



Case Summary
Oecusse District Court
March 2018

Affirmation: 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 Oecusse District Court

1. Total cases monitored by JSMP: 23

Article	Case Type	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	9
Article 145 of the PC	Simple offences against physical integrity	3
Article 316 of the PC	Smuggling	3
Article 207 of the PC	Driving without a licence	3
Articles 174, 161, 138, 172 of the PC	Sexual exploitation of a third party, abduction, attempted homicide and rape	1
Articles 145 & 161 (PC)	Simple offences against physical integrity and abduction	1
Article 151 of the PC	Reciprocal offences against physical integrity	1
Article 244 of the PC	Disobedience	1
Articles 207 & 145 (PC)	Driving without a licence and simple	1

	offences against physical integrity	
Total	23	23

2. Total decisions monitored by JSMP: 22

Type of desizaun	Number of cases
Prison sentence pursuant to Article 66 of the Penal Code	1
Suspension of execution of a prison sentence (Article 68 of the PC)	9
Fine pursuant to Article 67 of the Penal Code	6
Admonishment pursuant to Article 82 of the Penal Code	2
Acquitted	2
Validating withdrawal of complaint	2
Total	22

3. Total cases adjourned based on JSMP monitoring: 1

Reason for adjournment	Number of cases
The defendant was absent	1
Total	1

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

1. Crime of smuggling

Case No. : 0041/17.OESIC
Composition of the Court : Panel
Judges : João Ribeiro
: Jumiati Freitas
: Eusebio Xavier Victor
Prosecutor : Mateus Nesi
Public Defender : Calisto Tout
Type of Penalty : 2 years in prison, suspended for 2 years

On 1 March 2018 the Oecusse District Court announced its decision in a case of smuggling involving the defendant Luiza Liub who allegedly committed the crime against the State of Timor-Leste, in Nipani Village, Pante-Makasár Sub-District, Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 2 March 2017, at approximately 8pm, the defendant brought in some illegal goods through the Sakato border. The defendant brought in one bag of spring onions and parsley, 2 sacks of tempeh, 1 dish rack, 2 sacks of beans, 4 sacks of eggplants, 1 sack of mustard greens, 1 sack of bitter melon, 1 sack of cucumber, 1 sack of carrots, 4 buckets of tofu, 4 plastic bags of limes, 2 small plastic bags of chilies and turmeric, 8 large bunches of snake beans and 4 plastic bags of bok choy.

The public prosecutor alleged that the defendant violated Article 316 of the Penal Code on smuggling that carries a maximum penalty of 2 - 6 years in prison or a fine.

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 her actions. The defendant also stated that after the incident she paid tax to the Directorate of Customs totalling US\$212.25. The defendant is a small scale trader and has no fixed monthly income and promised not to repeat this behaviour in the future and the defendant has 4 children.

The public prosecutor requested for the court not to call a prosecution witness from the Police Border Force Unit (UPF) because the defendant confessed all of the facts in the indictment. The public defender agreed with this request.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime of smuggling which is prevalent in the Oecusse Region which caused the State of Timor-Leste to suffer a loss. Therefore he requested for the court to convict the defendant in accordance with the provisions of Article 316 of the Penal Code.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted her actions and promised that in the future she would not commit such crimes in the future. The public defender also stated that before the trial the defendant paid tax to the Directorate of Customs and she is a small scale trader with no fixed monthly income and collaborated with the court and she also has 4 children. Therefore he requested for the court to apply an appropriate punishment proportionate to the defendant's wrongdoing.

Decision

After assessing the facts that were proven during the trial, pursuant to Article 28 of the Penal Code¹ on remorse and Article 318² of the Penal Code on exemption from punishment, the court

¹ Article 28 of the Penal Code on remorse states that: In crimes without violence or serious threat against persons, if the damage has been remedied, the object returned or the situation legalized before the crime is reported or the information or a complaint received, the penalty shall be extraordinarily mitigated or, depending on the circumstances, the agent shall be exempt from any penalty.

² Article 318 of the Penal Code on exemption from punishment states that: The perpetrator of any of the acts described in the preceding articles may be exempted from punishment if the same voluntarily pays the assessed customs duties or fees, and said conduct is an isolated case.

concluded this matter and sentenced the defendant to 2 years in prison, suspended for 2 years, however the court decided to exempt the punishment because the defendant had already paid tax to the State.

2. Reciprocal offences against physical integrity

Case No. : 0172/17.OESIC.
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nesi
Public Defenders : Marcelino Marques Coro
: Inácio Quebo and Filipe Landos (Trainee Lawyers)
Type of Penalty : Validating withdrawal of complaint

On 12 March 2018 the Oecusse District Court attempted conciliation in a case of reciprocal offences against physical integrity involving the defendant NCP and his wife MGM, which allegedly occurred in Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 7 September 2017, at approximately 2pm, the defendant took a branch and slapped the victim once on her right shoulder and caused the victim to suffer pain and therefore the victim slapped the defendant once on his left cheek. The incident occurred when the defendant purchased some palm wine and drank it with some young people and did not purchase any rice for the victim to cook.

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 defendant apologised to the victim, regretted his actions and promised not to repeat such acts 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.

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

Case No.	: 0149/17.OESIC.
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nesi
Public Defenders	: Calisto Tout : Inácio Quebo and Filipe Landos (Trainee Lawyers)
Type of Penalty	: Prison sentence of 1 year and 6 months, suspended for 2 years with rules of conduct

On 12 March 2018 the Oecusse District Court 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 at approximately 8am on 28 July 2017 the defendant slapped the victim once on her left ear and told the victim to kneel down and slapped the victim twice on the back. The defendant then stomped on the victim's left thigh and side, bit the victim on the face and nose and then poked the victim in the eye and caused her to suffer pain. A medical report from PRADET and photographs from Police-VPU were also attached to the 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 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.

