



**Case Summary**  
**Dili District Court**  
**January 2018**

**Statement:** The following case summaries set out the facts and the proceedings of cases before the court based on JSMP's independent monitoring, and the testimony given by the parties before the court. This information does not reflect the opinions of JSMP as an institution. JSMP strongly condemns all forms of violence, especially against women and vulnerable persons. JSMP maintains that there is no justification for violence against women.

**A. Summary of the trial process at the Dili District Court**

**1. Total cases monitored by JSMP: 25**

Article	Type of Case	Number of cases
Article 145 of the Penal Code (PC) and Articles 2, 3 and 35 (b) of the Law Against Domestic Violence (LADV)	Simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence	15
Article 145 of the Penal Code (PC)	Simple offences against physical integrity	2
Article 174 of the Penal Code (PC)	Sexual exploitation of a third party	1
Article 139 of the Penal Code (PC)	Aggravated homicide	1
Article 157 of the Penal Code (PC)	Threats	1
Article 177 of the Penal Code (PC)	Sexual abuse of a minor	1
Article 271 of the Penal Code (PC)	Simple receipt of stolen goods	1
Article 172 of the Penal Code (PC)	Rape	1
Article 179 of the Penal Code (PC)	Sexual abuse of a person incapable of resistance	1
Article 142 of the Penal Code (PC)	Infanticide	1
Total		25

**2. Decisions monitored by JSMP :14**

Type of decision	Number of cases
Prison sentence	3
Suspension of execution of a prison sentence (Article 68 of the PC)	4
Suspension of execution of a prison sentence (Article 68) with rules of conduct (Article 70 g) of the PC	2
Withdrawal of complaint	4
Admonishment	1
<b>Total</b>	<b>14</b>

**c. Total ongoing cases based on JSMP monitoring: 11**

**D. Short description of decisions in these cases monitored by JSMP:**

**1. Sexual abuse of a person incapable of resistance\***

Case No. : 0048/17. ERSIC  
Composition of the Court : Panel  
Judges : Jacinta Correia da Costa  
: Ana Paula Fonseca  
: Eugebio Xavier Vitor  
Prosecutor : Alfonso Lopes  
Public Defender : Estaque Pereira Guterres  
Type of Penalty : 4 years in prison

On 4 January 2017 the Dili District Court conducted a hearing to announce its decision in a case of sexual abuse of a person incapable of resistance involving the defendant MMS who allegedly committed the offence against the victim BdC in Ermera District.

**Charges of the Public Prosecutor**

The public prosecutor alleged that on 28 February 2017, at 9.30pm the defendant was heavily drunk because he drank 2 bottles of alcohol, 12 cans of bintang beer, one large bottle of palm wine, and thinner mixed with palm wine. After consuming the alcohol the defendant told the victim to come outside and he had sexual intercourse with the victim.

The public prosecutor alleged that the defendant violated Article 179 of the Penal Code on sexual abuse of a person incapable of resistance that carries a maximum penalty of 4-12 years in prison.

\* Refer to JSMP Press Release about this case, which is available at: [http://jsmp.tl/wp-content/uploads/2018/01/PrTribunalPenaPrizaunbaKrimAbuzuSeksual\\_TETUM1.pdf](http://jsmp.tl/wp-content/uploads/2018/01/PrTribunalPenaPrizaunbaKrimAbuzuSeksual_TETUM1.pdf)

### **Presentation of evidence**

During the trial the defendant confessed all of the facts in the indictment, the defendant also stated that he had no knowledge about the incident, and was heavily drunk because prior to this incident the defendant drank two bottles of alcohol, 12 cans of bintang beer, one large bottle of palm wine, and thinner mixed with palm wine. The defendant also stated that he regretted his actions.

Also, according to the testimony of the witness MM (mother of the victim) when he finished drinking alcohol the defendant called out to the victim to watch a movie on the veranda, but then the defendant took the victim into the bushes to have sexual intercourse with the victim.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime against the victim and therefore he asked for the court to sentence the defendant to 7 years in prison.

The public defender stated that that the defendant confessed all of the facts in the indictment and when the incident occurred the defendant was heavily drunk and didn't know what he was doing. For this reason he requested for the court to acquit the defendant from these charges.

