



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN SISTEMA JUDISIÁL

Case Summary

Period: July 2013

Summary of the trial process at the Dili District Court

Introduction

During July 2013 JSMP monitored 25 cases that were tried at the Dili District Court.

These cases comprised 7 cases involving simple offences against physical integrity, 6 cases of aggravated murder, 3 cases of sexual abuse against a minor, 1 case of misuse of authority and tax fraud, 1 case of aggravated forgery and embezzlement, 1 case of possessing drugs (narcotics), 2 cases of illegal gambling, 1 case of misappropriation of public assets and driving a vehicle without a license, 1 case of simple fraud and 1 case of making threats.

17 of these 25 cases were decided. In 7 cases a prison sentence was handed down, in 3 cases settlements were validated by the court, 3 cases resulted in acquittals, in 4 cases suspended prison sentences were handed down and the other 9 cases are still being processed because the parties were not present or because of other procedural issues.

The information below outlines the hearings conducted:

1. Crime of simple offence against physical integrity – Case No. 139/C.Ord/2013/TDD

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|-----------------------|----------------------------------|
| Composition of judges | : Single |
| Judge | : Edite Palmira |
| Public Prosecutor | : Nelson Carvalho |
| Public Defender | : JuvinalYanes Freitas (trainee) |
| Conclusion | : Settlement validated |

On 2 July 2013 the Dili District Court validated a settlement in a case involving simple offences against physical integrity involving the defendant AdJF and the victim JM that allegedly occurred in 2012, in Ermera District.

The validation of the settlement was carried out pursuant to an agreement made by the parties that was submitted during the hearing.

This case allegedly occurred because the victim said unkind things about the defendant in a public place and the defendant was unable to restrain himself and hit the victim above the eye.

In court the victim asked to withdraw the complaint, however with the condition that defendant pay compensation of \$ 100. After hearing the demands of the victim, the defendant stated that he was willing to pay the compensation.

After accepting the request the court validated this settlement because ordinary maltreatment is a crime that depends on the victim to proceed with the legal process. In other words this type of crime is based on the complaint of the victim.

2. Crime of sexual abuse of a minor, Case No. 669/C.Ord/2012/TDD

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| Composition of judges | : Panel |
| Judges | : Jaçinta Correia and Francisca Cabral (trainee) |
| Public Prosecutor | : Nelson Carvalho |
| Public Defender | : José da Silva |
| Conclusion | : Sentenced to 16 years imprisonment |

On 3 July 2013 the Dili District Court conducted a hearing to read out its decision and then sentenced the defendant ACB to a prison sentence of 16 years imprisonment and ordered him to pay court costs of \$ 20. This sentence was handed down because the defendant was found guilty of committing the crime of sexual violence against the victim NXV. This case allegedly occurred in Ermera District, and at the time of the alleged offence the victim was only 13 years old.

The court found the defendant guilty for violating Article 177 of the Penal Code on the sexual abuse of a minor as well as Article 35 (1) of the Penal Code regarding joinder of crimes because the defendant repeatedly committed the same offence.

The public prosecutor alleged that on 16 July 2011 at approximately 10pm the defendant gave a lift to the victim who was heading to church, however the defendant took the victim to Raikala instead. After arriving at the destination the defendant covered the victim's mouth and held the victim tightly while having sexual intercourse with her.

Then on 21 July 2011 at approximately 2pm the defendant gave a lift to the victim and went to the home of a teaching colleague and had sexual intercourse with the victim.

The court considered that the defendant is obliged to protect the victim, but instead he violated his obligation as a teacher to act as a role model to his students. The court also considered that the actions of the defendant were extremely serious.

Based on the aforementioned considerations the court handed down a sentence of 16 years imprisonment and ordered the defendant to pay court costs of US\$ 20.

3. Crime of simple offences against physical integrity, Case No. 107/C.Ord/2013/TDD¹

Composition of judges : Single
Judge : José Maria de Araujo
Public Prosecutor : José Luis Landim
Public Defender : JuvinalYanes Freitas (trainee)
Conclusion : Sentenced to 6 months imprisonment, suspended for 1 year

On 4 July 2013 the Dili District Court sentenced the defendant TdO to 6 months imprisonment, suspended for 1 year, for committing the crime of simple offences against physical integrity characterized as domestic violence against his wife JdC. This case allegedly occurred on 22 November 2010 in Dili District.

The court found that the defendant used a motorcycle shock absorber to hit the victim twice on the leg and arm. Therefore, the court sentenced the defendant to 6 months imprisonment; however the sentence was suspended for 1 year.

4. Crime of aggravated murder, Case No. 106/C.Ord/2013/TDD

Composition of judges : Panel
Judges : António do Carmo, Júlio Gantes and Jumiatty Freitas
Public Prosecutor : Angelina Saldanha
Public Defender : Olga Barreto
Conclusion : Sentenced to 21 years imprisonment

On 4 July 2013 the Dili District Court conducted a hearing to announce its decision and sentenced the defendant ASL to 21 years imprisonment for committing aggravated murder characterized as domestic violence against his wife. This case allegedly occurred in Tasi Tolu, Dili District.

The court decided this matter based on the evidence revealed during the trial including the admission of the defendant made before the court.

¹Please refer to JSMP Press Release entitled "Dili District Court sentences defendant to 21 years imprisonment in case of aggravated murder characterized as domestic violence" at the JSMP website www.jsmp.tl

During the trial to examine the evidence the defendant testified that on 29 January 2013 he alone killed his wife. The defendant explained that he strangled the victim and stabbed her in the chest with a knife and she died at the scene.

