



JUDICIAL SYSTEM MONITORING PROGRAMME  
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

## Case Summary

### The Oecusse 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 and children.

#### A. Summary of the trial process at the Oecusse District Court

##### 1. Total number of cases monitored by JSMP: 18

Type of Case	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	11
Article 151 of the PC	Reciprocal offences against physical integrity	1
Article 145 of the PC	Simple offences against physical integrity	1
Article 207 of the PC	Driving without a licence	4
Article 258 of the PC	Property damage	1
<b>Total</b>	18	18

##### 2. Total number of decisions monitored by JSMP: 18

<b>Type of decision</b>	<b>Number of cases</b>
Suspension of execution of a prison sentence (Article 68 of the PC)	9
Suspension of execution of a prison sentence with rules of conduct	1
Fine pursuant to Article 67 of the Penal Code	5
Admonishment pursuant to Article 82 of the Penal Code	1
Withdrawal of complaint	2
<b>Total</b>	<b>18</b>

### **3. Total ongoing cases based on JSMP monitoring: 0**

#### **B. Short description of the trial proceedings and decisions in these cases**

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

Case Number : 0008/17.OEOSL  
Composition of the Court : Single Judge  
Judge : João Ribeiro  
Prosecutor : Mateus Nessi  
Public Defender : Calisto Tout  
Type of Penalty : Prison sentence of 1 year and 6 months, suspended for 2 years

On 16 January 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant FQ who allegedly committed the offence against his wife in Oecusse District.

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

The public prosecutor alleged that on 18 May 2017, at approximately 4.00pm, the defendant took a sandal and struck the victim twice on the back of her neck, slapped her twice on the back of her neck and slapped her once above the eye. These acts caused the victim to suffer pain. A medical report from PRADET and photographs from Police-VPU were also attached to this case file.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a prison sentence of 3 years or fine as well as violating Articles 2, 3, 35 (b) and Article 36 of the Law Against Domestic Violence on domestic violence as a public crime.

##### **Presentation of evidence**

During the trial the defendant confessed all of the facts and regretted his actions. The defendant works as a farmer and earns US\$20 a month and has three children. The defendant promised to the court that he would not repeat such crimes against his wife or other person in the future and

understands that hitting a person can cause pain and damage a person's physical health. The defendant stated that after this incident they immediately reconciled and have been living together as husband and wife.

The court disregarded the victim's statement because during the trial the defendant confessed all of the facts, and the public prosecutor and public defender agreed with this request.

### **Final recommendations**

The public prosecutor stated that the defendant was found guilty of committing the crime against the victim. The public prosecutor mentioned that cases of domestic violence are prevalent in the Oecusse Region in comparison with other districts. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

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 in the future. Therefore he requested for the court to impose a penalty against the defendant proportionate to his crime.

### **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.

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

Case Number	: 0036/17.OEPMK
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nessi
Public Defender	: Calisto Tout
Type of Penalty	: Validating withdrawal of complaint

On 16 January 2018 the Oecusse District Court presided over a trial to attempt conciliation in a case of simple offences against physical integrity involving the defendant Regelinda Oqui who allegedly committed the offence against her uncle Michael Teme in Oecusse District.

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

The public prosecutor alleged that on 24 July 2017, at approximately 10 am, the defendant pushed the victim to the ground and caused the victim to suffer pain and a medical report was also included from the Oecusse Referral Hospital and photographs from PNTL. This case occurred when the victim, who is the uncle of the defendant, went to the defendant's house and told the defendant that she couldn't get married, because previously the defendant was with another man and had brought shame into the household.

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 this attempted conciliation, the victim wanted to reconcile with the defendant because the defendant is his niece. However, before the victim requested for the court to withdraw his complaint against the defendant he asked the defendant not to repeat such acts in the future.

### **Final recommendations**

After hearing about the conciliation between the two parties, 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.

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

Case Number	: 0029/17.OEBCN
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nessi
Public Defender	: Calisto Tout
Type of Penalty	: 1 year in prison, suspended for 1 year

On 16 January 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant BQ who allegedly committed the offence against his wife in Oecusse District.

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

The public prosecutor alleged that on 8 June 2016, at approximately 8am, the defendant slapped the victim once on her left ear and kicked her once in the back and caused the victim to suffer pain. A medical report from PRADET and photographs from Police-VPU were also attached to this case file.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a prison sentence of 3 years or fine as well as violating Articles 2, 3, 35 (b) and Article 36 of the Law Against Domestic Violence on domestic violence as a public crime.