### **Decision**

The court found the defendant guilty of committing the crime of sexual abuse of a person incapable of resistance. The facts were proven based on the confession of the defendant and the statement of the witness who was the mother of the victim. The court also proved that during the incident the defendant was heavily drunk. After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 4 years in prison.

## **2. Crime of sexual abuse against a minor**

Case No.	: 0530/11.PDDIL
Composition of the Court	: Panel
Judges	: Jacinta Correia da Costa : Ana Paula Fonseca : Eugebio Xavier Vitor
Prosecutor	: Alfonso Lopes
Public Defender	: Estaque Pereira Guterres
Type of Penalty	: 8 years in prison

On 6 January 2018 the Dili District Court announced its decision in a case of sexual abuse of a minor characterized as domestic violence involving the defendant FhS who allegedly committed the crime against his cousin aged 13 in Dili District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on an unspecified date and month in 2006 the defendant grabbed the victim by her right arm and pulled her into a bedroom and laid the victim on the cement floor and removed her pants and had sexual intercourse with the victim. The victim

wanted to scream but was afraid that the defendant would kill her so the victim chose to remain silent even though she felt pain.

Approximately 2 months later but again on an unspecified date in 2006 the victim went to the bathroom to have a shower and the defendant followed her and grabbed her tightly and the victim tried to push him away, but the victim was powerless because the defendant covered her mouth. The defendant laid the victim on the concrete floor and used force to have sexual intercourse with the victim. Because she was afraid the victim did not tell her parents and the acts continued and in 2010 the victim became pregnant and in 2011 the victim gave birth to a baby boy and this crime was discovered.

The public prosecutor accused the defendant of violating Article 177 of the Penal Code on the sexual abuse of a minor that carries a penalty of 5-15 years in prison as well as Article 35(a) of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant stated that he did not use force or threaten the victim and their sexual relations were based on mutual consent, and the first incident occurred in the bedroom and the second incident occurred in the bathroom. The defendant also stated he was a first time offender, and this case was resolved based on East Timorese culture and the defendant gave 10 pieces of traditional cloth (*tais*), 10 pigs, 1 goat and US\$5,000, and 1 traditional necklace to the victim's family. The victim maintained that the sexual relations occurred with the use of force and threats. However the victim also stated that this case has been resolved.

### **Final recommendations**

The public prosecutor stated that the defendant had been proven guilty of committing the crime against the victim based on the testimony of the victim. The public prosecutor reiterated that the defendant and the victim were related and were cousins, and the defendant was supposed to protect the victim, but on the contrary the defendant raped the victim and she became pregnant. For this reason the public prosecutor requested for the court to sentence to impose an effective prison sentence on the defendant.

The public defender stated that that the defendant confessed all of the facts in the indictment, and the sexual relations were based on mutual consent and there were no documents that said that the victim was a minor. For this reason he requested for the court to acquit the defendant from these charges.

### **Decision**

After evaluating the facts produced during the trial, the court found the defendant guilty of committing the crime of sexual abuse of a minor. The court also found that this act was committed against the victim who was a minor and as a result of the sexual abuse the victim became pregnant. Because the incident occurred a long time ago, and at that time Indonesian law was in force the court decided to apply the Indonesian Penal Code which was more favourable to the defendant. The court concluded this matter and sentenced the defendant to 8 years in prison.

## **3. Crime of simple offence against physical integrity**

Case No. : 0232/17.DICMR  
Composition of the Court : Single Judge  
Judge : Zulmira A. Barros da Silva  
Prosecutor : Alfonso Lopes  
Public Defender : Marçal Mascarenhas  
Type of Penalty : Withdrawal of complaint

On 10 January 2018 the Dili District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant Jose da Costa Lopes who allegedly committed the offence against the victim Tomas A. Nascimento in Dili District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 7 May 2017, at 5:30pm, the defendant punched the victim twice on the back of the neck and punched the victim in the back. This case occurred when the victim and his friends were playing soccer on a field. Suddenly the defendant and his friends emerged and told the victim and his friends to stop and get off the field, and so they had an argument and the defendant committed the act against the victim.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

### **Presentation of evidence**

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During the attempted conciliation the defendant apologised to the victim, and stated that he regretted his actions and promised not to commit any other crimes against the victim in the future. The victim agreed and requested for the court to withdraw the complaint against the defendant.

### **Final recommendations**

After the attempted conciliation between the defendant and the victim, the prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

### **Decision**

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the Court decided to validate the settlement.