After that the defendant used black rubber to tie up the body of the victim and put it in some black plastic and disposed of the body in Metiaut.

In relation to this case, the public prosecutor charged the defendant with Article 139 of the Penal Code on aggravated murder as well as Article 35 of Law No 7/2010 Against Domestic Violence.

After examining all of the evidence presented the court decided this matter and sentenced the defendant to 21 years imprisonment.

5. Case of aggravated theft and reception of stolen goods, Case No. 110/C.Ord/2012/TDD²

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| Composition of judges | :Panel |
| Judges | : Jaçinta Correia, Paulo Texeira, Ana Fonseca |
| Public Prosecutor | : Oscar Tavares |
| Public Defenders | : Manuel Exposto, Pedro Apariço |
| Conclusion | : Sentenced to 1 year imprisonment, suspended for 2 years and ordered to pay court costs of \$ 150 to each person. |

On 4 July and 30 July 2013 the Dili District Court conducted a hearing and read out its decision against the 6 defendants CGS, LdSO, AT, SM, HPL and YC who were charged with committing the crime of aggravated theft and reception of stolen goods.

Two of the aforementioned six defendants (AT and YC) did not appear in court because the court did not know their place of residence and the defendant YC who is a citizen of Singapore was not in Timor-Leste. This case allegedly occurred in 2007.

The witness GdS, who is an official with the Ministry of Tourism, Commerce and Industry (MTCI), testified that on 10 July 2007 he was given an order to inspect some damaged goods (scrap metal) that were going to be exported overseas.

The inspection did not find any cables marked with the name and attributes of Timor Telecom (TT). Previously the witness received information that a cable marked with the name and attributes of Timor Telecom (TT) had gone missing. The witness testified that MTCI did not have a clear procedure about damaged goods (scrap metal).

²Please refer to information about the charges at the JSMP website: www.jsmp.tl under the Publications Section: Case Summaries for April, May and June 2013.

Before making final recommendations, the public prosecutor stated that the Ministerial Determination regarding what could be considered damaged/obsolete goods was not clear.

However, the public prosecutor also found that the defendants CGS and LdSO had stolen a cable marked as belonging to TT with the purpose of selling it. However, the defendants SM and HPL accepted the goods and bought damaged/obsolete goods including a cable marked as belonging to TT from some children. The defendants SM and HPL were found guilty of buying the cable marked as belonging to TT with the purpose of exporting it to Singapore.

In his final recommendations, the public prosecutor requested for the court to punish the defendants SM, HPL and YC with a fine of US \$ 300, to be paid in daily installments of US\$ 2 for 150 days. However regarding the other two defendants (SGS and LdSO) who stole the cable, the public prosecutor requested for the court to apply a suspended sentence because the two defendants did not have sufficient economic means to be punished with a fine because they only work as drivers and only help out in a vehicle workshop.

Previously, the public prosecutor charged the defendants CGS, LdSO, and AT for violating Article 363 of the Indonesian Penal Code as well as Article 252 of the Timor-Leste Penal Code on aggravated theft. Meanwhile the defendants SM, HPL and YC were charged with violating Article 481 of the Indonesian Penal Code as well as Article 271 of the Timor-Leste Penal Code regarding the crime of simple reception of stolen goods.

The public defender requested for the court to acquit the defendants, because the inspection did not find a cable marked with the name and attributes of TT, and only found a cable that was yellowish in color. In addition the cable that was stolen by the two defendants was damaged and had been abandoned on the side of the road.

The public defender also requested for the court to make a request to the government to return the damaged goods belonging to the defendant SM that were confiscated because the Ministerial Determination about damaged/obsolete goods was not clear.

The court found the defendants CGS, LdSO and AT guilty of severing a cable marked as belonging to TT that had been abandoned in Becora. The court also found the defendants SM and HPL guilty of buying the cable from some children and then selling it to the defendant YC to be exported to Singapore.

Based on the aforementioned evidence the court sentenced the defendant to a prison sentence of 1 year, to be suspended for 2 years in accordance with Article 363 of the Indonesian Penal Code regarding the crime of theft. This article carries a more lenient sentence than Article 252 of the Timor-Leste Penal Code which also deals with the crime of theft.

In accordance with the principle of non-retroactivity set out in the Penal Code, when two articles deal with the same crime the court must apply the punishment that is more favorable to the defendant.

The defendants SM and HPL were sentenced to 1 years imprisonment, suspended for 2 years in accordance with Article 271 of the Timor-Leste Penal Code on the simple reception of stolen goods because this was more favorable for the defendants. In addition, the court also ordered the two defendants to pay court costs of \$ 150 each.

6. Crime of simple offences against physical integrity, Case No. 142/C.Ord/2013/TDD

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|-----------------------|--------------------------------------------------------|
| Composition of judges | : Panel |
| Judges | : Ana P. Fonseca, Jacinta Correia and Francisca Cabral |
| Public Prosecutor | : Oscar Tavares |
| Public Defender | : José da Silva |
| Conclusion | : Ongoing |

On 4 July 2013 the Dili District Court conducted a hearing in a case involving the crime of ordinary offences against physical integrity characterized as domestic violence involving the defendant RJ who allegedly committed the offence against his wife. This case allegedly occurred on 1 May 2013 in Caicoli, Dili District.

The public prosecutor alleged that on 01 May 2013 the defendant and the victim argued because the defendant received a telephone call and hid the fact. Therefore the victim grabbed the defendant's jumper and told him to say who had called, but the defendant reacted by punching the victim in the forehead, choking and punching the victim in the chest. These actions caused the victim to suffer pain.

