



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Press Release

Dili District Court
24 July 2014

Indictment of the public prosecutor does not reflect the suffering of the victim

On 18 July 2014 the Dili District Court tried the defendant AA for allegedly committing domestic violence against his wife in Dili District.

The public prosecutor alleged that on 11 October 2012 the defendant slapped the victim across the cheek, punched the victim several times to her body and kicked the victim in the chest. On 24 October 2012 the defendant used a machete to slash the victim's hand which resulted in injury and heavy bleeding. The motive for this was that the defendant suspected the victim of having another man.

“As the judicial authority that has legitimacy according to the law to represent the victim, the public prosecutor must ensure that there is a thorough and appropriate investigation in order to prepare an indictment that reflects the facts of the incident and the consequences suffered by the victim,” said the Executive Director of JSMP, Luis de Oliveira Sampaio.

JSMP observed that the public prosecutor failed to select the correct Article because the incident had actually fulfilled the elements of mistreatment of a spouse, as set out in Article 154 of the Penal Code.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Articles 3 and 35 of the Law Against Domestic Violence.

After the evidence was presented the court evaluated the facts established during the trial and gave time to the the public prosecutor and public defender to present their views on Article 274 of the Criminal Procedure Code, however, the two parties requested the court to proceed with the reading out of the final recommendations.

The trial was conducted without the presence of the defendant because at that time the defendant was residing in Ireland because immediately after the incident the defendant went to Ireland.

The victim testified that it was true that the defendant committed the acts as set out in the indictment.

“JSMP believes that it is important in the future for the public prosecutor to consider applying restrictive measures in all cases during the examination phase to ensure that defendants do not abscond before this process is completed,” said the Executive Director of JSMP, Luis de Oliveira Sampaio.

In his final recommendations the public prosecutor considered all of the facts to have been proven based on the confession of the defendant during the examination phase before the Public Prosecution Service, and the statement made by the victim during the trial. In his final recommendations the public defender requested the court to hand down an appropriate penalty.

The court found the defendant guilty, based on the charges of the prosecutor and the testimony of the victim and decided to sentence the defendant to 9 months in jail for the first offence and 6 months in jail for the second offence. After combining the two penalties the court sentenced the defendant to 1 year in prison, suspended for 3 years. This penalty is very lenient when compared with the injury suffered by the victim. If the defendant was charged with Article 154 of the Penal Code, the defendant would have received a more fitting sentence of between 2 and 6 years in prison.

This case was registered as Case No: 35/2013/TDDIL. And the trial presided over by judge Julio Gantes. The Public Prosecution service was represented by Jacinto Babo and the defendant was represented by public defender Sergio Paulo Dias Quintas.

For more information, please contact:

Luis de Oliveira Sampaio
Diretór Ezekutivu JSMP
Diresaun e-mail: luis@jsmp.minihub.org
info@jsmp.minihub.org
Telephone: 3323883|77295795 Website: www.jsmp.tl
Facebook: www.facebook.com/timorleste.jsmp
Twitter: @JSMPtl