### **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, works as a farmer, has no fixed monthly income and has seven children.

The public prosecutor requested for the court to dismiss the victim's statement made previously before the prosecutor because during the trial the defendant confessed all of the facts in the indictment.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime against the victim. The public prosecutor also stated that cases of domestic violence are prevalent in the Oecusse Region in comparison with other districts. Therefore he requested for the court to convict the defendant in accordance with the provisions of Article 145 of the Penal Code.

The public defender said that the defendant confessed all of the facts set out in the indictment regretted his actions, collaborated with the court and has seven children. Therefore he asked the court to impose a lenient penalty against the defendant.

### **Decision**

The court found the defendant guilty of committing the crime based on the facts set out in the indictment of the public prosecutor and sentenced the defendant to 1 year in prison, suspended for 1 year.

### **4. Reciprocal offences against physical integrity**

Case Number	: 0121/17.OESIC
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nessi
Public Defender	: Calisto Tout
Type of Penalty	: Validating withdrawal of complaint

On 16 January 2018 the Oecusse District Court attempted conciliation in a case of reciprocal offences against physical integrity involving MGC and her husband TC, which occurred in Oecusse District.

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

The public prosecutor alleged that on 15 June 2017, at approximately 11am, the defendant took a piece of wood and struck her husband three times on his shoulder and then her husband reacted and pulled his wife's hair and threw her on the ground and caused the victim to suffer pain.

The public prosecutor alleged that the defendant violated Article 151 of the Penal Code on reciprocal offences against physical integrity 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 this attempted conciliation, the victim wanted to reconcile and withdrew his complaint. The defendant expressed regret for her actions and promised not to repeat such acts 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.

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

Case Number : 0097/17.OESIC  
Composition of the Court : Single Judge  
Judge : João Ribeiro  
Prosecutor : Mateus Nessi  
Public Defender : Calisto Tout  
Type of Penalty : 2 years in prison, suspended for 2 years

On 17 January 2018 the Oecusse District Court attempted conciliation in a case of threats and announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant PM who allegedly committed the offence against his wife in Oecusse District.

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

The public prosecutor alleged that on 14 May 2017, at approximately 1am, the defendant slapped the victim twice on her right cheek and punched the victim twice on her left cheek. The defendant also grabbed the victim by the back of the neck and pushed her on the ground and stomped on her one time. This assault caused the victim to suffer pain. In addition the defendant also threatened the victim by saying he would cut up and kill the victim. These threats caused the victim to feel afraid and traumatised. A medical report from PRADET and photographs from Police-VPU were also attached to this case file.

The public prosecutor charged the defendant for violating Article 157 of the Penal Code on threats and Article 145 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, 35(b) and 36 of the Law Against Domestic Violence on domestic violence as a public crime.

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 this attempted conciliation, the victim wanted to reconcile regarding the charges of making threats and wanted to withdraw her complaint. 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 in relation to the charge of making threats.

After reaching conciliation in relation to the charges of making threats, the court continued to examine evidence relating the charge of simple offences against physical integrity characterized as domestic violence.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts and understood that committing such offences against another person was wrong and against the law in Timor-Leste. The defendant stated that he regretted his actions and works as a farmer, has no fixed monthly income and has six children.

The court disregarded the victim's statement because during the trial the defendant confessed all of the facts and the prosecution and defence agreed with the instruction from the court.

### **Final recommendations**

The prosecutor stated that the defendant confessed all of the facts in the indictment, but the prosecutor believed that the defendant had a strong intention of beating his wife. The public prosecutor reiterated that cases of domestic violence are prevalent in the Oecusse Region in comparison with other districts. Therefore he requested for the court to sentence the defendant pursuant to Article 145 of the Penal Code that carries a maximum penalty of three years in prison or a fine.

The defence stated that the defendant confessed all of the facts set out in the indictment and regretted his actions. In addition, the defendant told the court that he will not commit any further crimes against the victim or other person. The defendant also collaborated with the court and has six children. Therefore the public defendant requested for the court to impose a fair penalty on the defendant for his wrongdoing.

### **Decision**

Based on the facts that were proven and the mitigating circumstances in this case, the court concluded the matter and sentenced the defendant to 2 years in prison, suspended for 2 years.