In relation to the aforementioned evidence, the public prosecutor charged the defendant for violating Article 145 of the Penal Code as well as Article 35 (b) of the Law Against Domestic Violence.

During the trial the defendant rejected all of the charges. The defendant testified that he did not punch and choke the victim but only pushed the victim. However, the victim maintained that all of the evidence in the indictment was correct.

In his final recommendations the public prosecutor requested for the court to order the defendant to pay a fine of \$ 150 to be paid in daily installments of \$ 1.

The public defender requested for the court to acquit the defendant. This request was based on the testimony of the defendant and the fact that no witnesses were presented during the trial who saw the criminal act alleged in the indictment of the public prosecutor.

After hearing the final recommendations of the parties the court adjourned the trial until 8 July 2013 at 2pm to announce its final decision.

7. Aggravated murder, Case No. 698/C.Ord/2012/TDD

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| Composition of judges | : Panel |
| Judge | : Duarte Tilman |
| Public Prosecutor | : José Luis Landim |
| Public Defender | : Fernando Lopes de Carvalho |
| Conclusion | : Sentenced to 26 years imprisonment and 24 years imprisonment |

On 5 July 2013 the Dili District Court conducted a hearing to read out its decision in a case of aggravated murder against Alçino Mendes Pereira, Marcos Martins and Orlando Ximenes.

The court settled the matter by sentencing Alçino Mendes Pereira and Marcos Martins da Costa to 26 years imprisonment and Orlando Ximenes to 24 years imprisonment.

The court found the defendants guilty of making a plan and taking a sword and knife before fulfilling their intention against the victim at the Garden Beach Hotel.

This evidence was revealed from testimony provided by the defendants and witnesses.

Previously, the public prosecutor charged the defendants for violating Articles 138 and 139 of the Penal Code on ordinary murder and aggravated murder.

8. Crime of misuse of authority and tax fraud – Case No. 02/C.Ord/2012/TDD

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| Composition of judges | : Panel |
| Judges | : Jacinta Correia, Júlio Gantes and Antonio do Carmo |
| Public Prosecutor | : Glória Alves |
| Public Defenders | : Cândio Xavier and Olga Barreto Nunes |
| Conclusion | : Trial adjourned until 25 July 2012 at 2pm. |

On 9 July 2013 the Dili District Court continued a trial of a case involving abuse of power and tax fraud to hear final recommendations. This case involved the defendants FdCSB and PMM, and occurred at some time in 2009.

In her final recommendations the public prosecutor requested for the court to hand down a fair punishment against the defendant FdCB in accordance with Article 297 of the Penal Code.

In this case the public prosecutor alleged that the defendant in his capacity as General Director of Finance validated a letter from the Ministry of Education to purchase three trucks with the aim of facilitating a school feeding program on behalf of the Tiara Suplay Company totaling US\$ 90,000. However, the Tiara Suplay Company does not export and import vehicles as part of its day to day business.

The public prosecutor charged the defendant PMM for violating Article 314 (c) of the Penal Code on tax fraud because the Tiara Suplay Company does not import vehicles and only sells general goods.

Therefore, the public prosecutor believed that the actions of the defendant were illegal and against the law. In addition the defendant also did not pay tax to the government after winning the aforementioned tender.

Meanwhile the public defender requested for the court to acquit the defendant because the procedures had been carried out in accordance with the existing procurement process ranging from the time that documents were submitted and during the selection process that involved five companies who took part in the bidding for the tender.

In addition, the evaluation of all of the documents involved in this process was carried out by an independent and professional evaluation team. Therefore as the General Director the defendant FdCB only signed documents when the entire evaluation process was concluded.

All of the evidence was presented by witnesses who gave their testimony in the aforementioned trial, namely the bid selection committee, team of inspectors and representatives from customs.

The public defender also believed that the crime of tax fraud charged by the public prosecutor against PMM was not appropriate because from the outset until the end of the process the defendant did not violate his obligation as the winner of the tender for the purchase of the vehicles based on an agreement between the government and the Tiara Suplay Company. Therefore the acts carried out by the defendant PMM did not violate Article 314 of the Penal Code as charged by the public prosecutor.

After evaluating all of the evidence and the process relating to this case, on 25 July 2013, the court decided to acquit the defendant FdCSB and sentence the defendant PMM to 1 year's imprisonment, to be suspended for 2 years, and ordered the defendant to pay court costs of US\$ 100.

The court also requested for the defendant PMM to return government money totaling US\$ 22,500 because he had falsified the prices of the three trucks that he had purchased.

9. Case of aggravated forgery and embezzlement – Case No. 40/C.Ord/2013/TDD

Composition of judges : Panel
Judges : Ana Paula Fonseca, Jaçinta Correia and Julio Gantes
Public Prosecutor : Oscar Tavares
Public Defender : José Pedro Camões
Conclusion : Adjourned until 25 July 2013 at 10am

On 10 July 2013 the Dili District Court conducted a hearing to hear final recommendations in a case of aggravated forgery and embezzlement involving the defendants JJMdc, DPdC and RdCP against the State of Timor-Leste. This case occurred at some time in 2009.

The public prosecutor testified that there was not doubt at all about the evidence that had been produced during the trial. The public prosecutor was convinced that the defendants as civil servants within the Ministry of Finance had falsified signatures to send money that did not belong to them to the bank account of the defendants.

The public prosecutor alleged that the defendant JJMdc had used funds of US\$346,712.33 to construct a private house in Lospalos and some of the funds had been used to buy a car for the defendant RdCP even though the defendant knew that the funds originated from criminal activities and had disadvantaged the State of Timor-Leste.

