the court to hand down a suspended sentence against the defendant.

The court handed down a punishment in the form of a fine totaling US\$ 22 (twenty two dollars). The defendant must pay the fine within 45 (forty five) days within installments of 50 cents per day.

If the defendant does not fulfill his obligations, the defendant will be sent to prison for one month.

28. Crime of Domestic Violence, Case No.150/PCO/2011/TDO

On 19 July 2012 the Oecusse District Court conducted a hearing in a case involving domestic violence which was registered as Case No. : 50/PCO/2011/TDO. The defendant in this case Jhon Nono allegedly committed the crime against the victim Josefina Tefa (his wife). This case allegedly occurred on 27 August 2011 in Costa Village, Pante-Makassar Sub-District, Oecusse District.

The hearing was presided over by judge António Gantes Gonçalves. The Public Prosecution Service was represented by Afonso Lopes, and the defendant was represented by public defender Sebastiao Nheu de Amado.

The hearing commenced with the reading out of the charges by the public prosecutor. In his indictment the prosecutor stated that on 27 August 2011 at 1pm the defendant slapped the victim, pulled her hair and threw her on the ground. This case allegedly occurred because the victim did not cook lunch, even though the victim had just given birth.

In relation to the aforementioned incident the prosecutor charged the defendant with Article 145.1 of the Penal Code as well as Articles 2, 3 and 35(b) of the Law Against Domestic Violence.

The defendant testified to the court that all of the charges made by prosecutor were true. Therefore, the court gave an opportunity to the prosecutor and public defender to make their final recommendations.

In his final recommendations the public prosecutor referred to the facts that were revealed during the trial and requested for the court to hand down a fair punishment against the defendant as a way of educating the defendant and the community.

This request was based on the consideration of the prosecutor that the Oecusse District Court has to deal with a large number of domestic violence cases.

The public defender asked the court to hand down a suspended sentence against the defendant if the court deems it possible to do so.

After hearing the final recommendations of the parties, the court decided to order the defendant to pay a fine of US\$ 30 (thirty dollars). The fine must be paid within 60 (sixty) days in installments of 50 cents per day, if the defendant fails to do so he will be sent to prison for 40 days.

For more information, please contact:

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