## **6. Crime of driving without a license**

Case Number	: 0034/17.OESTR
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nessi
Public Defender	: Calisto Tout
Type of Penalty	: Fine of US\$ 60

On 17 January 2018 the Oecusse District Court announced its decision for the crime of driving without a license involving the defendant Bruno Salu who allegedly committed the crime against the State of Timor in Oecusse District.

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

The public prosecutor alleged that on 27 June 2017, at approximately 10am, the defendant was riding a Yamaha Vega ZR motorcycle without number plates and was travelling on a public road

from Kuikole to Maumate market. When police conducted a check they found that the defendant did not have a driving licence.

The public prosecutor alleged that the defendant violated Article 207 of the Penal Code on driving without a licence that carries a maximum penalty of two years in prison or a fine.

### **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. Because the defendant confessed all of the facts set out in the indictment, the public prosecutor requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

### **Final recommendations**

The public prosecutor confirmed that the defendant was guilty of committing the crime of driving without a licence based on all of the facts set out in the indictment. The public prosecutor reiterated that there are many of these cases every month and the crime of driving without a licence is prevalent in the Oecusse Region. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 207 of the Penal Code.

The public defender said that the defendant confessed all of the facts set out in the indictment regretted his actions, works as a farmer, and has no fixed monthly income, and has one child. Therefore he asked the court to impose a lenient penalty against the defendant.

### **Decision**

After evaluating the facts produced during the trial, the court concluded this matter and ordered the defendant to pay a fine of US\$ 60 to be paid in daily instalments of US\$ 0.50 for 120 days. The court also imposed an alternative penalty of 80 days in prison if the defendant does not pay this fine.

### **7. Crime of driving without a license**

Case Number	: 0583/17.PDOEC
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nessi
Public Defender	: Marcelino Marques Coro
Type of Penalty	: Fine of US\$ 75

On 17 January 2018 the Oecusse District Court announced its decision for the crime of driving without a license involving the defendant Emanuel Lasi who allegedly committed the crime against the State of Timor-Leste in Oecusse District.

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

The public prosecutor alleged that on 15 December 2017, at approximately 9am, the defendant was riding a Revo motorcycle without number plates and was travelling on the Lifau public road to Oecusse Vila. When police conducted a check they found that the defendant did not have a driving licence.



The public prosecutor alleged that the defendant violated Article 207 of the Penal Code on driving without a licence that carries a maximum penalty of two years in prison or a fine.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts set out in the indictment, expressed remorse for his actions and was a first time offender. The defendant understood that such behaviour is not allowed and is against the law. The defendant is a farmer and with no fixed income and has two children.

Because the defendant confessed all of the facts set out in the indictment, the public prosecutor requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime of driving without a licence based on all of the facts set out in the indictment. The public prosecutor reiterated that there are many of these cases every month and the crime of driving without a licence is prevalent in the Oecusse Region. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 207 of the Penal Code.

The public defender said that the defendant confessed all of the facts set out in the indictment regretted his actions, works as a farmer, and has no income, and has two children. Therefore he asked the court to impose a lenient penalty against the defendant.

### **Decision**

Based on the facts produced during the trial, the court concluded this matter and ordered the defendant to pay a fine of US\$ 75 to be paid in daily instalments of US\$ 0.50 for 150 days. The court also imposed an alternative penalty of 100 days in prison if the defendant does not pay this fine.

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

Case Number	: 0013/17.OEPSB
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nessi
Public Defender	: Calisto Tout
Type of Penalty	: 1 year in prison, suspended for 2 years

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

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

The public prosecutor alleged that on 19 July 2017, at approximately 8pm, the defendant choked the victim once and slapped her once on her right cheek. The defendant then pushed the victim

into the bedroom and this caused the victim to fall to the ground. This assault caused the victim to suffer pain. A medical report from PRADET and photographs from Police-VPU were also attached to this case file.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a prison sentence of 3 years or fine as well as violating Articles 2, 3 and 35 (b) of the and Article 36 of the Law Against Domestic Violence on domestic violence as a public crime.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts and when questioned in court about the crime he committed the defendant stated that hitting a person in this way could cause an injury or damage a person's physical health. The defendant also told the court that he regretted his actions. The defendant is a farmer, has no fixed monthly income and has 4 children. The defendant promised to the court that he would not commit any further crimes against his wife or other person in the future and they immediately reconciled after the incident.