All of the evidence was well founded and clear, based on original documents, and was obtained directly from the Ministry of Finance and was corroborated by testimony given by witnesses from the Ministry of Finance.

During the trial the defendants did not provide any other evidence about the origin of the funds totaling US\$346,712.33. The defendant RdCP, the wife of the defendant JJMdc, testified that the funds clearly came from the workplace of the defendant JJMdc, where her husband was employed.

The public prosecutor charged the defendants for violating Article 295 (1 and 3), Article 304 (1 and 2) and Article 313 (1) (a) of the Penal Code regarding the crime of embezzlement, aggravated forgery and money laundering.

In his final recommendations the public prosecutor requested for the court to sentence the defendant JJMdc to 10 years imprisonment, the defendant DPdC to 6 years imprisonment and the defendant RdCP to 5 years imprisonment.

The public defender requested for the court to hand down a fair punishment against the defendants, especially in relation to the defendants JJMdc and RdCP because these two were husband and wife and have five children.

The public defender believed that if the court punishes the defendants in accordance with the recommendations of the public prosecutor, then this will have an impact on the future of their children because their parents will be imprisoned.

After hearing the final recommendations and opinions and requests of the parties, the court adjourned the trial until 26 July 2013 to read out its final decision.

On 26 July 2013 the court settled this matter and sentenced the defendant Joaquim Madeira da Cruz to 11 years imprisonment, the defendant Domingos Paixão da Cruz to 6 years imprisonment, and the defendant Rosalina da Conceição Pinto to 4 years 6 months imprisonment.

The court also ordered the defendants to pay a fine of US\$ 346,713.33 to the State, to confiscate the house built by the defendants in Lospalos District and a Pajero vehicle that had been purchased by the convicted persons.

10. Crime of possessing drugs (narcotics), Case No. 120/C.Ord/2013/TDD

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| Composition of judges | : Panel |
| Judges | : Edite Palmira, Jacinta.C and Julio Gantes |
| Public Prosecutor | : Oscar Tavares |
| Public Defender | : Cândio Xavier |
| Conclusion | : Sentenced to 14 years imprisonment and 8 years imprisonment |

On 11 July 2013 the Dili District Court conducted a hearing to read out its final decision in a case of possession of drugs (narcotics) involving the defendants Edi Prasetyo and HanyHaryawan from Kuta Bali.

After examining the entire process the court sentenced the defendant Edi Prasetyo to 14 years imprisonment and the defendant HanyHaryawan to 8 years imprisonment.

Previously the public prosecutor alleged that on 19 November 2012 the defendant HanyHaryawan took drugs (narcotics) to Bali. However when he was checking in at the Nicolau Lobato International Airport in Dili, the immigration officials detected and found five kilograms of the drug in the suitcase of the defendant. The drugs were transported by the defendant Edi Prasetyo from Colombia on 13 November 2012, and were given to HanyHaryawan on 18 November 2012 in Hotel Colmera to be taken to Bali.

In addition to the five kilograms of drugs, the public prosecutor also found a passport that showed the travel route of the defendant from Timor-Leste to Colombia – Singapore and back again to Timor-Leste.

The public prosecutor charged the defendants Edy and Hani for being the main perpetrators of the crime of possessing and distributing drugs in violating of Article 81 of the Indonesian Anti-Drug Law No. 22/1997 as well as Article 165 of the RDTL.

Based on the aforementioned evidence the court settled the matter and sentenced the defendant Edi Prasetyo to 14 years imprisonment and the defendant HanyHaryawan to 8 years imprisonment.

In relation to this decision the lawyer for the defense intends to lodge an appeal to the Court of Appeal.

11. Crime of sexual abuse of a minor, Case No. 397/C.Ord/2012/TDD

Composition of judges : Panel
Judges : Antonino Gonçalves (representing a panel of judges)
Public Prosecutor : Gloria Alves
Public Defender : Laura Valente Lay
Conclusion : Adjourned until 31 October 2013 at 9am

On 15 July 2013 the Dili District Court adjourned the trial in a case of sexual abuse against a minor involving the defendant CMFX who allegedly committed the offence against the victim RB. The trial was adjourned because the victim and witnesses did not appear in court.

As this case required the court to protect the privacy of the victim, and because the victim is a minor, the trial was closed to the public.

12. Illegal gambling, Case No. 414/C.Ord/2012/TDD

Composition of judges : Single
Judge : Ana Paula Fonseca
Public Prosecutor : Reinato Bere Nahak
Public Defender : Manuel Amaral (trainee)
Conclusion : Adjourned until 2 September 2013 at 2pm

On 15 July 2013 the Dili District Court adjourned a trial at the request of the public prosecutor because the defendant did not appear in court.

However, the public prosecutor did not state why the defendant was absent. This case involves the following 6 defendants: AD, OA, AS, AM, JP, and JdS.

The public prosecutor stated that the testimony of the defendant JP is really important to provide evidence because at that time the defendant JL was the one who received coupons from the defendant AD. For this reason the public prosecutor requested for the trial of this case to be held at another time.

Based on this request the court adjourned the trial until 2 September 2013 at 2pm.

13. Crime of sexual abuse of a minor, Case No. 178/C.Ord/2012/TDD

Composition of judges : Panel
Judges : Edite Palmira, Antonino Gonçalves and Francisca Cabral
Public Prosecutor : José Luis Landim
Public Defender : Marcia Sarmiento
Conclusion : Acquitted³

On 15 and 30 July 2013 the Dili District Court conducted a hearing to read out its final decision in a case of sexual abuse against a minor involving the defendant DF who allegedly committed the offence against his own daughter.