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. The defendant works as a teacher at a Primary School and earns US\$ 190.00 every month and has two children. The defendant promised to the court that he would not commit any further crimes against the victim or other person in the future. The defendant understood that punching someone can cause pain and damage their 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 set out in the indictment, and the prosecutor and defence agreed to 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/municipalities. Therefore he requested for the

court to impose a penalty pursuant to Article 145 of the Penal Code to deter the defendant from repeating such acts in the future.

The public defender stated that the defendant confessed all of the facts in the indictment, regretted his actions, and promised not to commit any further crimes against the victim in the future and has two children. Therefore 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 1 year and 6 months in prison, suspended for 2 years, and ordered him to pay court costs of US\$ 20 and also ordered him to periodically report to the Pante-Makasár Police Station once a month for 6 months.

4. Crime of simple offences against physical integrity characterized as domestic violence

Case No.	: 0157/17.OESIC.
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nesi
Public Defenders	: Marcelino Marques Coro : Inácio Quebo and Filipe Landos (Trainee Lawyers)
Type of Penalty	: Penalty of admonishment

On 13 March 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AJS who allegedly committed the offence against his daughter (aged 18) in Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 12 August 2017, at approximately 2pm, the defendant slapped the victim twice on her right cheek and caused the victim to suffer pain to her 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, 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts in the indictment, and the defendant also stated that she regretted her actions, works as a housewife and has no fixed monthly income and has five children. The defendant also declared that she was a first time offender and she has reconciled with the victim.

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 because 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 mentioned that cases of domestic violence are prevalent in the Oecusse Region in comparison with other districts/municipalities. 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 stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, collaborated with the court and has five children. Therefore he asked for the court to admonish 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.

5. Crime of smuggling

Case No.	: 0137/17.OESIC.
Composition of the Court	: Panel
Judges	: João Ribeiro : Jumiati Freitas : Eusebio Xavier Victor
Prosecutor	: Mateus Nesi
Public Defender	: Marcelino Marques Coro
Type of Penalty	: 2 years in prison, suspended for 2 years

On 1 March 2018 the Oecusse District Court announced its decision in a case of smuggling involving the defendant Maria Esperanca Bobo who allegedly committed the crime against the Timor-Leste Directorate of Customs, in Bobometo Village, Oesilo Sub-District, Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 09 July 2017, at approximately 4.30pm, the defendant illegally imported 115 litres of petrol and 655 litres of diesel through the Oesilo border.

The public prosecutor alleged that the defendant violated Article 316 of the Penal Code on smuggling that carries a maximum penalty of 2 - 6 years in prison or a fine.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that she regretted her actions. The defendant also stated that after the incident she paid tax to the Directorate of Customs and promised not to repeat this behaviour in the future and she has two children. The defendant is a small scale trader and has a fixed monthly income of US\$ 40.

The public prosecutor requested for the court not to call a prosecution witness from the Police Border Force Unit (UPF) because the defendant confessed all of the facts in the indictment. The public defender agreed with this request.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime of smuggling against the State which is a prevalent crime in the Oecusse Region which caused the State of Timor-Leste to suffer a loss. Therefore the public prosecutor requested for the court to convict the defendant in accordance with the provisions of Article 316 of the Penal Code to deter the defendant from committing such acts in the future.

The public defender stated that the defendant confessed all of the facts in the indictment, regretted her actions and after the incident paid tax to the Directorate of Customs. The defendant collaborated with the court and is a small scale trader with a monthly income of US\$40 and has two children. Therefore he requested for the court to apply an appropriate punishment proportionate to the defendant's crime.

Decision

After assessing the facts that were proven during the trial, pursuant to Article 28 of the Penal Code on remorse and Article 318 of the Penal Code on exemption from punishment, the court concluded this matter and sentenced the defendant to 2 years in prison, suspended for 2 years, however the court exempted the penalty because the defendant had already paid tax to the State.

6. Crime of simple offences against physical integrity

Case No.	: 0051/17.OEPMK
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nesi
Public Defenders	: Marcelino Marques Coro : Inácio Quebo and Filipe Landos (Trainee Lawyers)
Type of Penalty	: 1 year in prison, suspended for 1 year

On 14 March 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity involving the defendant Amrosio Caba who allegedly committed the offence against his uncle in Nipani Vilage, Pante-Makasár Sub-District, Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 22 October 2017, at approximately 9am, the defendant took a branch and threw it at the victim and hit the victim in the back and caused the victim to suffer pain, swelling and scratches on his back. The incident occurred when the victim let the defendant's buffalo loose, because the defendant tied it up against the victim's fence and damaged the victim's fence.

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

During the trial the defendant confessed all of the facts in the indictment, the defendant also stated that he regretted his actions and works as a farmer, has no fixed income and has three children. The defendant was a first time offender and stated that not yet reconciled with the defendant, because the defendant didn't want to.

The public prosecutor requested for the court to disregard the statements of the victim and witnesses made before the prosecutor because during the examination of evidence the defendant confessed all of the facts set out in the indictment.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime against the victim and the defendant had a strong intention of stoning the victim, because the defendant tied his buffalo against the victim's fence and damaged the victim's fence. Therefore he requested for the court to convict the defendant in accordance with the provisions of Article 145 of the Penal Code.

