



**JUDICIAL SYSTEM MONITORING PROGRAMME**  
**PROGRAMA MONITORIZA SAUN SISTEMA JUDISIÁL**



## *Case Summary*

March 2013

### **Summary of the trial process at the Dili District Court February 2013**

In February 2013 JSMP observed 19 criminal cases involving a range of different crimes. These cases comprised 5 cases of ordinary maltreatment, 7 cases of domestic violence (including 1 case of serious maltreatment against a spouse), 1 case of serious misuse of authority, 1 case of misappropriation of public assets, 1 case of illegal gambling, 1 case of simple offence against physical integrity, 1 case of exploiting illegal gambling, 1 case of sexual abuse of a minor, 1 case of aggravated theft, 1 case of defamatory false information and 1 case of making a threat.

Some of these cases have been decided by the court with a range of different outcomes. For example, several cases resulted in suspended sentences including for the crime of ordinary maltreatment characterized as domestic violence. Some cases resulted in a fine, and the courts validated settlements in other cases because the parties agreed to withdraw their cases and the remaining cases were adjourned because the parties did not appear in court, or due to procedural reasons.

The information below outlines the hearings conducted:

#### **1. Crime of simple offence against physical integrity – Case No.269/C.Ord/2012/TDD**

Judge composition:	: Single judge
Judge	: Jacinta Correia da Costa
Public Prosecutor	: Domingos Barreto
Lawyer	: José da Silva (Public Defender)
Conclusion	: Resolved (Ordered to pay a fine)

The court heard this case on 4 February 2013 to read out the charges of the public prosecutor and also to hear the testimony of the defendant in a case of ordinary maltreatment characterized as domestic violence. This crime was allegedly committed by the defendant MM against the victim

MFBL (his wife). The incident allegedly occurred on 12 May 2012 in Quintal Ki'ik–Santa Cruz, Cristo Rei Sub-District, Dili.

The public prosecutor alleged that on 12 May 2012 at approximately 10:00am the defendant was getting ready to go to his work place. When he arrived at his work place he found out that his wife was ill (suffering from asthma) and that she was unhappy with him because the husband had decided to go to work even though it was a Saturday. The victim then contacted the defendant and asked him to come home because she was sick.

When the defendant arrived home the victim started to say a lot of things and the defendant became angry and maltreated the victim, choking her and covering the victim's mouth.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offence against physical integrity and Article 35 (b) of the Law Against Domestic Violence.

During the trial the defendant corroborated the charges of the public prosecutor. However the victim was not able to attend the hearing and give testimony because the victim has since passed away.

In his final recommendations the public prosecutor maintained the original charges. On the other hand, the lawyer for the defendant requested for the court to hand down a more proportional punishment because the defendant had acknowledged the facts relating to the charges against him and express regret. In addition, the defendant is also the provider for his two children who are now motherless.

On 12 February 2013 the Dili District Court read out its decision in this case and sentenced the defendant Mário Martins to pay a fine. The amount of the fine was \$ 37.50 to be paid at the rate of 50 cents per day for 75 days. However if the defendant does not fulfill his obligation he will be sent to prison for 50 days.

## **2. Crime of simple offence against physical integrity, Case No.0248/C.Ord/2012/TDD**

Composition of judges	:Single
Judge	: Edite Palmira
Public Prosecutor	: Reinato Bere Nahak
Lawyer	: Jaime Leite (international public defender)
Conclusion	: Trial adjourned

On 4 February 2013 the Dili District Court adjourned the trial in a case of ordinary maltreatment involving the defendant FX and others who allegedly committed the crime against the victim JS and others.

The trial was adjourned because the two victims did not attend court. In relation to this impediment, the court decided to fine the victims \$10.00 for their non-appearance in court without a legitimate reason.

The court adjourned the trial of this case until 18 March 2013.