## **4. Crime of threats**

Case No. : 0019/17. PDDIL  
Composition of the Court : Single Judge  
Judge : Sribuana da Costa  
Prosecutor : Nelson de Carvalho

Public Defender : Olga Barreto Nunes  
Type of Penalty : Withdrawal of complaint

On 11 January 2018 the Dili District Court attempted conciliation in a case of threats involving the defendant Casimiro Goncalves and the victim Marina de Jesus Valente which alleged occurred in Dili District.

### **Charges of the Public Prosecutor**

The prosecutor alleged that on 7 January 2017 at 8.20am, the victim was at home the victim heard a commotion outside and went out to have a look. When the victim went out to have a look the victim saw the defendant grabbing the victim's younger brother. Therefore the victim asked the defendant what was the problem and the defendant swore at the victim using bad language and showed his hand to the victim and said *“you are lucky you are a woman, if you were a man I would beat you to death, and nobody would say anything.”* The defendant also threatened the victim that if she took the matter to court and if he won he would smash up the victim's house.

The public prosecutor alleged that the defendant violated Article 157 of the Penal Code on making threats with that carries a maximum penalty of one year in prison or a fine.

### **Presentation of evidence**

Before progressing to the presentation of evidence, pursuant to Article 266 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During the attempted conciliation the defendant apologised to the victim, and stated that he regretted his actions and promised not to commit any other crimes against the victim in the future. The victim agreed and requested for the court to withdraw the complaint against the defendant.

### **Final recommendations**

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

### **Decision**

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the Court decided to validate the settlement.

## **5. Crime of simple offences against physical integrity**

Case No. : 0148/16. PDDIL  
Composition of the Court : Single Judge  
Judge : Maria Modesta  
Prosecutor : Pedro Baptista  
Public Defender : Marçal Mascarenhas  
Type of Penalty : Withdrawal of complaint

On 18 January 2018 the Dili District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant Ernesto Tilman who allegedly committed the offence against the victim P. Martins (the defendant's brother in law) in Dili District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 19 March 2016, at 6.00am, the defendant was with the victim's wife went to the home of the victim's mistress and the defendant punched the victim once on his left cheek, punched the victim twice on both side of his ribs. This case occurred because the victim left his wife and took a mistress, and therefore the defendant committed these acts against the victim.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

### **Presentation of evidence**

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During the attempted conciliation the defendant apologised to the victim, and stated that he regretted his actions and promised not to commit any other crimes against the victim in the future.

### **Final recommendations**

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

### **Decision**

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the Court decided to validate the settlement.

## **6. Simple offences against physical integrity characterized as domestic violence**

Case No.	: 0360/16.DICMR
Composition of the Court	: Single Judge
Judge	: Antonio Helder Viana do Carmo
Prosecutor	: Pascacio de Rosa Alves
Public Defender	: Olga Barreto Nunes
Type of Penalty	: Penalty of admonishment

On 18 January 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CC who allegedly committed the offence against his wife in Dili District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 16 June 2016, at approximately 11pm, the defendant slapped the victim twice on her left and right ears and punched the victim once in the head.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3(a) and 35(b) of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts set out in the indictment and stated that he regretted his actions, and promised not to reoffend against the victim in the future. The victim maintained the facts set out in the indictment of the public prosecutor. The victim also stated that he has reconciled with the defendant and since the incident the defendant has not hit the victim.

### **Final recommendations**

The public prosecutor stated that the defendant had been proven guilty of committing the crime against the victim based the confession of the defendant. To deter the defendant from committing further acts against the victim in the future, the prosecutor requested for the court to issue an admonishment against the defendant.

Also, the public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and promised that in the future he would not commit any crimes against the victim. Therefore he requested for the court to issue an admonishment against the defendant.

### **Decision**

After evaluating the facts produced during the trial, the court concluded this matter and convicted the defendant and issued an admonishment against the defendant.

## **7. Simple offences against physical integrity characterized as domestic violence**

Case No.	: 0460/12.PDDIL
Composition of the Court	: Single Judge
Judge	: Edite Palmira dos Reis
Prosecutor	: Pedro Baptista
Public Defender	: Manuel Lito Exposto
Type of Penalty	: Prison sentence of 1 year and 6 months, suspended for 2 years

On 19 January 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant ACSP who allegedly committed the offence against his wife in Dili District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 13 February 2018 at 8am the defendant slapped the victim once on the cheek and pulled her hair which caused the victim to fall to the ground. The defendant also choked the victim and bit the victim above the eye.