The defence stated that the defendant confessed all of the facts set out in the indictment and regretted his actions. The defendant also collaborated with the court and has three children. Therefore the public defendant requested for the court to impose a fair penalty on the defendant for his wrongdoing.

Decision

The court concluded this matter and imposed a prison sentence of 1 year against the defendant suspended for 1 year. The court also applied an additional order by prohibiting the convicted person from contacting the victim or going to the victim's house or speaking with the victim for 1 year, because the defendant and the victim live in close proximity and this could lead to a new crime occurring in the future, unless the victim himself calls on the defendant and wants to talk to the defendant.

7. Crime of smuggling

Case No.	: 0010/16.PDOEC
Composition of the Court	: Panel
Judges	: João Ribeiro : Jumiati Freitas : Eusebio Xavier Victor
Prosecutor	: Mateus Nesi
Public Defender	: Marcelino Marques Coro
Type of Penalty	: Acquitted

On 15 March 2018 the Oecusse District Court announced its decision in a case of smuggling involving the defendant Judita Oqui who allegedly committed the crime against the State of Timor-Leste, in Bobometo Village, Oesilo Sub-District, Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 19 March 2016, at approximately 3am, the defendant brought in some illegal goods through the Oesilo border. The defendant brought in 20 boxes of Napoleon wine and 10 boxes of bintang beer.

The public prosecutor alleged that the defendant violated Article 316 of the Penal Code on smuggling that carries a maximum penalty of 2 - 6 years in prison or a fine.

Presentation of evidence

During the trial the defendant stated that she didn't bring the goods in but rather she bought them from kiosks along the Oesilo Saben border near the border between Timor-Leste and Indonesia. The defendant stated that she regretted her actions and after the incident the defendant wanted to pay tax to the Directorate of Customs but the Directorate of Customs wanted to take the matter to court and after that she could pay the tax. The defendant is a small scale trader with a monthly income of US\$150 and she promised not to repeat this behaviour in the future and she has 5 children.

The public prosecutor requested for the court not to call a prosecution witness from the Police Border Force Unit (UPF) because the defendant confessed all of the facts in the indictment. The public defender agreed with this request.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime of smuggling against the State which is prevalent in the Special Region of Oecusse which caused the State of Timor-Leste to suffer a loss. Therefore he requested for the court to convict the defendant in accordance with the provisions of Article 316 of the Penal Code to deter the defendant from committing such acts in the future.

The public defender stated that during the examination of evidence the defendant made statements about her actions. The defendant also stated that she collected the alcohol at the Oesilo Saben border but she didn't bring it in, because the defendant purchased it from kiosks at the border. The defendant expressed regret for her actions and promised not to repeat such acts in the future. The defendant stated that after the incident she wanted to pay tax to the Directorate of Customs but the Directorate of Customs wanted to take the matter to court and after that she could pay the tax. The defendant is a small scale trader with a monthly income of US\$150 and the defendant collaborated with the court and has five children. Therefore the public defender requested for the court to acquit the defendant, or use its discretion to uphold justice.

Decision

After evaluating the facts proven during trial, the court did not find enough evidence relating to the charges against the defendant. For this reason the court acquitted the defendant from these charges.

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

Case No. : 0026/17.OEBCN
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nesi
Public Defenders : Marcelino Marques Coro
: Inácio Quebo and Filipe Landos (Trainee Lawyers)
Type of Penalty : Fine

On 15 March 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CTL who allegedly committed the offence against his wife in Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 11 June 2017, at 5pm, the defendant punched the victim once in the forehead and 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 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 was a first time offender. The defendant works as a teacher at a primary school with a monthly income of US\$205 and has one child. After the incident he immediately reconciled with the victim and promised not to commit any further crimes against the victim or other person in the future.

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 because the defendant confessed all of the facts in the indictment. The public defender agreed with this request.

Final recommendations

The prosecutor stated that the defendant was found guilty of committing the crime of domestic violence against his wife and the defendant had a strong intention of hitting his wife. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defendant 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 or relative in the future. The defendant has one child and now the defendant and victim are living together as husband and wife. Therefore the public defendant requested for the court to impose a penalty against the defendant proportionate to his crime.

Decision

The court concluded the matter and ordered the defendant to pay a fine of US\$ 120 to be paid in daily instalments of US\$ 1 for 120 days. The court also imposed an alternative penalty of 80 days in prison if the defendant does not pay this fine, and the defendant was also ordered to pay court costs of US\$ 30.

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

Case No.	: 0010/17.OEPSB
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nesi
Public Defenders	: Marcelino Marques Coro : Inácio Quebo and Filipe Landos (Trainee Lawyers)
Type of Penalty	: 6 months in prison, suspended for 1 year

On 15 March 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MHM who allegedly committed the offence against her husband in Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 16 June 2017 at approximately 6am, the defendant punched the victim once in the nose and caused the victim to suffer a scratch to her nose which caused bleeding and pain. The defendant then punched the victim once on the back of the neck and 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 maximum penalty of three years in prison or a fine as well as Articles 3(a), 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 she regretted his actions, has no fixed monthly income and the defendant has five children. The defendant promised not to commit any further crimes against the victim or other person in the future and after this incident they immediately reconciled.

The public prosecutor requested for the court to disregard statement made previously by the defendant because the defendant confessed all of the facts in the indictment. The public defender agreed with this request.

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. The public prosecutor mentioned that cases of domestic violence are prevalent in the Special Region of Oecusse in comparison with other municipalities. 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 her actions and promised that in the future she would not commit any crimes against the victim. In addition, the defendant told the court that she will not commit any further crimes against the victim or other person. Therefore the public defender requested for the court to impose a penalty against the defendant proportionate to her 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.