The public prosecutor alleged that in 2010 the defendant committed sexual abuse against the victim in the kitchen and then in the bedroom. These acts occurred when the victim was 10 years old.

During the trial the defendant rejected or did not admit all of the evidence charged against him and the victim's testimony to the court contradicted all of the evidence that was set out in the indictment.

Previously during the trial the witness JD testified that the victim complained that the defendant forced the victim to have sexual intercourse, and the witness reported this case to the local police.

Because the evidence presented was contradictory the court decided to confront or cross-examine the witness and the victim. Confrontation is a form of gathering evidence that a judge can use to examine testimony regarding contradictory facts that have been presented to the court.

After the cross-examination of evidence the court was still in doubt (*In dubio pro reo*), and therefore on 30 July 2013 the court decided to acquit the defendant.

14. Crime of simple offences against physical integrity, Case No. 375/C.Ord/2011/TDD

Composition of judges : Single
Judge : Jaçinta Correia
Public Prosecutor : Gloria Alves
Public Defender : Fernando Lopes de Carvalho

³Please refer to JSMP's opinion about this case that was included in a Press Release published on 7 August 2013 and a Case Summary on gender based violence that was issued in July 2012 at the JSMP website: www.jsmp.tl

Conclusion : Adjourned until 25 July 2013 at 9am

On 16 July 2013 the Dili District Court conducted a hearing in a case of simple offences against physical integrity involving the defendant AL against his wife. This case allegedly occurred on 22 July 2012 in Dili District.

The public prosecutor alleged that the defendant slapped the victim and threw her on the bed and then the victim jumped on top of the cupboard. The defendant dragged the victim to the ground then the defendant continued to hit the victim. These acts caused the victim to suffer bruising to her head. This case allegedly occurred because the victim wanted to take a TV and DVD to her parent's house.

Based on the aforementioned evidence, the public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding ordinary offences against physical integrity as well as Article 35 of the Law Against Domestic Violence.

In his testimony the defendant stated that the victim did not jump on top of the cupboard and that he did not hit the victim. However the defendant admitted that he only slapped the victim on the cheek. However, the defendant regretted his actions and stated that the victim was currently working in Ireland.

The witness FL, who is the step brother of the defendant, used his right to remain silent pursuant to Article 125 of the Criminal Procedure Code.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to a fine. However the public defender asked for the defendant to be acquitted because when this case allegedly occurred the Law Against Domestic Violence had not entered into force and did not have legal effect.

After hearing the final recommendations from all of the parties the court adjourned the trial until 25 July 2013 at 9am.

15. Crime of simple offences against physical integrity, Case No. 156/C.Ord/2013/TDD

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| Composition of judges | : Single |
| Judge | : Jaçinta Correia |
| Public Prosecutor | : Nelson de Carvalho |
| Public Defender | : Leonídio Marques (trainee) |
| Conclusion | : Sentenced to 6 months imprisonment, suspended for 2 years |

On 17 and 29 July 2013 the Dili District Court conducted a hearing to read out its final decision in a case involving ordinary offences against physical integrity characterized as domestic violence.

After analyzing all of the facts relating to this process the court sentenced the defendant SFE to 6 months imprisonment, suspended for 2 years for committing simple offences against physical integrity against his wife.

The court found that the defendant hit the victim twice in the ear causing bleeding and kicked the victim and caused her to fall to the ground.

The public prosecutor alleged that on 25 May 2011 at approximately 10am the defendant together with his wife and child aged 9 months went to pick coffee in the plantation. In the plantation the defendant punched the victim in the ear and caused bleeding. In addition the defendant also hit the victim in the back, kicked her, and pushed her over.

The defendant admitted that he suddenly hit the victim even though the victim did not do anything wrong. After hitting the victim the defendant ran away and left the victim to tell the victim's family because he was afraid when he saw blood coming from the victim's ear.

4 months after the incident they reconciled because the case was settled amicably using traditional approaches. As part of this process the defendant apologized to all of the family and the victim and gave some traditional cloth (*tais*) to the family and promised not to repeat his actions in the future.

After hearing the testimony of the defendant, the court then checked the facts with the victim. The victim testified that the defendant slapped, punched, pushed and kicked her causing her to fall to the ground. After that the defendant ran away and left the victim and their child.

The family and the police took the victim to hospital. The victim stated that the defendant asked for money to buy cigarettes, however the victim answered that they didn't have any money so the defendant committed the aforementioned acts. However, the victim also confirmed that they have reconciled with each other.

Previously in his final recommendations the public prosecutor requested for the court to apply a suspended sentence, however he asked the court to consider all of the circumstances relating to the incident. The public defender requested for the court to consider the mitigating circumstances.

After hearing testimony and the final recommendations from the parties on 29 July 2013 the court settled the matter and sentenced the defendant to 6 months imprisonment, suspended for 2 years.

16. Crime of simple offences against physical integrity, Case No. 176/C.Ord/2013/TDD

Composition of judges : Panel
Judges : Edite Palmira, Paulo Texeira and Argentino Nunes
Public Prosecutor : Nelson de Carvalho
Public Defender : Olga Barreto
Conclusion : Validated

On 17 July 2013 the Dili District Court conducted a hearing and at the same time validated a settlement in a case involving ordinary offences against physical integrity characterized as domestic violence involving the defendant MM who allegedly committed the offence against his wife. This case allegedly occurred on 13 May 2010 in Ermera District.