### **3. Crime of aggravated appropriation through abuse of trust – Case No.536/C.Ord/2012/TDD**

Composition of judges	: Panel
Judges	: José Maria de Araujo, Duarte Tilman, Paulo Teixeira
Public Prosecutor	: José Ximenes
Lawyer	: José Gutteres (private lawyer)
Conclusion	: Ongoing

This trial of this case took place on 5, 26 and 28 February 2013 to hear testimony from the defendant, witness and to hear the final recommendations of the Public Prosecutor. This case involved the crime of abuse of power which allegedly occurred within the main body of the ASDT party. This case was registered as Case No.536/C.Ord/2012/TDD.

The public prosecutor alleged that on 29 May 2012 the two defendants, GdCAA and CH, were respectively occupying the positions of President and General Secretary of the ASDT Party, and that they spent US\$ 230,000.00 for ASDT party activities without the knowledge of the president-elect. The public prosecutor accused the defendants of violating Article 257 of the Penal Code on the crime of aggravated appropriation through abuse of trust that carries a sentence of between 2 and 8 years imprisonment.

During the trial the defendant GdCAA exercised his right not to testify in court. The defendant CH testified that the aforementioned funds were used for ASDT party activities because at that time the defendant GdCAA was still recognized as the President of the ASDT Party.

There were 12 witnesses in this case. The witnesses JS and VdS testified that the expenditure of funds for party activities originated from the party supporters and not from the budget provided by CNE. On 28 August 2012 the defendants handed over the remaining money from CNE totaling \$38,000.00 to the new ASDT Party Director. However the witnesses did not have information or knowledge about the funds totaling \$195,000.00.

The witness FCA (from CNE) testified that the funds provided by CNE were disbursed or placed in the bank account of the defendant GdCAA because CNE still considered the defendant to be the President of the ASDT Party, after Francisco Xavier passed away. Article 27 of the Party's Internal Regulations allowed for the defendant to automatically take over the position of Party President. Therefore CNE transferred the funds directly into the account of the defendant.

The other 8 witnesses KdA, FS, FBM, DdSM, DB, DMDJ, JdG, IdR and FS were Party coordinators at the district/regional level, and they all testified that they received the money directly from CH, the General Secretary of the ASDT Party, at the Party Headquarters.

The witnesses received different amounts of money, with a maximum amount of \$ 25,000.00 and a minimum of 5,000.00. These funds were received 4 or 5 times, depending on party activities in each region.

The trial was continued on 28 February 2013 to hear the final recommendations of the public prosecutor.

The public prosecutor stated in his final recommendations that the funds from CNE should have been agreed to by the ASDT President-Elect at the Party's National Congress on 28 April 2012. However the defendants ignored this mechanism, even though they had been reminded via a notification letter from CNE.

Therefore, the public prosecutor considered that the report on the expenditure presented by the defendants to be false. This is because after they received the letter from CNE and the Court of Appeal the defendants no longer had a legitimate reason to use the aforementioned funds because there was a new ASDT Party Director.

Pursuant to Article 267 of the Penal Code on aggravated fraud and Article 302 (2) of the Penal Code regarding the concept of an official, the public prosecutor requested for the court to sentence the defendant GdAA to 7 years imprisonment and the defendant CH to 6 years imprisonment.

In his final recommendations the public defender requested for the court to acquit the defendants from all charges because the testimony of the defendants and the witnesses did not indicate that there was evidence that they had used the aforementioned funds to enrich themselves or others.

The decision will be announced on 21 March 2013 at 11am.

#### **4. Crime of simple offence against physical integrity – Case No.259/C.Ord/2012/TDD**

Composition of judges	: Single judge
Judge	: Ana Paula Fonseca
Public Prosecutor	: Oscar Tavares
Lawyer	: Manuel Tilman (private lawyer)
Conclusion	: Ongoing

On 6 February 2013 the Dili District Court conducted a trial in a case involving simple offence against physical integrity characterized as domestic violence. The defendant in this case LdCP allegedly committed the crime against his wife LdA. This case allegedly occurred on 15 November 2010 in Hudilaran Sub-Village, Dom Aleixo Sub-District, Dili District.

The public prosecutor alleged that on 15 November 2010 at approximately 8pm the defendant twice punched and twice kicked the victim on her back. These actions caused the victim to suffer pain and bruising.