10. Simple offences against physical integrity and abduction

Case No.	: 0157/16.OESIC
Composition of the Court	: Panel
Judges	: João Ribeiro : Jumiati Freitas : Eusebio Xavier Victor
Prosecutor	: Mateus Nesi
Public Defender	: Calisto Tout
Type of Penalty	: 3 years in prison, suspended for 3 years

On 16 March 2018 the Oecusse District Court issued its decision in a case of simple offence against physical integrity and abduction involving the defendant RCQ and the victim AMFO (the defendant and the victim were in a romantic relationship), which allegedly occurred in Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 31 August 2016 at approximately at 12 midday the victim left school and was heading home, but the defendant forced the victim to get on his motorcycle. However the victim did not want to because she was traumatised by the defendant's behaviour on 29 August 2016. The victim also told the defendant that their relationship was over. The defendant continued to insist that the victim had to get on the motorcycle so they could get a photograph of the victim from the defendant's home. The defendant and the victim then left, but when they arrived in front of the defendant's house the defendant sped off. Therefore when they reached the Noefefan bridge the victim jumped off the motorcycle and she suffered a small injury to her leg and sprained her ankle. The victim decided to jump off the motorcycle because she remember that previously the defendant called the victim and asked to have sexual intercourse but the victim said she didn't want to because she was still at school.

On 29 August 2016 at approximately 8am the defendant rode a revo motorcycle and picked up the victim to take her to school, but the defendant actually took the victim to his house. The victim asked the defendant “*Why are you not taking me to school, and why are you taking me to your house?*” and the defendant told the victim to “*Shut up!*”

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 Article 161 of the Penal Code on abduction that carries a maximum penalty of 4 - 12 years in prison.

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 reach an amicable settlement with the defendant and requested for the court to withdraw her complaint against the defendant.

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 crime of simple offences against physical integrity and to continue with the examination of evidence for the crime of abduction.

During the trial the defendant stated that he did not ring the victim and did not ask to have sexual intercourse with the victim. The defendant stated that he had no intention of raping the victim, because the defendant and the victim had been in a romantic relationship since 2013 and the defendant wanted to marry the victim. The defendant also stated that when the victim ended their relationship the defendant was going to take the victim to his older sister's house to resolve the matter, but on the way the victim jumped off the motorcycle. However the defendant said that all of the other facts were true and he regretted his behaviour. The defendant is a student and does not have a fixed monthly income and after this incident the defendant and the family of the victim sat together and decided for the defendant and the victim to get married and now they are husband and wife. The victim maintained all of the facts in the indictment and stated that now she is married to the defendant.

Final recommendations

The prosecutor stated that the actions of the defendant were against the wishes of the victim because there was an agreement between the victim and the defendant before getting on the motorcycle that the defendant would take the victim to school and return home. However the defendant took the victim to another place. Therefore he requested for the court to convict the defendant in accordance with the provisions of Article 161 of the Penal Code.

The public defender stated that to prove the crime of abduction the defendant would have to have taken the victim from one place to another place, however the facts did not fulfil the requirements of the aforementioned crime, because the victim and the defendant stated that they had been in a romantic relationship since 2013 and wanted to end up as husband and wife. The defendant regretted his actions and now lives together with the victim as husband and wife, the defendant is a student and does not have a fixed monthly income. Therefore the public defender requested for the court to acquit the defendant from this crime or for the court to use its discretion to uphold justice.

Decision

After evaluating the facts proven during the trial, the court concluded this matter and sentenced the defendant to 3 years in prison suspended for 3 years. The court also considered that after this incident the defendant and the victim got married and now are living as husband and wife, which is a mitigating circumstance in this matter.

11. Crime of disobedience

Case No.	: 0041/18.OESIC
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nesi
Public Defenders	: Marcelino Marques Coro : Inácio Quebo and Filipe Landos (Trainee Lawyers)
Type of Penalty	: Acquitted

On 16 March 2018 the Oecusse District Court conducted a hearing to announce its decision in a case of disobedience involving the defendant Jose Antonio M. Pereira and the victims Natalino dos Santos Fernandes and Agostinho Fraz who are members of PNTL, in Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 13 March 2018 at approximately 09:00am the defendant denied that he did not want to provide information about an act of violence that occurred between the defendant and his wife against two victims who were members of PNTL, and the defendant also swore at the two victims.

The public prosecutor alleged that the defendant violated Article 244 of the Penal Code on disobedience that carries a maximum penalty of 3 years in prison or a fine.

Examination 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. The defendant promised that he will not repeat such acts in the future, and the defendant has three children. The two victims maintained all of the facts set out in the indictment.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime of disobedience, because he did not want to provide information about the facts relating to the incident involving the two victims. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 244 of the Penal Code.

The public defender stated that that there was no obligation to request information from the defendant, and the information should have been requested from the defendant's wife. The defendant collaborated with the court and regretted his actions and the defendant has three children. Therefore he requested for the court to acquit the defendant from this crime, or for the court to use its discretion to uphold justice.

Decision

After evaluating the facts proven during trial, the court did not find enough evidence relating to the charges against the defendant. For this reason the court acquitted the defendant from these charges.