The public prosecutor alleged that the defendant choked the victim, grabbed the victim by her hands and caused the victim to fall to the ground and to suffer injuries to her leg.

After that the victim ran to the river but the defendant followed her and continued to punch her in the back, pull her hair and punch her in the stomach and to abuse the victim. This case allegedly occurred when the victim was 8 months pregnant.

Based on the aforementioned evidence, the public prosecutor charged the defendant for violating Article 154 of the Penal Code on serious maltreatment of a spouse, however this charge was amended to Article 145 of the Penal Code because this case only happened on one occasion, namely on 13 May 2010.

The defendant testified that he did slap the victim on the right side and in the mouth as well as pull the victim's hair. The defendant also stated that the reason the incident occurred was because the victim did not want to take their child to visit their cousin in the ETIKA Vocational School. In addition the defendant also felt annoyed because his father in law had expelled them from the house.

The victim testified that the defendant hit her in the ear causing her to suffer injuries and punched her in the back. Also the victim stated that at the river the defendant pulled her hair and then his hand struck her in the stomach when she was pregnant, but he did not punch her in the stomach.

After hearing testimony from the parties, the public prosecutor and the public defender requested for the court to amend the charge of serious maltreatment against a spouse to simple offences against physical integrity because this was the first time that the actions occurred. After considering the proposed amendment, the court decided to validate a settlement in this case.

This validation was based on the consideration that the incident occurred before the Law Against Domestic Violence came into force.

Therefore, the public prosecutor requested for the court to validate this case and the public defender requested for the court to acquit the defendant from this case.

17. Aggravated Property Damage, Case No. 439/C.Ord/2011/TDD

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| Composition of judges | : Panel |
| Judges | : Antonino Gonçalves, Paulo Texeira and Francisca Cabral |
| Public Prosecutor | : Oscar Tavares |
| Public Defender | : Manuel Exposto |
| Conclusion | : Ongoing |

On 18 and 30 July 2013 the Dili District Court conducted a hearing in a case of aggravated property damage involving the defendants RS and AdS. This case allegedly occurred on 29 April 2010 in the Office of Indonesian Culture in Bidau-Akadiruhun, Dili.

The public prosecutor alleged that on 29 April and 10 June 2010 in the evening the defendants were drinking palm wine and became drunk and started to extort the public. At that time, the two defendants approached the office of Indonesian Culture in Bidau, Akadiruhun and stoned the noticeboard and smashed the glass.

During the trial the two defendants rejected all of the charges and stated that at the time of the incident they were not drunk, did not extort anyone and did not stone the noticeboard at the office of Indonesian Culture causing the glass to break, as alleged in the charges against them. At that time the police arrested them without any prior explanation.

The witness AS who lives next to the Office of Indonesian Culture testified that in their area people often threw stones at each other, got drunk and there was always the sound of people stoning other houses.

In the evening several people including the two defendants went to his house and asked for money so they could buy alcohol. Sometimes the witness would give them \$ 2 or \$ 3 even though he didn't want to, just to avoid any problems. However in relation to the broken glass, the witness testified that he did not see himself who stoned the glass and broke it.

This case was adjourned until 30 August 2013, but the court did not manage to conduct a hearing because the witnesses and victim did not appear in court.

The court wanted to hear the testimony of these two witnesses because at the time they were at the scene.

The court was unable to serve a summons to attend court because their phones were not active and the court did not know their places of residence. The victim from the Office of Indonesian Culture was given a summons before the date of the hearing but he said he was really busy at that time.

18. Crime of simple offences against physical integrity, Case No. 475/C.Ord/2010/TDD

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| Composition of judges | : Single |
| Judge | : Antonino Gonçalves |
| Public Prosecutor | : Hipólito Santa |
| Public Defender | : JuvinalYanes Freitas (trainee) |
| Conclusion | : Acquitted |

On 18 and 22 July 2013 the Dili District Court conducted a hearing and settled a case of simple offences against physical integrity involving the defendant AmdJ and the victims MS and AB who were the mother and grandmother of the defendant. This case allegedly occurred on 11 November 2009 in Becora, Dili.

The court acquitted the defendant because it found that at that time the defendant was suffering from a mental illness. This evidence was obtained from the testimony of the two victims who stated that at the time of the incident the defendant was not coherent or was suffering from a mental illness.

This case allegedly occurred because the victim AB got angry and told the defendant not to burn his children's clothes. Therefore, the defendant became angry and hit AB on the shoulder and kicked the victim AB on her side.

After that the victim AB told MS, who was the mother of the defendant, about the incident and MS slapped the defendant. Then the defendant became angry and pulled the hair of MS and threw her on the ground. In addition to pulling her hair, the defendant also bit the victim MS on the neck causing a bruise.

The two victims testified that they have reconciled through traditional means by giving a pig and \$ 100 to pay restitution for the victim's actions as well as apologizing to the victims.

Based on this evidence the court decided to acquit the defendant in this case.

19. Case of misappropriation of public assets and driving without a license, Case No. 141/C.Ord/2011/TDD

Composition of judges : Single
Judge : Ana Paula Fonseca
Public Prosecutor : Oscar Tavares
Public Defender : Fernando Lopes de Carvalho
Conclusion : Ongoing

On 18 July 2013 the Dili District Court conducted a hearing against the defendants BdCA and AG who were involved in the crime of misappropriation of public assets and driving without a license.

The public prosecutor alleged that on 6 January 2013 at approximately 8pm the defendant BdCA (who was a driver at the Office of the Prosecutor General) used a vehicle belonging to the Office of the Prosecutor General together with the defendant AG (his son in law) and his two children to go and buy beer in Motael, Dili.