This incident allegedly occurred because the defendant asked who took the medicine from his wallet the victim said she didn't know. Therefore, the defendant became angry and maltreated the victim.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offence against physical integrity characterized as domestic violence together with Article 35 (b) of the Law Against Domestic Violence.

During the trial the defendant testified that while they were living together as husband and wife they never had any violence, and had only argued with each other.

However, in her testimony the victim again stated the facts of the incident and motive behind the incident.

Two witnesses, AdSP and IM, stated that they heard and saw the victim and the defendant arguing, but they did not see the defendant hit the victim.

The trial was adjourned until 19 February 2013 at 4pm.

## **5. Crime of illegal gambling – Case No.184/C.Ord/2012/TDD**

Composition of judges	: Single judge
Judge	: António Gonçalves
Public Prosecutor	: Vicente Brites
Lawyer	: Olga Barreto Nunes
Conclusion	: Ongoing

The court tried this case on 7 February 2013 to hear the testimony of the defendant and witnesses relating to the crime of illegal gambling. The case was registered with the court as Case No.No:184/C.Ord/2012/TDD involving the defendant ALR.

In his indictment the public prosecutor stated that on 27 October 2008 at approximately 10pm the police arrested the defendant at the scene of the crime where a roulette game was taking place in the area of Mascarenhas-Dili. At that time the defendant was playing roulette. The owner of the gambling location and several others fled from the scene.

The public prosecutor alleged that the defendant violated Article 303 of the Indonesian Penal Code Indonesia and Article 322 of the Timor-Leste Penal Code on illegal gambling.

During the trial the defendant exercised his right not to testify. On the other hand, the three witnesses summoned by the court did not appear in court, because 2 of them were overseas. Therefore, the public prosecutor decided to not hear the testimony of the witnesses and to proceed to hear the final recommendations.

In his final recommendations the public prosecutor requested for the court to punish the defendant in accordance with the Timor-Leste Penal Code because it is more favorable for the

defendant. The public prosecutor requested for the court to admonish the defendant. On the other hand the lawyer for the defendant requested for the court to acquit the defendant because he public prosecutor did not produce sufficient evidence during the trial.

In addition to being involved in illegal gambling, the defendant was also serving a prison sentence of 10 years after being found guilty in a case of murder that occurred in 2009.

The announcement of the decision was scheduled for 22 February 2013.

## **6. Crime of ordinary offence against physical integrity – Case No.639/C.Ord/2012/TDD**

Composition of judges	: Single
Judge	: Jacinta Correia
Public Prosecutor	: Vicente Brites
Public Defenders	: José da Silva and Joãozito Cardoso (trainee public defender)
Conclusion	: Ordered to pay compensation

The court conducted the trial in this case on 11 February 2013 to seek an amicable settlement/reconciliation between the defendants and victim. The four defendants were Alexandre dos Santos, Luis Soares da Silva, Sesarinho da Silva and Paulino Boavida who allegedly committed a simple offence against physical integrity against the victim Celestino dos Santos on 6 August 2012 in Liquica.

The defendants were charged with committing the crime of maltreatment against the victim because they were offended by what the victim said which resulted in a fight. At the time of the incident they were all intoxicated.

The court managed to reconcile the parties and validate the amicable agreement because the defendants expressed regret at their actions and promised to provide compensation of \$200. Each defendant has to pay \$ 50 to the victim.

## **7. Crime of making a threat – Case No.0079/C.Ord/2013/TDD**

Composition of judges	: Single
Judge	: Anonino Gonçalves
Public Prosecutor	: Oscar Silva Tavares
Lawyer	: Fernando de Carvalho (public defender)
Conclusion	: Validation of amicable agreement

This matter was tried on 12 February 2013. However, the trial of the crime of making a threat characterized as domestic violence was validated by the court through a reconciliation process/amicable settlement. This case involved the defendant David Soares who allegedly committed the crime against the victim Ana Maria (his wife). This case allegedly occurred on 9 February 2013 in Ulmera Village, Bazartete, Liquiça District.

The public prosecutor alleged that the defendant violated Article 157 of the Penal Code on making a threat that carries a penalty of 2 years imprisonment or a fine. The court tried to reach an amicable settlement because this was a crime on complaint (semi-public crime). In addition, the court also considered that the two parties had reconciled and were living together as husband and wife.