The court disregarded the victim's statement because during the trial the defendant confessed all of the facts in the indictment and the prosecution and defence agreed with the instruction from the court.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the facts that had been proven and the defendant's testimony before the court. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender requested for the court to impose an appropriate penalty against the defendant proportionate to his wrongdoing because during the examination of evidence the defendant collaborated with the court. The defendant also stated that he regretted his actions and immediately reconciled with his wife and has 4 children. The public defender reiterated that the defendant had promised to the court that he would not commit any further crimes against his family members or other people.

### **Decision**

The court found the defendant guilty of committing the crime against the victim based the confession of the defendant. Therefore, the court concluded this matter and sentenced the defendant to 1 year in prison, suspended for two years.

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

Case Number	: 0144/17.OESIC
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nessi
Public Defender	: Marcelino Marques Coro
Type of Penalty	: Penalty of admonishment

On 19 January 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant (LMS) who allegedly committed the offence against her husband in Oecusse District.

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

The public prosecutor alleged that on 24 June 2017, at approximately 8am, the defendant took a rock and threw it at the victim and struck the victim on the left leg and caused an injury and pain. The defendant then took a small chair made from wood and struck the victim once on the right side of his stomach which caused the victim to suffer pain.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a prison sentence of 3 years or fine as well as violating Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence on domestic violence as a public crime.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts in the indictment and the defendant also responded to the judge's questioning about the crime she had committed, and the defendant understood that beating a person is wrong and against the law in Timor-Leste. Therefore the defendant expressed regret for her actions. The defendant is a farmer, has no fixed income and has six children. The defendant and victim reconciled and have been living together as husband and wife.

The defendant stated that previously the victim had told the defendant that he was going to take a second wife and try and have a daughter because all of their children were boys. The victim told the defendant that he would not be allowed to take a second wife to get a daughter and would not get a dowry.

The court disregarded the victim's statement because during the trial the defendant confessed all of the facts and the prosecution and defence agreed with the instruction from the court. However the court sought confirmation with the victim about his plan to take a second wife to have a daughter and the victim smiled as he told the court that his plan to take a second wife was still ongoing.

### **Final recommendations**

The prosecutor stated that defendant was guilty of committing the crime of domestic violence even though the defendant was aware that beating a person was wrong and against the law in Timor-Leste and crimes of domestic violence are prevalent in Oecusse. Therefore he requested for the court to sentence the defendant pursuant to Article 145 of the Penal Code that carries a maximum penalty of three years in prison or a fine.

The public defender stated that this case occurred because the defendant was provoked by the victim who wanted to take another wife. Therefore the defendant committed the crime against the victim. During the trial the defendant collaborated with the court because during the examination of evidence the defendant confessed all of the facts and regretted her actions. The

defendant has six children and the defendant and victim have reconciled and are now living together. Therefore he requested for the court to impose a lenient penalty 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.

### **10. Crime of driving without a license**

Case Number : 0038/17.OESTR  
Composition of the Court : Single Judge  
Judge : João Ribeiro  
Prosecutor : Mateus Nessi  
Public Defender : Marcelino Marques Coro  
Type of Penalty : Fine of US\$ 150

On 19 January 2018 the Oecusse District Court announced its decision in a case of driving without a license involving the defendant Mateus Lafu who allegedly committed the crime against the State of Timor-Leste in Oecusse District.

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

The public prosecutor alleged that on 21 July 2017, at approximately 10am, the defendant was riding a Revo motorcycle without number plates and was travelling on the Samoro public road to Oecusse Vila. When police conducted a check they found that the defendant did not have a driving licence.

The public prosecutor alleged that the defendant violated Article 207 of the Penal Code on driving without a licence that carries a maximum penalty of two years in prison or a fine.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts in the indictment. The defendant also stated that he was a first time offender and regretted his actions. The defendant understood that such behaviour is wrong and is against the law in Timor-Leste. The defendant works supplying rocks and has no fixed income.

Because the defendant confessed all of the facts set out in the indictment, the public prosecutor requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime of driving without a licence because the defendant confessed all of the facts regarding the crime committed. The prosecutor stated that every month there is a high number of such cases in Oecusse District. Therefore he requested for the court to impose a fine against the defendant pursuant to Article 207 of the Penal Code.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime of driving without a licence based on all of the facts set out in the indictment. Therefore he requested for the court to impose a fine against the defendant pursuant to Article 207 of the Penal Code.

The defence stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, and works supplying rocks, but he does not have a fixed monthly income. Therefore he requested for the court to impose a penalty against the defendant proportionate to his crime.