12. Sexual exploitation of a third party, abduction, rape and attempted homicide

Case No.	: 0131/16.OESIC
Composition of the Court	: Panel
Judges	: João Ribeiro : Jumiati Freitas : Eusebio Xavier Victor
Prosecutor	: Mateus Nesi
Public Defenders	: Calisto Tout : Jhon Ndun (Private Lawyer)
Type of Penalty	: Prison sentence, suspended prison sentences and the other defendants were acquitted

On 20 March 2018 the Oecusse District Court announced its decision in a case of sexual exploitation of a third party, abduction, rape and attempted homicide involving the defendants CA, JDO, ASdC, CS, JC, SQ and AC who allegedly committed the crime against the victim FC iha Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 27 June 2016, at approximately 3pm, the defendant CA who was the boyfriend of the victim picked up the victim on his motorcycle. The victim did not want to go but the defendant said *“It won't take long, then I will bring you back.”* When they arrived at the scene of the crime which the defendant had already planned out, the defendant CA was contacted by the defendant JDO to wait at the place they had agreed upon. One day before the incident the defendant CA told the defendant JDO and the other defendants to meet the defendant CA at the scene where the incident occurred and each person would need to bring US\$5.00.

In the late afternoon when it was getting dark the defendant CA asked the victim to have sexual intercourse, but the victim did not want to. Then the defendant CA took a piece of wood and struck the victim once on the left side of her head, and used force to have sexual intercourse twice with the victim. After the defendant had sexual intercourse with the victim, at 10pm the victim asked the defendant CA to take her home because it was late at night. However the defendant CA said he would take her home a little bit later and the victim insisted but the defendant CA told the victim that he had to go somewhere else first and then he they would go home. The defendant CA took the victim to the aforementioned location on the motorcycle so he could park the motorcycle some distance from the victim.

After several minutes the defendant CA and the other 6 defendants met the victim and asked to have sexual intercourse with the victim, but the victim did not want to. Therefore the defendants

struck the victim once on the left side of the head with a piece of wood and she fell to the ground, they struck the victim on her right arm and broke it, then the defendants slapped and punched the victim many times in the head and face. The defendants tied the victim's two hands together and the defendant CA took a piece of wood and struck the victim on her left leg. The defendant CA said *“Beat her to death so she can't tell anyone because if she is still alive she will tell her brothers and we will all go to jail.”* After beating the victim the defendants used force to remove the victim's clothing and had sexual intercourse with the victim after doing so each defendant gave US\$5.00 to the defendant CA, totalling US\$30.00

After the incident the defendants left the victim at the scene of the crime in the river near a rice field. On 29 June 2016 JA (witness) was looking for his buffalo and found the victim. When the witness JS found the victim he saw that the victim was seriously injured and there was dried blood on her body. The witness (JA) cut down a branch to give to the victim to use as a crutch and helped the victim to walk. The victim was exhausted and she managed to walk a little bit and then had to sit down and then walk a bit more, until they met with some other witnesses who told the police about the incident and the victim was taken for treatment at the Oecusse Referral Hospital and the victim was evacuated to the Dili National Hospital, because the victim was in a serious condition.

Previously on 25 and 26 June 2016 the defendant CA went looking for the other 6 defendants to inform them and make an agreement with these defendants that on the next day (27 June) they would meet with the defendant and they would each have to bring US\$5.00.

The public prosecutor alleged that the defendant CA violated Article 174 of the Penal Code on the crime of sexual exploitation of a third party, Article 161 on abduction and Article 138 and Article 23 on attempted homicide. The public prosecutor alleged that six defendants violated Article 172 of the Penal Code on the crime of rape, Article 138 and Article 23 on attempted homicide.

Presentation of evidence

During the trial the seven defendants stated that some of the facts were true and some facts were not true. The defendant CA stated that the defendant and victim had been in a romantic relationship since March 2016, and the defendant also stated that the victim asked the defendant to pick her up and take her to her uncle's house. However on the way the victim told the defendant that they didn't need to go to her uncle's house and so the defendant said let's go to my house. Then the defendant didn't take the victim home and rather took her to the scene of the crime to hang out.

After about 30 minutes the defendant JDO and the other five defendants arrived at the scene of the crime and the defendant CS grabbed the victim and the defendant JC struck the defendant CA with a stone, and the defendant CA became afraid and ran home and left the victim alone. The defendant also said that he did not hit the victim, did not make an agreement with the other six defendants to meet with the defendant CA at the place where they had agreed upon and denied that he received US\$5.00 from the other defendants. The defendant is a student with no income, regretted his actions and was a first time offender.

The defendant JSO stated that he had sexual intercourse with the victim and gave US\$5.00 to the defendant CA. The defendant stated that during the incident he did not hit the victim. The defendant is a student with no income, regretted his actions and was a first time offender.

The defendant ASC stated that he had sexual intercourse with the victim, but did not hit the victim, the defendant regretted his actions and was a first time offender.

The defendant CS stated that he had sexual intercourse with victim, but did not hit the victim and the defendant is a farmer with no income. The defendant regretted his actions and was a first time offender.

The defendant JC stated that he went to the scene of the crime to meet with the defendant CA but the defendant did not see the victim. Then the defendant gave US\$5.00 to the defendant CA and the defendant CA threatened to hit the defendant so he ran home and did not manage to have sexual intercourse with the victim. The defendant also stated that he did not hit the victim and was a first time offender and did not see the defendant SQ at the scene of the crime.

The defendant SQ stated that he knew the defendant CA because their mothers are siblings. The defendant did not know that the victim was CA's girlfriend. During the incident the defendant SQ was at home. The defendant denied that he hit the victim because the defendant was at home and the defendant is a farmer with no income.

The defendant AC stated that the defendant CA took a piece of wood and struck the victim once on her right arm and then struck the victim on the right side of her face with a rock and tied the victim's hands together before removing her clothing so the other defendants could have sexual intercourse with the victim. When the defendant CA assaulted the victim the defendant JC was standing near the victim. The victim maintained all of the facts set out in the indictment of the public prosecutor.