#### **8. Crime of simple offence against physical integrity – Case No.619/C.Ord/2012/TDD**

Composition of judges : Single  
Judge : Anonino Gonçalves  
Public Prosecutor : Oscar Silva Tavares  
Lawyer : Fernando de Carvalho (public defender)  
Conclusion : Sentenced to pay a fine

The court conducted a hearing in this case on 12 February 2013 and announced its decision regarding the crime of simple offence against physical integrity characterized as domestic violence. This case involved the defendant Quintão Mendonça who allegedly committed the crime against his wife Anita Soares on 16 February 2012 in Bairro Pite, Dili.

The public prosecutor alleged that the defendant slapped both of the cheeks of the victim. The assault on the victim occurred after an argument between the defendant and the victim about a mobile phone that was with a friend of the defendant.

After examining the matter the court sentenced the defendant to a fine of \$ 25.00 to be paid at a rate of 50 cents per day for 50 days. If the defendant does not adhere to this sentence then he will be sent to jail for 65 days.

#### **9. Crime of sexual abuse of a minor - Case No.352/C.Ord/2012/TDD**

Composition of judges : Single  
Judge : José Maria de Araujo  
Public Prosecutor : José Elo (trainee)  
Lawyer : Henrique Saturnino (trainee)  
Conclusion : Trial adjourned

The Dili District Court on 14 February 2013 adjourned a trial involving sexual abuse against a minor that allegedly occurred in 2008 in Metinaro. The trial was adjourned because the court did not have enough judges to form a panel.

The trial was scheduled to continue on 30 April 2013 at 3.30pm.

#### **10. Crime of aggravated theft - Case No.669/2012/TDD**

Composition of judges : Panel  
Judges : Duarte Tilman, José Maria de Araujo, António do Carmo  
Public Prosecutor : Oscar Silva Tavares  
Lawyer : Cândio Xavier (public defender)

Conclusion :Ongoing

The court conducted a hearing in this case on 18 February 2013 to hear the final recommendations regarding the crime of aggravated theft that was allegedly committed by the defendant VTR against the State of Timor-Leste. This crime allegedly occurred in 2006 in front of the Dili harbor.

In his final recommendations the public prosecutor stated that he had no doubt about the involvement of the defendant in this case. The stance of the public prosecutor was based on the testimony of 2 witnesses who confirmed the facts of this case. Therefore the public prosecutor requested for the court to hand down a fair sentence to promote justice in this democratic State based on the rule of law.

On the other hand the lawyer for the defendant requested for the court to acquit the defendant in this case because the crime committed by his client was a minor one according to the Indonesian Penal Code Indonesia which was applicable when the incident occurred.

The decision in this case was scheduled to be announced on 12 March 2013 at 2.30pm.

#### **11. Crime of simple offence against physical integrity – Case No.197/2012/TDD**

Composition of judges : Single  
Judge : Jacinta Correia  
Public Prosecutor : José Ximenes  
Lawyer : José da Silva (public defender)  
Conclusion : Validation of an amicable agreement

On 18 February 2013 the Dili District Court validated a settlement in a case involving a simple offence against physical integrity. This case involved the defendants Olívio Oliveira and Remenho Demetrio who were accused of committing the crime of maltreatment against Hélio da Costa Cardoso Martins. This incident allegedly occurred on 17 November 2007 in Delta, Comoro-Dili.

Because this case involved a crime upon complaint/a semi-public crime, the court tried to reach an amicable settlement between the two parties. As part of the settlement, the victim, who suffers from epilepsy, agreed to withdraw his complaint. However the victim requested for the two defendants to provide compensation of \$ 100.00.

Pursuant to this amicable agreement the court decided to validate this case as set out in Article 216 (2), (4) and 6 of the Criminal Procedure Code.