After drinking they then went home and arrived in front of Casa Europeia, and AG was driving the car and wanted to pass a truck carrying a container that was parking in front of him. However he did not manage to overtake it because their vehicle was travelling too fast and they crashed into the wall of Casa Europeia and their car overturned and ended up facing towards the Government Palace and was facing the wrong way. This incident completely damaged the vehicle they were travelling in.

The investigation found that there were 4 cans of beer in the car and two other cans that had been half consumed. The vehicle was repaired at a cost of \$ 2,800.

The public prosecutor alleged that the defendant BdCA used a vehicle belonging to the State outside of working hours. According to an instruction issued by the Prosecutor-General the defendant was only allowed to use the vehicle during working hours and was allowed to take it home, however he was not allowed to use it for personal matters.

The defendant BdCA was also aware that the defendant AG did not have a license but the defendant BdCA still gave his to AG to drive the vehicle.

Based on the aforementioned evidence, the public prosecutor charged BdCA with violating Article 296 of the Penal Code regarding the misappropriation of public assets and the defendant AG violated Article 207 of the Penal Code regarding driving without a license.

In his final recommendations the public prosecutor requested for the court to sentence the defendant BdCA to prison and to fine him \$ 2,800 in accordance with the cost of fixing the car, however regarding the defendant AG the public prosecutor asked for a suspended sentence.

The public defender requested for the court to consider the financial circumstances of the defendant BdCA and to give time to the defendant to find the financial resources necessary to return the money.

After hearing the final recommendations the court rescheduled the trial until 29 July 2013 at 2pm to read out its decision.

20. Case of aggravated murder and simple offences against physical integrity, Case No. 73/C.Ord/2013/TDD

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|-----------------------|------------------------------------------------|
| Composition of judges | : Panel |
| Judges | : Edite Palmira, Júlio Gantes, Argentino Nunes |
| Public Prosecutor | : Gloria Alves |
| Public Defender | : Angelo Neves (private lawyer) |
| Conclusion | : Ongoing |

On 23 July 2013 the Dili District Court conducted a hearing in a case of aggravated murder and simple offences against physical integrity involving the defendants PdS, TdCP, JHM, AM and FTDS who allegedly committed the offence against the victim JG (deceased). This case allegedly occurred on 25 February 2013 in Aitarak Laran, Dili.

The public prosecutor alleged that before the defendants killed the victim JG the defendants had maltreated the victim CB because he had verbally abused another person and the defendants FdCP and JHM felt offended. Therefore, they assaulted CB and the defendants (TdCP and JHM) used a chain to hit the victim in the head, assaulted, kicked and pulled on the victim's clothes until he fell to the ground.

JG (deceased) intervened to separate them but the defendants then attacked the victim (JG) and stabbed him with a knife and caused him to pass away instantly at the scene of the crime.

The victim CB testified that at that time he was trying to run away and heard the deceased scream; however he did not see who stabbed the deceased. Nevertheless, CB had strong suspicion that the defendant PdS killed the deceased.

The witness FP is a member of PNTL who at that time was conducting a patrol with several other PNTL members and testified that when they arrived in Aitarak Laran in front of the Office of the President they saw people running back and forth. Therefore, they went searching for and arrested the perpetrators. At that time witnesses also took a knife from PdS.

The witness also testified that after they arrested PdS they saw many people chasing each other. Those people ran towards the witnesses to hand themselves in. After an investigation was conducted it was found that they were involved in the assault on the victims.

After hearing testimony from the witnesses the court adjourned the trial until 02 August 2013 at 2pm.

21. Ordinary fraud, Case No. 384/C.Ord/2012/TDD

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|-----------------------|-----------------------------------------------------------------------|
| Composition of judges | : Single |
| Judge | : António do Carmo |
| Public Prosecutor | : Gloria Alves |
| Public Defender | : Laura Valente Lay |
| Conclusion | : Sentenced to 2 years 6 months imprisonment and a fine of \$ 11,330. |

On 23 and 31 July 2013 the Dili District Court conducted a hearing and sentenced the defendant RS to 2 years 6 months imprisonment and ordered him to pay compensation of \$ 11,330.

The defendant was found guilty of extorting 150 victims in 2010 and during the crisis in 2006. The defendant promised the victims that he would help them receive IDP resettlement funds.

Some of the witnesses summoned by the court to provide testimony stated that at that time the defendant introduced himself as an official from the Ministry of Social Solidarity (MSS) and was willing to help victims to quickly receive resettlement funds; however the requirement was that the victims would have to pay for the defendant's services.

Some of the witnesses gave \$ 50 and some others gave between \$ 100 and \$ 200. However after collecting the money the defendant turned off his phone and the witnesses did not know his residence.

The witnesses sought confirmation from the MSS about the whereabouts and function of RS and the MSS explained that RS was no longer an official with the MSS and the MSS also did not know his residence. Until now the witnesses have not received any resettlement assistance and the money that they gave to the defendant RS has not been returned either.

In her final recommendations, the public prosecutor requested for the court to sentence the defendant to 3 years imprisonment for deceiving and manipulating information to say that he was a MSS official. However if the court decides not to hand down a prison sentence, then the prosecutor recommends a fine.

The public defender requested for the court to acquit the defendant because when the victims handed over the money there were no receipts that could be used as evidence.

After hearing the final recommendations of the two parties the court decided the matter and sentenced the defendant to 2 years 6 months imprisonment and ordered him to pay a fine of US\$ 11,330.