The witness JA testified that when he was searching for his buffalo he found the victim lying on the ground in the aforementioned location, but the victim's body was covered in blood and some of the blood was dry. The witness cut down a branch and gave it to the victim so she could walk, but the victim could only walk a short distance and then would have to rest and when they reached a place where a lot of people were smashing rocks the witness handed over the victim to those people and they rang the ambulance to take the victim to the Oecusse Referral Hospital.

The other witnesses were not required because the court considered the statements of the victim and the witness JA to have confirmed all of the facts in the indictment.

Final recommendations

The public prosecutor alleged that during the examination of evidence some of the defendants spoke the truth and some denied all of the facts. However, the public prosecutor stated that all of the defendants were guilty of committing the crime against the victim, and this crime occurred because the defendants formulated a plan in advance to sexually assault the victim. In particular, the defendant CA was guilty, as he was the boyfriend of the victim and he told the other defendants, or made an agreement with them, to meet with the defendant CA on Monday at a predetermined location and told them to bring US\$5.00. The public prosecutor stated that the defendant CA was guilty of committing 3 crimes, namely abduction, sexual exploitation of a

third party and attempted homicide. Meanwhile the other 6 defendants were guilty of committing rape and attempted homicide. Therefore the public prosecutor requested for the panel of judges to apply a unique penalty for each of the defendants based on their respective wrongdoing.

The defence lawyer representing the defendants CA and AC (private lawyer) stated that the defendant CA and the victim were in a romantic relationship, and the defendant only gave testimony about the acts he committed. Therefore he requested for the court to impose a fair penalty against the defendant CA proportionate to his crime. Meanwhile in relation to the defendant AC, the defence asked for him to be acquitted from this crime, because the defendant did not have sexual intercourse with the victim.

The defence lawyer representing the other 5 defendants from the Office of the Public Defender argued that the defendants confessed to having sexual intercourse with the victim, but did not hit the victim. The public defender emphasized that the intercourse happened because they gave money to the victim's boyfriend in advance and some stated that on the day of the incident they were somewhere else. The defendant CA had a plan to sell his girlfriend for profit because all of the facts were proven that the defendant CA acted in a way to influence the other defendants. The defendants were first time offenders and regretted their actions, work as farmers and have no fixed income. Therefore the public defender requested for the court to acquit the five defendants from the aforementioned crime.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant CA to 22 years in prison, after finding the defendant guilty of committing two acts of rape and attempted homicide against the victim. Meanwhile for the crime of sexual exploitation of a third party and abduction, the court acquitted the defendant because he did not testify that he received money from the other defendants.

The defendants JdSO, ASC and CS were given prison sentences of 15 years because they were found guilty of committing the crime of rape against the victim and attempted homicide. In addition the court modified the coercive measures against the three defendants from periodically appearing before the police and put them in pre-trial detention for 15 days pending an appeal from the defence.

The defendants JC and AC were found guilty of committing the crime of attempted homicide, and the court sentenced them to 3 years in prison, suspended for 5 years with the condition that the defendants must apologise to the victim. The court acquitted the defendant SQ, because during the incident he was not at the scene.

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

Case No.	: 0169/17.OESIC.
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nesi
Public Defenders	: Marcelino Marques Coro
	: Inasio Quebo (Trainee Lawyer)

Type of Penalty : Penalty of admonishment

On 21 March 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CS who allegedly committed the offence against his wife in Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 5 September 2017, at 5.45pm, the defendant pulled the victim's hair and threw her on the ground and punched the victim twice on the back of the neck and 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 maximum penalty of three years in prison or a fine as well as Articles 2, 3, 35 (b) of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant stated that he did not punch the victim twice, and only punched the victim once on the back of the neck, pulled the victim's hair and threw the victim on the ground. The defendant also stated that he regretted his actions and was a first time offender. The defendant is a farmer, has no fixed monthly income and has five children. The defendant promised not to commit any further crimes against his wife or other person in the future, and has not yet reconciled with the victim, because the victim is still living together with another man.

The victim confirmed the defendant's statement that he only punched her once on the back of the neck, pulled the victim's hair and threw the victim on the ground. The victim also stated that she is living with another man and did not want to be with the defendant, because the defendant always hit her and she has not reconciled with the defendant.

The witness JS, who is the niece of the victim, testified that the defendant did beat the victim in their house, when they were out walking around with the victim. The witness corroborated that only after the incident she found out that the victim had another man.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim and the crime of domestic violence is prevalent in the Special Autonomous Region of Oecusse in comparison with other municipalities. 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 a lenient penalty against the defendant because the defendant confessed his actions, the victim corroborated the testimony of the defendant, he regretted his actions, and was a first time offender.

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.

14. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0038/17.OEBCN
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nesi
Public Defenders : Calisto Tout
: Inácio Quebo and Filipe Landos (Trainee Lawyers)
Type of Penalty : Fine

On 21 March 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MM as the village chief who allegedly committed the offence against his wife in Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 9 August 2017, at approximately 10pm, the defendant slapped the victim once on her right cheek and slapped the victim twice on the back of her neck and 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 maximum penalty of three years in prison or a fine as well as Articles 2, 3, 35 (b) and Article 36 of the Law Against Domestic Violence.

Examination 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. The defendant added that he works as the village chief and has a monthly income of US\$145.00 and the defendant has four children. The defendant also promised that in the future he would not commit any such crimes against the victim. After this incident he reconciled with the victim and now they are living together in one home as husband and wife.