### **Decision**

Based on the facts produced during the trial, the court concluded this matter and ordered the defendant to pay a fine of US\$ 150 to be paid in daily instalments of US\$ 1.00 for 150 days. The court also imposed an alternative penalty of 100 days in prison if the defendant does not pay this fine.

### **11. Crime of simple offences against physical integrity characterized as domestic violence<sup>1</sup>**

Case Number : 0146/17.OESIC.  
Composition of the Court : Single Judge  
Judge : João Ribeiro  
Prosecutor : Mateus Nessi  
Public Defender : Calisto Tout  
Type of Penalty : 2 years in prison, suspended for 2 years with rules of conduct

On 22 January 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant TSS who allegedly committed the offence against his wife in Oecusse District.

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

The public prosecutor alleged that on 25 July 2017, at approximately 8am, the defendant slapped the victim once on her left cheek and punched her twice in the forehead and caused the victim to suffer pain. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the VPU-PNTL. In addition the defendant also intended to sell his wife to another person as a way of paying money to people who had lent money to the defendant and 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 prison sentence of 3 years or fine as well as violating Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence on domestic violence as a public crime.

### **Presentation of evidence**

During the trial the defendant partially admitted the facts. The defendant stated that he only punched the victim once on the forehead and didn't punch the victim twice as stated in the

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<sup>1</sup> For more information please refer to JSMP Press Release, available at: [http://jsmp.tl/wp-content/uploads/2018/01/PrJSMPKongratulaTribunalAplikaRegraKonduta\\_TETUM.pdf](http://jsmp.tl/wp-content/uploads/2018/01/PrJSMPKongratulaTribunalAplikaRegraKonduta_TETUM.pdf)

indictment. However the defendant said that all of the other facts were true and he regretted his behaviour. The defendant works as a teacher at the Palaban Primary School and earns US\$298.00 every month and has seven children. The defendant promised to the court that he would not commit any further crimes against his wife or other person in the future. The defendant stated that after this incident they immediately reconciled and have been living together as husband and wife.

The victim stated that the defendant slapped her once on the left cheek and she confirmed that the defendant punched her once in the forehead. Actually the defendant was going to hit her again but missed because victim moved out of the way. In addition, the victim added that previously the two of them agreed to borrow money to pay for their child to go to school in Bali.

The court disregarded the witness's statement because the victim confirmed the defendant's statement regarding the facts set out in the indictment. The public prosecutor and the public defender agreed with the instruction from the court.

### **Final recommendations**

The public prosecutor stated that the facts contained in the indictment were proven, even though the defendant only partially confessed and said he hit the victim only once. The requirements of the crime have been fulfilled. Based on the statement of the victim the defendant was going to hit the victim again but the victim moved away and the victim was not struck. As a teacher the defendant should have a range of ways to resolve problems rather than violence. What's even worse, the defendant intended to sell his wife to someone else. Therefore the public prosecutor requested for the court to sentence the defendant pursuant to Article 145 of the Penal Code that carries a maximum penalty of three years in prison or a fine.

The public defender believed the statement of the defendant because the defendant partially confessed and the facts were confirmed by the victim. The defendant stated that he regretted his actions, collaborated with the court, has seven children, has reconciled with the victim and promised not to commit any further crimes against his family members or other people in the future. Therefore he requested for the court to impose a penalty against the defendant proportionate to his crime.

### **Decision**

The court found the defendant guilty of committing the crime against the victim. The court also considered that the defendant intended or attempted to sell his wife to another person which is an aggravating circumstance completely linked to the crime of simple offences against the physical integrity of the victim.

Based on these proven facts the court imposed a prison sentence of 2 years against the defendant which was suspended for 2 years and ordered him to pay court costs of US\$30. The court also applied rules of conduct requiring the defendant to periodically report to the court once a month on the first day of each month for 2 years pursuant to Article 70 of the Penal Code.

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

Case Number : 0124/17.OEOSL

Composition of the Court : Single Judge  
Judge : João Ribeiro  
Prosecutor : Mateus Nessi  
Public Defender : Calisto Tout  
Type of Penalty : 1 year in prison, suspended for 1 year

On 22 January 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MS who allegedly committed the offence against his wife in Oecusse District.

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

The public prosecutor alleged that on 23 June 2017, at approximately 7am, the defendant kicked the victim once on her side and punched her once above the eye and caused the victim to suffer pain. The defendant then threw the victim on the ground causing the victim to suffer a small injury to her left knee. A medical report from PRADET and photographs from Police-VPU were also attached to this case file.

The prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of 3 years or a fine as well as Articles 2, 3, 35 (b) 36 of the Law Against Domestic Violence on domestic violence as a public crime.

### **Examination of evidence**

During the trial the defendant confessed all of the facts in the indictment and the defendant also stated that he regretted his actions, works as a farmer, and has no fixed income every month and has one child. The defendant promised to the court that he would not commit any further crimes against his wife or other person in the future and they immediately reconciled after the incident.

The court disregarded the victim's statement because during the trial the defendant confessed all of the facts and the prosecution and defence agreed with the instruction of the court.

### **Final recommendations**

The prosecutor stated that the defendant confessed all of the facts in the indictment and was guilty of committing the crime against the victim even though the defendant knew that beating a person was wrong and against the law in Timor-Leste. Therefore to prevent such crimes occurring in the future the public prosecutor requested for the court to sentence the defendant pursuant to Article 145 of the Penal Code that carries a maximum penalty of three years in prison or a fine.

The public defender stated that the defendant confessed all of the facts in the indictment, regretted his actions, was a first time offender and promised that he would not commit any further crimes against victim in the future. The defendant also stated that he has one child and they immediately reconciled after the incident. Therefore he requested for the court to impose a penalty against the defendant proportionate to his crime.

### **Decision**

After evaluating the facts that had been proven during the trial, the court concluded the matter and imposed a prison sentence of 1 year suspended for 1 year against the defendant.

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

Case No. : 0132/17.OESIC.  
Composition of the Court : Single Judge  
Judge : João Ribeiro  
Prosecutor : Mateus Nesi  
Public Defender : Calisto Tout  
Type of Penalty : Prison sentence of 1 year, suspended for 1 year six months

On 22 January 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant IdCB who allegedly committed the offence against his wife in Oecusse District.

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

The public prosecutor alleged that on 22 June 2017, at approximately 11am, the defendant punched the victim once on the forehead and punched her once above the eye and caused the victim to suffer pain. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the VPU-PNTL.

The prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of 3 years or a fine as well as Articles 2, 3, 35 (b) 36 of the Law Against Domestic Violence on domestic violence as a public crime.

#### **Examination of evidence**

During the trial the defendant confessed all of the facts in the indictment and the defendant stated that an assault like this could cause the victim to suffer an injury and pain. The defendant also regretted his behaviour and promised to the court that will not reoffend against his wife or other person in the future. They immediately reconciled after the incident and the defendant was a first time offender and has 4 children and has no fixed income because he works supplying rocks.

Because the defendant confessed all of the facts set out in the indictment, the public prosecutor requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

#### **Final recommendations**

The prosecutor stated that the defendant confessed all of the facts and was guilty of committing the crime against his wife. Therefore he requested for the court to sentence the defendant pursuant to Article 145 of the Penal Code that carries a maximum penalty of three years in prison or a fine.

The public defender stated that the defendant confessed to all of the facts set out in the indictment, regretted his actions, has reconciled with the victim, has four children, and promised



that in the future he would not commit any crimes against the victim. For this reason, based on these circumstances 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 in prison, suspended for 1 year and 6 months.

### **14. Property damage**

Case No. : 0034/17.OEPMK  
Composition of the Court : Single Judge  
Judge : João Ribeiro  
Prosecutor : Mateus Nessi  
Public Defender : Marcelino Marques Coro  
Type of Penalty : Prison sentence of 1 year, suspended for 1 year six months

On 23 January 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity involving the defendant Abel Oqui who allegedly committed the offence against the victim Antonia Siqui in Oecusse District.

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

The public prosecutor alleged that on 2 June 2017, at approximately 9am, the defendant threw three rocks at the wall of the victim's house and caused a crack and the victim's house had a hole in it because 5 bricks were damaged. The facts about the incident were accompanied by photographs from the police.

The public prosecutor alleged that the defendants violated Article 258 of the Penal Code on property damage with that carries a maximum penalty of three years in prison or a fine.

### **Examination of evidence**

During the trial the defendant partially confessed the facts and said he threw one rock and not three and the defendant said he regretted his actions. The defendant works as an entrepreneur with a monthly income of US\$200 and has two children. The defendant promised to the court that he will not repeat his behaviour in the future and previously the defendant tried to reconcile but the victim did not want to.

The victim maintained all of the facts set out in the indictment and stated that she was a widow and has no income to fix the hole in her house that was caused by the defendant.