The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3(a) and 35(b) of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant stated that at the time of the incident the defendant did not choke the victim, and only slapped her once on the cheek and pulled the victim's hair which caused her to fall to the ground and bit the victim above the eye. The defendant also stated that he has separated from the victim and regretted his actions. The victim maintained the facts set out in the indictment of the public prosecutor.

### **Final recommendations**

The public prosecutor stated the defendant was guilty of committing the crimes alleged in the indictment, even though the defendant denied some facts, but the victim confirmed the facts set out in the indictment. For this reason he requested for the court to impose a apply prison sentence of 3 years, suspended for 3 years against the defendant.

Also, the public defender stated that the defendant partially confessed the acts that he committed, regretted his actions and promised that in the future he would not commit any crimes against the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

### **Decision**

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 1 year and six months in prison, suspended for 2 years and ordered him to pay court costs of US\$ 40.

### **8. Simple receipt of stolen goods**

Case No.	: 0024/17.DICMR
Composition of the Court	: Single Judge
Judge	: Eusebio Xavier Victor
Prosecutor	: Hipolito Exposto Santa
Public Defender	: Manuel Sarmiento
Type of Penalty	: Withdrawal of complaint

On 23 January 2018 the Dili District Court conducted a hearing to announce its decision in a crime of simple receipt of stolen goods involving the defendant Vitorino da Costa Oliveira and the victim Acacio Alves, which allegedly occurred in Dili District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 18 January 2017 the defendant took a Honda *Revo Fit* motorcycle with the number plate J 3724 TL to the National Directorate of Transport to change ownership of the motorcycle, namely to replace the name of the person who sold the motorcycle with the name of the defendant. However when he got there the National Directorate of Transport identified that the motorcycle that the defendant was using actually belonged to the victim Acaçio Alves who was not the person who sold the motorcycle to the defendant. The victim Acaçio Alves previously made a complaint and registered his motorcycle as lost with the

National Directorate of Transport, namely that it went missing on 9 January 2017, in Aitarak-laran.

The public prosecutor alleged that the defendant violated Article 271 of the Penal Code on simple receipt of stolen goods with that carries a maximum penalty of two years in prison or a fine.

### **Presentation of evidence**

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During the attempted conciliation the victim stated that he wanted to reconcile with the defendant because after receiving accurate information it was not the defendant who took the victim's motorcycle. However the defendant bought the motorcycle from an unknown person who put information on facebook and sold the motorcycle for US\$950. The victim agreed with this request because the victim got his lost motorcycle back and he requested for the court to withdraw the complaint against the defendant.

### **Final recommendations**

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

### **Decision**

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the Court decided to validate the settlement and decided to give the motorcycle back to the victim.

## **9. Simple offences against physical integrity characterized as domestic violence**

Case No. : 0131/17.ERSIC  
Composition of the Court : Single Judge  
Judge : Maria Modesta  
Prosecutor : Ricardo Leite Godinho  
Public Defender : Jose da Silva  
Type of Penalty : 4 months in prison, suspended for 1 year

On 24 January 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant LdO who allegedly committed the offence against his wife in Ermera District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 20 May 2017, at 8.00am, the defendant slapped the victim 4 times above both eyes and this caused the victim to suffer swelling and bruising.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3(a) and 35(b) of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts in the indictment, the defendant also stated that the problem had been resolved based on Timorese custom, and the defendant gave a pig and a traditional cloth (*tais*) and US\$25. The defendant also stated that he regretted his actions, was a first time offender and after the incident the defendant took the victim to the Ermera Health Centre. The victim maintained the facts in the indictment and stated that the problem has been resolved.

### **Final recommendations**

The prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant and the testimony of the victim who confirmed the facts. Therefore, to deter the defendant from committing any further crimes against the victim, the public prosecutor requested for the court to sentence the defendant to 3 months in prison, suspended for 1 year.

The public defender requested for the court to apply a fair punishment against the defendant, because the defendant confessed, regretted his actions and promised not to reoffend against the victim.

### **Decision**

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 4 months in prison, suspended for 1 year.