#### **12. Crime of maltreatment of a spouse - Case No.430/C.Ord/2012/TDD**

Composition of judges : Panel  
Judges : Antonino Gonçalves, Paulo Texeira, Edite Palmira  
Public Prosecutor : Hipólito Santa  
Lawyer : Jaime Leite (International public defender)  
Conclusion : Ongoing



The court conducted a hearing in this case on 18 February 2013 to hear testimony from the victim in relation to the charge of serious maltreatment against a spouse. This case involved the defendant NdCM who allegedly committed the crime against the victim NOF, the wife of the defendant, on 28 November 2011 beside the main road in Delta, Comoro-Dili.

The public prosecutor alleged that the defendant punched the victim multiple times in the face and head and used a helmet to strike the victim until he broke the helmet. The public prosecutor also charged the defendant with pushing the victim into a gutter and stomping on the victim so hard that she wet herself. As a result of these actions the victim suffered swelling to her head, a bloody nose and was unconscious for several minutes. The victim had been frequently maltreated by the defendant.

In her testimony the victim corroborated the facts set out in the indictment of the public prosecutor. In addition the victim also highlighted several additional facts, namely that she suffered a bruised chest, bruised buttocks and a wrist injury.

Prior to the maltreatment the defendant and the victim were living separately because the defendant had a second wife. The victim also added that prior to the incident the defendant went to check on the victim at her workplace 3 times. The defendant requested for the victim to live with him again but the victim rejected his request. Therefore, when the defendant approached the victim for the third time the defendant committed maltreatment against the victim.

In his final recommendations the public prosecutor maintained the original charges.

Pursuant to these facts and the medical report of the doctor, the public prosecutor requested for the court to punish the defendant pursuant to Article 154 of the Penal Code on serious maltreatment against a spouse. This crime carries a sentence of between 2-6 years imprisonment.

On the other hand the lawyer for the defendant rejected the charges that were made pursuant to Article 154 of the Penal Code, because he felt that the actions of the defendant were not included in the category of serious maltreatment against a spouse because there was only one incident. Therefore, the lawyer for the defendant requested for the court to apply Article 145 of the Penal Code on ordinary assault against physical integrity as well as Article 35 of the Law Against Domestic Violence.

The hearing to announce the decision was scheduled for 4 March 2013 at 2.30pm.

### **13. Crime of simple offence against physical integrity – Case No.479/C.Ord/2011/TDD**

Composition of judges	: Single
Judge	: Ana Paula Fonseca
Public Prosecutor	: Oscar Silva Tavares
Lawyer	: Andre Jeroto (International public defender)

Conclusion : Ordered to pay a fine

The court conducted a trial in this case on 18 February 2013 to read out its decision relating to the crime of a simple offence against physical integrity characterized as domestic violence. This case involved the defendant José dos Santos Lemos who allegedly committed the crime against Ilda Mutu Bere. This incident allegedly occurred on 30 November 2010 in Delta, Comoro-Dili.

After examining the matter and considering the relevant evidence in this case, the court decided to hand down a fine of \$100. The fine has to be paid within 100 days at the rate of \$ 1.00 per day.

#### **14. Crime of negligent offences against physical integrity– Case No.452/C.Ord/2011/TDD**

Composition of judges : Single  
Judge : Jacinta Correia  
Public Prosecutor : Hipólito Santa  
Lawyer : Manuel Exposto (public defender)  
Conclusion : Trial adjourned

On 19 February 2013 the Dili District Court adjourned a trial in a case involving negligent offences against physical integrity. The trial was adjourned because the defendant did not appear in court. This case involved the defendant who was a member of a task force and was accused of committing the crime against the deceased victim Filomena Luisa da Costa. This case allegedly occurred in Liquintai, Taibessi-Dili in December 2010.

The public prosecutor alleged that in 2010 the defendant fired a shot into the air however the shot struck the victim.

The husband of the victim told the court that he was waiting to see the defendant appear in court to reach an amicable settlement. The victim has since passed away due to an illness.

The trial was adjourned until 12 March 2013 at 4pm.

#### **15. Crime of simple offence against physical integrity – Case No.462/C.ord/2012/TDD**

Composition of judges : Single  
Judge : Jacinta Correia  
Public Prosecutor : Domingos Barreto  
Lawyer : Manuel Exposto  
Conclusion : Acquitted

A hearing in this case took place on 20 February 2013 to hear testimony from the defendant and the victim. However this case was resolved at that time because the victim had been summoned 3 times but still did not respond to the summons issued by the court. This case involved the defendant Amito Soares who allegedly committed the crime against the victim Apolinário Sanches in Delta II, Don Aleixo Sub-District, Dili District.