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 and the public defender agreed.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the statement of the defendant and the defendant as a village authority should have a good understanding about the crime of domestic violence and how to prevent this crime, but on the contrary the defendant was the one who committed this crime. Therefore he requested for the court to convict the defendant in accordance with the provisions of Article 145 of the Penal Code to deter the defendant from committing such acts in the future.

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 the victim in the future. The defendant has four children and now the defendant and victim are living together as husband and wife. Therefore the public defendant requested for the court to impose a penalty against the defendant proportionate to his crime.

Decision

The court concluded the matter and ordered the defendant to pay a fine of US\$ 120 to be paid in daily instalments of US\$ 1 for 120 days as well as court costs of US\$ 20. The court also imposed an alternative penalty of 80 days in prison if the defendant does not pay this fine.

15. Crime of simple offences against physical integrity

Case No.	: 0158/17.OESIC.
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nesi
Public Defenders	: Marcelino Marques Coro : Inasio Quebo (Trainee Lawyer)
Type of Penalty	: Validating withdrawal of complaint

On 21 March 2018 the Oecusse District Court announced its decision regarding attempted conciliation in a case of simple offences against physical integrity involving the defendant Benjamin da Costa who allegedly committed the offence against his younger brother in Nipani Village, Pante-Makasár Sub-District, Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 17 August 2017, at approximately 10.30pm, the defendant slapped the victim twice on his right cheek and punched the victim once on his left cheek. The defendant then choked the victim and caused the victim to suffer pain. This case occurred when the defendant and the victim participated in a ceremony for their traditional sacred house and they argued about what things they needed to take, and the defendant committed the acts against the victim. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the VPU-PNTL.

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 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.

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

Case No.	: 0043/17.OEPMK
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nesi
Public Defenders	: Calisto Tout Inácio Quebo and Filipe Landos (Trainee Lawyers)
Type of Penalty	: 1 year in prison, suspended for 1 year

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

Charges of the Public Prosecutor

The public prosecutor alleged that on 23 August 2017, at approximately 6am, the defendant punched the victim once above her left eye and caused the victim to suffer pain and swelling above her eye. 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 maximum penalty of three years in prison or a fine as well as Articles 2, 3, 35 (b) and Article 36 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 has reconciled with the victim. The defendant works for a HK company and has a monthly income of US\$144.00.

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 and the public defender agreed.

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. 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 a fine against the defendant because the defendant confessed all the facts in the indictment, regretted his actions and has reconciled with the victim.

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 ordered him to pay court costs of US\$ 20.

17. Crime of driving without a license

Case No.	: 0045/17.OESTR
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nesi
Public Defenders	: Calisto Tout : Inácio Quebo and Filipe Landos (Trainee Lawyers)
Type of Penalty	: Fine

On 22 March 2018 the Oecusse District Court announced its decision in a case of driving without a license involving the defendant Lucia Da Cunha 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 3 August 2017, at approximately 11am, the defendant was riding a motorcycle on a public road from Masin and heading 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

During the trial the defendant confessed all of the facts set out in the indictment, regretted her actions and was a first time offender. The defendant works as a teacher in primary school with a monthly income of US\$222. After the incident the defendant obtained a driving licence.

Because the defendant confessed all of the facts set out in the indictment, the public prosecutor requested for the court to disregard the 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 Autonomous Region of Oecusse. For this reason the public prosecutor requested for the court to impose a fine on the defendant pursuant to Article 207 of the Penal Code.

The public defender stated that the defendant confessed all of the facts in the indictment, regretted her actions and was a first time offender. Therefore the public defendant requested for the court to impose a fair penalty against the defendant proportionate to her crime.

Decision

The court concluded the matter and ordered the defendant to pay a fine of US\$ 120 to be paid in daily instalments of US\$ 1 for 120 days as well as court costs of US\$ 20. The court also imposed an alternative penalty of 80 days in prison if the defendant does not pay this fine.

18. Crime of driving without a license

Case No.	: 0046/17.OESTR
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nesi
Public Defenders	: Calisto Tout : Inácio Quebo and Filipe Landos (Trainee Lawyers)
Type of Penalty	: Fine

On 22 March 2018 the Oecusse District Court announced its decision in a case of driving without a license involving the defendant Julio Tani who allegedly committed the crime against the State of Timor-Leste in Costa Village, Pante-Makasár Sub-District, Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 8 August 2017, at approximately 10am, the defendant was riding a motorcycle on a public road from Palaban and heading to Tulaika, Lifau. 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 works for the HK company with a monthly income of US\$140. After the incident the defendant obtained a driving licence and the defendant 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 had been proven guilty of committing the crime of driving without a licence based the confession of the defendant. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 207 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 was a first time offender. Therefore the public defender requested for the court to impose a penalty against the defendant proportionate to his crime.

Decision

The court concluded the matter and ordered the defendant to pay a fine of US\$ 90 to be paid in daily instalments of US\$ 50 cents for 180 days as well as court costs of US\$ 20. The court also imposed an alternative penalty of 120 days in prison if the defendant does not pay this fine.

19. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0181/17.OESIC.
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nesi
Public Defenders : Calisto Tout
: Inácio Quebo and Filipe Landos (Trainee Lawyers)
Type of Penalty : 1 year in prison, suspended for 1 year

On 23 March 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 20 September 2017, at approximately 11.30pm, the defendant slapped the victim once on her left cheek, slapped the victim once on the back of the neck and kicked the victim in the thigh and caused the victim to suffer swelling and 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 maximum penalty of three years in prison or a fine as well as Articles 2, 3, 35 (b) and Article 36 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, was a first time offender and promised not to commit any more crimes against the victim in the future. The defendant works as a security guard with a monthly income of US\$125. The defendant added that after the incident he immediately reconciled with the victim and has a child.