The witness Francisca Aluta Maria Suni, who is a neighbour, testified that the defendant threw one large rock and it struck the door 5 bricks were smashed. The witness stated that at that time the defendant was drunk.

### **Final recommendations**

The public prosecutor stated that the defendant was found guilty of committing the crime against the victim. The prosecutor stated that the defendant should have provided protection to the victim because she is an old, vulnerable woman but rather the defendant's showed he had no

empathy and threw rocks at the victim's house that caused damage. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 258 of the Penal Code.

The public defendant stated that he believed the defendant's testimony because he spoke honestly and after the incident the defendant tried to reconcile but the victim did not want to, and the matter was brought to court. The defendant stated that he regretted his actions, has two children, 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 against the defendant proportionate to his crime.

### **Decision**

After evaluating the facts produced during the trial, the court concluded the matter and sentenced the defendant to 1 year in prison, suspended for 1 year six months and ordered him to pay court costs of US\$50.00. The court also ordered the defendant to pay civil compensation to the victim totalling US\$100 within twenty days because he had been found guilty of committing the crime of property damage against the victim.

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

Case No.	: 0039/17.OEPMK
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nessi
Public Defender	: Calisto Tout
Type of Penalty	: 1 year in prison, suspended for 2 years

On 23 January 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant DB who allegedly committed the offence against his father in Oecusse District.

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

The public prosecutor alleged that on 1 August 2017, at approximately 9am, the defendant took a piece of wood and struck the victim on the head and caused the victim to suffer pain and swelling to his head. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the VPU-PNTL.

The prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of 3 years or a fine as well as Articles 2, 3, 35 (b) 36 of the Law Against Domestic Violence on domestic violence as a public crime.

### **Examination of evidence**

During the trial, the defendant used his right to remain silent. The victim maintained all of the facts in the indictment but stated that they have reconciled. The victim also stated that they are economically dependent on each other and they are now living together.

### **Final recommendations**

The prosecutor stated that the defendant was guilty of committing the crime against the victim even though during the examination of evidence he used his right to remain silent. Also, the victim confirmed all of the facts in the indictment. The prosecutor reiterated that actually the defendant should have respected and protected the victim as his father, because the victim had raised him. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender stated that the facts in the indictment could have been partially correct and partially incorrect because during the examination of evidence the defendant used his right to remain silent. Therefore, the defence requested for the court to apply a fair penalty against the defendant if the court finds the defendant guilty of committing the crime.

Before the trial finished the court gave an opportunity to the defendant to speak and the defendant stated that the facts in the indictment were all correct and he understood that striking a person can cause pain, and he regretted his behaviour. The defendant added that he is a farmer, has a monthly income of US\$ 20 and has 2 children. The defendant promised to the court that he would not commit any further crimes against his father or other person in the future and they immediately reconciled after the incident.

### **Decision**

The court found the defendant guilty of committing the crime against his father because in his final statement, the defendant confirmed that all of the facts in the indictment were correct. Therefore, the court concluded this matter and sentenced the defendant to 1 year in prison, suspended for two years.

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

Case No.	: 0131/17.OESIC.
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nessi
Public Defender	: Calisto Tout
Type of Penalty	: Fine

On 24 January 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant SFdC (member of PNTL) who allegedly committed the offence against his daughter (aged 14) in Oecusse District.

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

The public prosecutor alleged that on 1 June 2017, at approximately 2pm, the defendant slapped the victim twice on her right cheek and three times on her left cheek and punched her once in the head. The defendant then grabbed her face and back and kicked her twice on her side and caused the victim to suffer pain and redness to her back. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the VPU-PNTL.

The prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of 3 years or a fine as well as Articles 2, 3, 35 (b) 36 of the Law Against Domestic Violence on domestic violence as a public crime.

### **Examination of evidence**

During the trial the defendant acknowledged that he slapped the victim twice on her right cheek and three times on her left cheek and punched her once in the head, but denied that he grabbed the victim's face and back. The defendant understood that an assault like this could cause a person to suffer an injury and pain and he regretted his behaviour. They immediately reconciled after the incident and defendant promised to the court that he would not reoffend against his child or other person in the future. The defendant works as a member of PNTL with the rank of sergeant and earns a monthly salary of US\$435. The defendant stated that he was a first time offender and has 4 children.