The public prosecutor alleged that on 26 August 2009 the defendant hit the victim on the right eye and struck the victim multiple times in on the body causing the victim to suffer bruising and pain.

During the trial the defendant exercised his right to remain silent as set out in Article 60 (c) of the Criminal Procedure Code. On the other hand the victim did not appear in court because he was overseas. Therefore the court requested to the public prosecutor and lawyer for the defense to make their final recommendations.

In his final recommendations the public prosecutor requested for the court to hand down a fair sentence in accordance with Article 145 of the Penal Code. This was based on the statement of the victim made before the Public Prosecution Service.

In his final recommendations the lawyer for the defendant requested for the court to acquit the defendant from all charges of the public prosecutor because the public prosecutor had not provided the court with sufficient evidence. After hearing the final recommendations from the public prosecutor and the defense, the court announced that it would immediately decide the matter.

After considering all of the evidence presented the court decided to acquit the defendant from all charges of the public prosecutor because the public prosecutor had not presented enough evidence asset out in Article 116 (2) of the Criminal Procedure Code regarding admissible evidence.

#### **16. Crime of embezzlement, Case No.56/PEN/2012/TDS 630/C.Ord/2012/TDD**

Composition of judges	: Panel
Judge	: Ana Paula Fonseca
Public Prosecutor	: Oscar Tavares
Lawyer	: Manuel Tilman
Conclusion	: Ongoing

The court conducted a hearing in this case on 21 February 2013 to hear the indictment of the public prosecutor and statement of the defendant. This case allegedly involved the defendant SdCA who was the Executive Director of the Ministry of Education in 2012.

The public prosecutor alleged that the defendant committed this crime when he was the Executive Director of the Ministry of Education in 2012. This act caused the State to lose US\$ 8,000.00.

In relation to the aforementioned act the public prosecutor alleged that the defendant violated Article 295 and 297 of the Penal Code on embezzlement and abuse of power; however these charges were substituted Article 296 of the Penal Code crime of misappropriation of public assets, because the defendant had returned the money that had been obtained from the embezzlement.

During the trial the defendant admitted all of his actions and stated that the money had been returned on 9 October 2012. As the defendant admitted all of his actions the court decided not to hear the testimony of the witness and proceeded to hear the final recommendations.

In his final recommendations, the public prosecutor said that considering the fact that the defendant had admitted his actions and had returned the money obtained from the aforementioned crime the public prosecutor requested for the court to hand down a suspended sentence against the defendant. In addition, the lawyer for the defendant also agreed with the recommendations of the public prosecutor.

The hearing to announce the decision was scheduled for 8 March 2013 at 2.30pm.

### **17. Crime of simple offence against physical integrity – Case No.670/C.Ord/2012/TDD**

Composition of judges	:Single
Judge	:Jacinta Correia da Costa
Public Prosecutor	: Domingos Barreto
Lawyer	: Henrique Jerónimo da Cruz (trainee lawyer)
Conclusion	: Suspended sentence

The hearing in this case took place on 25 February 2013 to hear the final decision of the court regarding the crime of ordinary maltreatment characterized as domestic violence. This case involved the defendant Ricardo Soares Maia who allegedly committed the crime against the victim Augusta Soares da Silva (his wife).The incident allegedly occurred on 23 January 2011 in Becora, Mota Ulun, Cristo Rei Sub-District, Dili District.

The public prosecutor stated in his indictment that the defendant had violated Article 145 of the Penal Code as well as violating Articles 2, 3 and 35 (b) of the Law Against Domestic Violence.

After examining all of the facts the court was convinced that the defendant was guilty of committing the crime as charged by the public prosecutor.

Pursuant to these facts the court concluded this case and handed down a prison sentence of four months against the defendant to be suspended for 1 year. If during the probationary period the defendant commits another crime then he will be jailed for one year.