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 and the public defender agreed.

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 the crime against the victim. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defendant 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 were proven during the trial, the court concluded the matter and sentenced the defendant to 1 year in prison, suspended for 1 year and ordered him to pay court costs of US\$ 20.

20. Crime of simple offences against physical integrity characterized as domestic violence

Case No.	: 0178/17.OESIC.
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nesi
Public Defenders	: Calisto Tout : Inácio Quebo and Filipe Landos (Trainee Lawyers)
Type of Penalty	: Prison sentence of 1 year, suspended for 1 year and 6 months

On 26 March 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant GAF who allegedly committed the offence against his wife in Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 20 September 2018, at approximately 10am, the defendant choked the victim, pulled the victim's hair and threw the victim on the ground. The defendant then punched the victim twice on her right and left cheeks and head and the victim suffered pain.

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, 35 (b) and 36 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. The defendant works as a security guard with a monthly

income of US\$125 and has one child. The defendant was a first time offender, has reconciled with the victim and they live together in the same house as husband and wife.

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. In addition the public defender also agreed with this request.

Final recommendations

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

The defence stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, collaborated with the court and has one child. 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 in prison, suspended for 1 year and 6 months and ordered him to pay court costs of US\$ 20.

21. Crime of simple offences against physical integrity

Case No.	: 0038/17.OEPMK
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nesi
Public Defenders	: Marcelino Marques Coro
	: Inácio Quebo and Filipe Landos (Trainee Lawyers)
Type of Penalty	: Fine

On 26 March 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity involving the defendant Olga Eli who allegedly committed the offence against Joana Lafu (neighbour) in Costa Village, Pante-Makasár Sub-District, Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 17 July 2017, at approximately 12 midday, the defendant took a piece of wood and smashed the victim's door and grabbed the victim by the hair and twisted her hair and threw her on the ground. This incident occurred when the victim's husband called on the defendant to add another piece of wood to finish the defendant's wheelbarrow that the victim's husband was building, but the defendant thought that the victim did not agree with the victim's husband making a wheelbarrow for the defendant, so the defendant committed this

act against the victim. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the VPU-PNTL.

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

During the trial the defendant stated that she took a piece of wood and smashed the victim's door, but did not pull the victim's hair or throw the victim on the ground. The defendant also stated that she regretted her actions and works as a small scale trader with a monthly income of US\$40.00 and has five children. The defendant was a first time offender and has not reconciled with the victim, because the victim didn't want to. The victim maintained the facts set out in the indictment of the public prosecutor.

The witness Vicente Alefit who was the victim's husband testified that during the incident he saw the defendant take a piece of wood and smash the victim's door, pull the victim's hair and throw the victim on the ground.

The witness Minguel Cau who is the victim's brother testified that during the incident he saw the defendant take a piece of wood and smash the victim's door, pull the victim's hair and throw the victim on the ground.

Final recommendations

The public prosecutor stated there was strong evidence that the defendant committed the crime of simple offences against the physical integrity of the victim, but the defendant lied to avoid taking responsibility for her actions. The public prosecutor also stated that the victim's testimony was corroborated by a medical report and photographs that were in the case file. Therefore he requested for the court to convict the defendant in accordance with the provisions of Article 145 of the Penal Code.

The defence stated that the defendant confessed to what she had done and regretted her actions. The defendant also tried to reconcile with the victim but the victim did not want to. Therefore the public defender requested for the court to acquit the defendant from this crime, or for the court to use its discretion to uphold justice.

Decision

After evaluating the facts produced during the trial, the court concluded this matter and sentenced the defendant to a fine of US\$ 30 to be paid in daily instalments of US\$ 1.00 for 150 days, and also ordered the defendant to pay court costs of US\$ 30. The court also imposed an alternative penalty of 100 days in prison if the defendant does not pay this fine.

22. Driving without a licence and simple offences against physical integrity

Case No. : 0047/17.OESTR
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nesi
Public Defenders : Calisto Tout
: Inácio Quebo and Filipe Landos (Trainee Lawyers)
Type of Penalty : Fine

On 26 March 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity involving the defendant Mario Marcelos Oqui and the victim Bazilio Abi and attempted conciliation for the crime of driving without a licence involving the defendant Mario Marcelos Oqui who allegedly committed the crime against the State of Timor-Leste in Costa Village, Pante-Makasár Sub-District, Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 26 September 2017, at approximately 7.30pm, the defendant was riding a Revo motorcycle without number plates on the public road from Postu to Palaban and collided with a motorcycle being ridden by the victim Bazilio which caused the victim to fall to the ground. 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 as well as Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of 3 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 previously the defendant gave compensation to the victim totalling US\$400 as well as a pig. 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.

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 crime of simple offences against physical integrity and to continue with the examination of evidence for the crime of driving without a licence.

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 added that such behaviour was wrong and against the law in Timor-Leste and the defendant is a student who has no

monthly income and has only been riding a motorcycle for approximately 2 years and now he has 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 based on the defendant's confession and such crimes are prevalent in the Autonomous Region of Oecusse. 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 and regretted his actions. The defendant is a student without a fixed monthly income and now the defendant has a driving licence. Therefore he requested for the court to impose a lenient penalty against the defendant.

Decision

The court concluded this matter and ordered the defendant to pay a fine of US\$ 75 to be paid in daily instalments of 50 cents for 150 days. The court also imposed an alternative penalty of 100 days in prison if the defendant does not pay this fine.

For more information, please contact:

Luis de Oliveira Sampaio
Executive Director of JSMP
Email: luis@jsmp.tl