## **10. Crime of simple offences against physical integrity characterized as domestic violence**

Case No.	: 0117/17.DICRR
Composition of the Court	: Single Judge
Judge	: Edite Palmira dos Reis
Prosecutor	: Nelson de Carvalho
Public Defender	: Marçal Mascarenhas
Type of Penalty	: Prison sentence of 1 year and 8 months, suspended for 3 years

On 24 June 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MdC who allegedly committed the offence against his wife in Dili District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 22 August 2017 at 12 midnight the defendant punched the victim three times on the left ear and kicked the victim once in the forehead and this caused the victim to suffer an injury and bleeding.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3(a) and 35(b) of the Law Against Domestic Violence.

### **Examination of evidence**

During the examination of evidence the defendant confessed all of the facts set out in the indictment, regretted his actions and has reconciled with the victim. The victim maintained the facts in the indictment and stated that she has reconciled with the defendant.

### **Final recommendations**

The public prosecutor stated that the defendant had been proven guilty of committing the crime against the victim based the confession of the defendant and the confirmation provided by the victim. The prosecutor requested for the court to consider all of the defendant's criminal history against the victim, because he had been tried and sentenced for the crime of domestic violence in 2012 and a prison sentence of six months was imposed and suspended for 1 year. In order to deter the defendant from committing further crimes against the victim in the future, the prosecutor requested for the court to sentence the defendant to 1 year in prison, suspended for two years.

The public defender requested for the court to consider the mitigating circumstances, namely that the defendant has reconciled with the victim, regretted his actions and is the breadwinner for his family. Therefore he requested for the court to impose a fine against the defendant.

### **Decision**

The court concluded the matter and sentenced the defendant to 1 year and 8 months in prison, suspended for 3 years and ordered the defendant to pay court costs of US\$30.

## **11. Simple offences against physical integrity characterized as domestic violence**

Case No.	: 0365/16.DICMR
Composition of the Court	: Single Judge
Judge	: Antonio Helder V. do Carmo
Prosecutor	: Alfeio Barros da Costa
Public Defender	: Rui Manuel Guterres
Type of Penalty	: 4 months in prison, suspended for 1 year

On 30 January 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant NCA who allegedly committed the offence against his wife in Dili District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 15 June 2016, at approximately 9pm, the defendant slapped the victim twice on her left and right cheeks and punched the victim once in the eye and the victim suffered swelling and bruising. The defendant also kicked the victim once in the lower stomach, kicked the victim once in the ribs and then punched the victim once in the forehead.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3(a) and 35(b) of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts set out in the indictment and stated that he regretted his actions, and promised not to reoffend against the victim in the future. In addition, the victim maintained and confirmed the facts set out in the indictment. The victim also stated that since they have been living together the defendant always hit the victim.

### **Final recommendations**

The court found the defendant guilty of committing the crime in accordance with the charges. The public prosecutor further added that the defendant as a member of F-FDTL should know that beating his wife is wrong and against the law. For this reason he requested for the court to impose a apply prison sentence of 3 years, suspended for 3 years against the defendant.

The public defender stated that the defendant confessed the facts set out in the indictment, regretted his actions and promised that in the future he would not commit any crimes against the victim. Therefore the public defender requested for the court to impose a penalty more lenient than the one recommended by the public prosecutor.

### **Decision**

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 4 months in prison, suspended for 1 year.

## **12. Simple offences against physical integrity characterized as domestic violence**

Case No.	: 0046/16.DICMR
Composition of the Court	: Single Judge
Judge	: Ana Paula Fonseca
Prosecutor	: Alfeio Barros da Costa
Public Defender	: Afonso Gomes Fatima
Type of Penalty	: 2 years in prison, suspended for 4 years with rules of conduct

On 31 January 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant DS who allegedly committed the offence against his wife in Dili District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 17 January 2017 at 1pm the defendant took his tilt truck vehicle and left first and the victim and her son JRS followed the defendant in a pajero vehicle. When they reached Kampung Alor the victim and her son caught up to the defendant so the defendant stopped and the victim got out of the pajero and jumped behind the tilt truck. The defendant took off with great speed and frightened the victim but the victim held on to the steel bar on top of the tilt truck. When he reached Pantai Kelapa the defendant tried three times to lift the back of the tilt truck so the victim would fall from the roof, but the victim did not fall

because she held on tight to the steel rod and one steel rods fell down and hit the victim's left hand and caused swelling and bruising.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3(a) and 35(b) of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions and has separated from the victim. The victim confirmed and maintained the facts set out in the indictment of the public prosecutor.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant, and actually the defendant was supposed to protect the victim, but on the contrary the defendant committed this act that endangered the victim's life. Therefore, to deter the defendant from committing any further crimes against the victim, the public prosecutor requested for the court to sentence the defendant to 3 years in prison, suspended for 3 years.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and promised that in the future he would not commit any crimes against the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

### **Decision**

The court concluded the matter and sentenced the defendant to 2 years in prison suspended for 4 years and ordered him to report once a month for 1 year and six months.