### **18. Crime of simple offence against physical integrity – Case No.407/C.Ord/2012/TDD**

Composition of judges	:Single
Judge	: Edite Palmira
Public Prosecutor	:Oscar Tavares
Lawyer	: Manuel Exposto (public defender)
Conclusion	:Ongoing

This matter was tried on 27 February 2013 to hear testimony from the defendant and witnesses in a case involving a simple offence against physical integrity. This case involved the defendant

OJM who allegedly committed the crime against the victim SP. This case allegedly occurred on 18 July 2007 in Vera-Cruz, Dili District.

The public prosecutor alleged that on 18 July 2007 the defendant punched and kicked the victim causing the victim to suffer pain all over her body.

This case allegedly occurred because of a dispute over a stall at the Halilaran market. The defendant and the victim verbally abused each other because the husband of the defendant married the victim so the defendant and the victim would argue or fight when they saw each other.

In court the defendant rejected all of the charges of the public prosecutor. According to the defendant this case allegedly occurred because the victim attacked the defendant first and then they had a fight.

The victim stated that the defendant and three of her friends attacked the victim and therefore the victim defended herself and used a helmet to strike the defendant. In addition the victim also stated that the defendant was living with the husband of the victim.

Then the witness JdJ who was the husband of the victim and former husband of the defendant decided not to give testimony in court. Therefore the court decided to proceed to hear final recommendations.

In his final recommendations the public prosecutor requested for the court to acquit the defendant because the examination of the evidence showed that it was not just a case of the defendant striking the victim, but the two parties had been fighting each other. The lawyer for the defendant agreed with the recommendations of the public prosecutor.

The hearing to announce the decision was scheduled for 12 March 2013 at 2.30pm.

## **19. Crime of defamatory false information – Case No.0201/C.Ord/ 2012/TDD**

Composition of judges	: Single
Judge	: Antonio Helder do Carmo
Public Prosecutor	: Ivónia Maria
Lawyers	: Cândio Xavier, Laura Valente lay (public defenders)
Conclusion	: Ongoing

This matter was tried on 28 February 2013 to hear the charges of the public prosecutor and the testimony of the three defendants DO, MS, and OS.

The public prosecutor charged the three defendants in relation to something published in the *STL* and *Independente* newspapers. JBS was the victim in this case in his capacity of prosecutor at the Oecusse District Court. The indictment stated that the incident allegedly occurred on 31 December 2011 relating to information published in the two aforementioned newspapers.

The article in the *Independente* newspaper was entitled “Public prosecutor Oecusse suspected of accepting a bribe”.The2 January 2012 edition of the *STL* newspaper also published the same heading.

The public prosecutor charged the three defendants with Article 285 of the Penal Code on defamatory false information which carries a penalty of 3 years imprisonment or a fine.

During the examination phase of the trial the three defendant seach put forward arguments in their defense. The defendant MS stated that he provided information to the media to convey his concern because the police and the public prosecutor of Oecusse did not make a serious effort to arrest and prosecute a defendant who was driving a car that caused an accident in which two family members died and one person suffered serious injury.

RO testified that he did not have any other intention but to show solidarity as a human being regarding the problem that MS was facing. However before publishing the news he contacted the victim to confirm the truth about the incident.

The defendant OS testified that he wrote and published the article because MS had given him the information and asked him to publish it.

Because the court doubted the testimony given by the defendants MS and OS, the court cross-examined the two defendants to check the veracity of these facts.

In her final recommendations the public prosecutor requested for the court to sentence the defendantsto1 years imprisonment to be suspended for 2 years based on the evidence presented including the testimony of the defendants and other evidence.

The public prosecutor then requested for the court to order the three defendants to pay compensation in accordance with their financial means.

On the other hand the lawyer for the defendant requested for the court to acquit the defendants from all charges because it was not proven that they had the intention of defaming or harming the good name of the victim. Also they did not directly accuse the victim of accepting a bribe.

The lawyer for the defendants requested for the court to acquit the defendants, however if the court was unsure then he requested for the court to consider punishing the defendants with an admonishment.

The final decision in this case is scheduled for 14 March 2013 at 3pm.

For more information, please contact:

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