The victim confirmed all of the facts in the indictment and they immediately reconciled after the incident with her mother as well and now they are living together.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime against his daughter based on the facts set out in the indictment, even though during the examination of evidence the defendant denied some of the facts. The prosecutor reiterated that the victim was the defendant's own child and the defendant is supposed to protect her, but rather the defendant hit his own child who is young and vulnerable. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender stated that the defendant partially confessed the facts set out in the indictment, regretted his actions, has reconciled with the victim, and was a first time offender. The defendant promised not to commit any further crimes against victim in the future and the defendant has 4 children. Therefore, he requested for the court to apply an appropriate punishment proportionate to the defendant's crime.

### **Decision**

After evaluating the facts produced during the trial, the court concluded this matter and sentenced the defendant to a fine of US\$ 120 to be paid in daily instalments of US\$ 1.00 for 120 days, and also ordered the defendant to pay court costs of US\$ 30. The court also imposed an alternative penalty of 80 days in prison if the defendant does not pay this fine.

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

Case No.	: 0364/2013.PDOEC
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nessi
Public Defender	: Calisto Tout
Type of Penalty	: 6 months imprisonment, suspended for 1 year.

On 25 January 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant FQ who allegedly committed the offence against his wife in Oecusse District.

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

The public prosecutor alleged that on 28 November 2013, at approximately 1pm, the defendant kicked the victim once in the back, punched the victim twice in the back, choked the victim, punched her once on the left cheek and once in the forehead and caused the victim to suffer pain. A medical report from PRADET and photographs from Police-VPU were also attached to this case file.

The prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of 3 years or a fine as well as Articles 2, 3, 35 (b) 36 of the Law Against Domestic Violence on domestic violence as a public crime.

### **Examination 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 works as a farmer and has no fixed monthly income, has reconciled with the victim and has three children.

Because the defendant confessed all of the facts set out in the indictment, the public prosecutor requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

### **Final recommendations**

The prosecutor stated that the defendant confessed all of the facts in the indictment and was guilty of committing the crime against his wife. The public prosecutor gave consideration to the defendant's testimony that assaulting a person is wrong and against the law in Timor-Leste, and because cases of domestic violence are a daily occurrence in the Oecusse Region, he requested for the court to impose a penalty pursuant to Article 145 of the Penal Code that carries a maximum penalty of 3 years or a fine.

The public defender stated that the defendant confessed all of the facts in the indictment, regretted his actions, has reconciled with the victim and promised not to commit any further crimes against the victim in the future and has three children. Based on these circumstances, he requested for the court to apply an appropriate punishment proportionate to the defendant's crime.

### **Decision**

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 6 months in prison, suspended for 1 year.

## **18. Crime of driving without a license**

Case No. : 004/18.OESTR  
Composition of the Court : Single Judge  
Judge : João Ribeiro  
Prosecutor : Mateus Nesi  
Public Defender : Marcelino Marques Coro  
Type of Penalty : Fine of US\$ 60

On 29 January 2018 the Oecusse District Court announced its decision in a case of driving without a licence involving the defendant Januario de Deus who allegedly committed the crime against the State of Timor-Leste in Oecusse District.

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

The public prosecutor alleged that on 26 January 2018, at approximately 11.30am, the defendant was riding a Repsol motorcycle without number plates and was travelling on the Oetulo public road to Padimau. When police conducted a check they found that the defendant did not have a driving licence.

The public prosecutor alleged that the defendant violated Article 207 of the Penal Code on driving without a licence that carries a maximum penalty of two years in prison or a fine.

### **Presentation of evidence**

The defendant confessed all of the facts in the indictment and he regretted his actions and was a first time offender. The defendant added that such behaviour was wrong and against the law in Timor-Leste and the defendant has no income because he is a student and has only been riding a motorcycle for approximately 2 months and now he has to obtain a licence.

Because the defendant confessed all of the facts set out in the indictment, the public prosecutor requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime of driving without a licence because the defendant confessed all of the facts and such crimes are prevalent in the Oecusse Region. Therefore he requested for the court to impose a fine against the defendant pursuant to Article 207 of the Penal Code.

The defence stated that the defendant confessed all of the facts, regretted his actions and has no income as he is a student. Therefore he requested for the court to impose a penalty against the defendant proportionate to his crime.

### **Decision**

After evaluating the facts produced during the trial, the court concluded this matter and ordered the defendant to pay a fine of US\$ 60 to be paid in daily instalments of US\$ 0.50 for 120 days. The court also imposed an alternative penalty of 80 days in prison if the defendant does not pay this fine.

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