### **13. Crime of simple offences against physical integrity characterized as domestic violence**

Case No.	: 0251/17.DICMR
Composition of the Court	: Single Judge
Judge	: Antonio Helder Viana do Carmo
Prosecutor	: Hipolito Exposto Santa
Public Defender	: Joana Christina Pinto
Type of Penalty	: 1 year in prison, suspended for 2 years with rules of conduct

On 31 January 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant DBL who allegedly committed the offence against his wife in Dili District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 10 May 2017, at 7am, the defendant slapped the victim twice on her left cheek, so the victim ran away to her brother's house. At 8am the defendant followed the victim and slapped the victim another three times on her left cheek.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3(a) and 35(b) of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts set out in the indictment, regretted his actions and declared that he was a first time offender. The defendant also stated that 5 days later he reconciled with the victim. The victim maintained the facts set out in the indictment of the public prosecutor.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime against the victim, therefore to deter the defendant from committing any further crimes against the victim, the public prosecutor requested for the court to sentence the defendant to 1 year in prison, suspended for 2 years.

The public defender requested for the court to impose a fair penalty against the defendant because the defendant confessed all of the facts set out in the indictment, and was a first time offender.

### **Decision**

The court found the defendant guilty of committing the crime against the victim based on the facts proven during trial and sentenced the defendant to 1 year in prison, suspended for 2 years. The court also ordered the defendant to report twice a month for 3 months.

## **14. Crime of Rape**

Case No.	: 0387/16.PDDIL
Composition of the Court	: Panel
Judge	: Duarte Tilman : Ivan Patrçinio Antonio Goncalves : Maria Modesta
Prosecutor	: Remizia de Fatima da Silva
Public Defender	: Marçal Mascarenhas
Type of Penalty	: 4 years in prison, suspended for 6 months

On 31 January 2018 the Dili District Court conducted a hearing to announce its decision in a case of rape involving the defendant ADB who allegedly committed the offence against the victim IMD, in Dili District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 18 November 2012, at 7am, the defendant dragged the victim into the bathroom, locked the door from inside and told the victim “*no matter how loud you scream, nobody will hear you or help you*”. After this, the defendant removed the towel the defendant was using and left her naked and he leaned her against the door and told the victim to have sexual intercourse, but the victim refused. The defendant used force and threats

to kiss the victim on the mouth, bit the victim on the throat and had sexual intercourse with the victim.

The public prosecutor alleged that the defendant violated Article 172 of the Penal Code on rape that carries a maximum penalty of 5-15 years in prison.

### **Presentation of evidence**

During the trial the defendant partially confessed to the facts set out in the indictment, and stated that the victim forced the defendant to go into the bathroom to have sexual intercourse with the victim and the sexual intercourse was based on mutual consent. The defendant also stated that he never used force or threatened the victim. The victim maintained the facts in the indictment, namely that the defendant used force and threatened the victim. The victim also stated that she was married when the sexual intercourse took place and she was pregnant.

### **Final recommendations**

The public prosecutor found the defendant guilty of committing the crime against the victim based on the victim's statement and when the incident occurred the victim was pregnant. For this reason the public prosecutor requested for the court to sentence the defendant to 8 years in prison.

The public defender stated that this act occurred based on mutual consent and the defendant did not threaten the victim. The defendant is a student, and he testified that the victim dragged him into the bathroom to have sexual intercourse. For this reason he requested for the court to acquit the defendant from these charges.

### **Decision**

After evaluating the facts that were proven during the trial, the court found the defendant guilty of committing the crime of raping the victim. The court also found that the defendant used force and threatened the victim. The court concluded this matter and sentenced the defendant to 4 years and 6 months in prison.

For more information, please contact:

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