22. Illegal gambling, Case No. 174/C.Ord/2013/TDD

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|-----------------------|------------------------------------------------------------------------------------------------|
| Composition of judges | : Single |
| Judge | : Edite Palmira |
| Public Prosecutor | : Vicente Brites |
| Public Defender | : JuvinalYanes Freitas (trainee) |
| Conclusion | : Sentenced to 6 months imprisonment, suspended for 2 years and ordered to pay costs of \$ 10. |

On 23 July 2013 the Dili District Court decided a case of illegal gambling involving the defendant JdSC.

Based on the evidence produced during the trial, the court decided to sentence the defendant to 6 months imprisonment to be suspended for 2 years and ordered him to pay court costs of \$ 10.

Previously the public prosecutor alleged that on 23 February 2011 at approximately 6pm the police arrested the defendant because he was selling coupons in Matadouro, close to the STAE Office. When they carried out the arrest the police also took coupons bearing the sign Tototy Timor Draw together with money totaling \$ 49.

23. Aggravated murder, Case No. 861/C.Ord/2012/TDD

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|-----------------------|---------|
| Composition of judges | : Panel |
|-----------------------|---------|

Judges : José Maria de Araújo, Júlio Gantes, Edite Palmira
Public Prosecutor : Oscar Tavares
Public Defender : George da Silva Barbosa (lawyer from Brazil and Jon Tippett QC (lawyer from Australia)
Conclusion : Ongoing

On 25 July 2013 the Dili District Court conducted a hearing to read out the charges in a case of aggravated murder allegedly committed by the defendant JR against the victim MP (deceased). This case allegedly occurred on 12 July 2012 in the Paradise Malinamuk Apartments in Comoro, Dom-Aleixo Sub-District, Dili District.

The public prosecutor in his final recommendations stated that all of the testimony from the 11 witnesses who had been summoned provided sufficient evidence in this case, therefore he requested for the court to sentence the defendant to 19 years imprisonment.

The public prosecutor also stated that the defendant has a history of prior offences because he had been involved in robbery in Australia and this was considered to be an aggravating circumstance and he requested for the court to give proper consideration when deciding this case.

In relation to the aforementioned evidence, the public prosecutor requested for the court to maintain the charge of Article 139 of the Penal Code on aggravated murder which had been used by the the public prosecutor to charge the defendant and requested for the court to sentence the defendant to 19 years imprisonment.

The public defender requested for the court to amend Article 139 of the Penal Code on aggravated murder to Article 138 of the Penal Code on ordinary murder.

The public defender believed that the criminal elements relating to Article 139 of the Penal Code as suggested by the Public Prosecutor did not have a strong basis.

The public defender also believed that the grounds submitted by the public prosecutor were only based on the analysis of the public prosecutor and were not accompanied by accurate and robust data (no eyewitnesses) to prove that the defendant had the intent of murdering the victim. Based on these arguments the public defender requested for the panel of judges to hand down a fair sentence against the defendant.

After hearing all of the final recommendations from the parties the court adjourned the trial until 21 August 2013 at 2pm to read out its final decision.

24. Making threats, Case No. 182/C.Ord/2013/TDD

Composition of judges : Single
Judge : Edite Palmira

Public Prosecutor : Mateus Nessi
Public Defender : Manuel Amaral (trainee)
Conclusion : Settlement validated

On 30 July 2013 the Dili District Court conducted a hearing and immediately validated a settlement in a case involving the defendant EdR who allegedly committed the crime of making threats against the victim AXdS. This case allegedly occurred on 5 February 2013 in Aitarak Laran, Dili.

The court validated this process based on a request from the victim because he wanted to withdraw the case.

This case allegedly occurred because the defendant upset the younger sibling of the victim and the victim was not happy and sent a short message to seek clarification about the incident. However the defendant became angry and started abusing and threatening that he would hit the victim.

Based on this process the court decided to validate a settlement in relation to this case.

25. Case of aggravated murder, simple offences against physical integrity and making threats, Case No. 159/C.Ord/2012/TDD

Composition of judges : Panel
Judges : Júlio Gantes, Duarte Tilman and José de Araújo
Public Prosecutor : Oscar Tavares
Public Defender : Fernando Lopes de Carvalho and Manuel Sarmento
Conclusion : Ongoing

On 30 July 2013 the Dili District Court conducted a hearing involving the defendant FP who was charged with committing simple offences against physical integrity, making threats and also killing the victim AP (deceased) who was his wife.

The public prosecutor alleged that the defendant simultaneously committed three crimes against the victim. The charges stated that at some time in July and September 2008 the defendant maltreated the victim.

Then in October 2008 the defendant threatened the victim and on 28 October 2008 the defendant pushed the victim and caused her to fall into the sea in the area of Karimbala which caused the death of the victim after they had gone to buy a helmet and oil in Atambua, Indonesia.

In relation to these 3 cases, the public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity, Article 157 of the Penal Code regarding making threats and Article 139 of the Penal Code regarding aggravated murder.

Pursuant to the aforementioned criminal acts the public prosecutor requested for the court to sentence the defendant to 14 year's imprisonment. The public prosecutor also requested for the court to order the defendant to pay compensation to the children of the victim totaling US\$ 12,000.

The public defender requested for the court to remove the charge of simple offences against physical integrity and the crime of making threats because the family reported these two matters after the time limit had expired (after 6 months). This information was checked with information signed by the children of the victim when a report was made.

Also in relation to the criminal act of murder the public defender requested for the defendant to be acquitted because the public prosecutor did not produce sufficient evidence.

After hearing all of the final recommendations from the parties the court adjourned the trial until 23 August 2013 at 2pm to read out its final decision.

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