



Press Release
Dili District Court
10 April 2017

JSMP requests for courts to include civil compensation in prison sentences against convicted persons in cases involving sexual violence

JSMP has continuously requested for the courts to apply civil compensation in addition to prison sentences against defendants who have committed crimes of sexual violence. This compensation is a means to ensure full redress for the harm/damage inflicted on the victim by the defendant.

Pursuant to Article 104.1 of the Penal Code, the court must determine civil compensation for the loss or damages resulting from a crime, when a request is made by the victim, represented by the Public Prosecution Service. The court needs to determine the total amount of compensation to be granted to a victim, based on an assessment of the total damage or losses caused by the defendant's criminal act.

Also, Article 72.3 of the Criminal Procedure Code states that the Public Prosecution Service is responsible for including in the indictment elements required for determining civil liability for a crime. Therefore, the Public Prosecution Service has an obligation to define how the actions of the defendant have caused the victim to suffer a loss or damages, and must provide evidence and determine the value of this loss or damages. Pursuant to Article 278.8 (g), the court shall take into account the proved facts and decide "*whether the prerequisites for civil compensation arbitration have been identified.*"

JSMP has observed that the courts continue to send those convicted of committing crimes of sexual violence to prison, which is an important step forward. However, in most of these cases the courts have not ordered defendants to pay civil compensation to victims. Also, in one case of sexual abuse against a minor involving the defendant DM and a victim aged 14, that occurred in Ermera, the Dili District Court ordered the defendant to serve a single prison sentence of 14 years.

"This civil compensation is critical for victims, to redress the harm caused by defendants' actions and as a means to educate defendants and society to condemn sexual violence," said Luis de Oliveira Sampaio, Executive Director of JSMP.

The public prosecutor alleged that on 16 May 2016, at 1:00pm the defendant, who was the victim's teacher, told the victim and her friends to move computers from a new school room to

Rua Beco Lakateu, Aldeia Manu fuik,
Suku Colmera, Administrativu Vera Cruz
Dili Timor Leste
PoBox: 275

Telephone: 3323883 | 77295795

www.jsmp.tl

info@jsmp.minihub.org

Facebook: www.facebook.com/timorleste.jsmp

Twitter: @JSMPtl

an old school room, because the defendant was going to conduct a computer based exam and the defendant summoned the victim last of all. Inside the school room the defendant told the victim to sit on a chair and he laid down the victim down and had sexual intercourse. After having sexual intercourse the defendant threatened to beat the victim if she told her parents or friends.

On 10 September 2016, at 08.00 am, the defendant again had sexual intercourse with the victim on top of some chairs. The defendant committed the crime after he told victim to take some mathematics books to the defendant's new building. The defendant also threatened the victim not to tell anyone and told the victim to go home.

Then on 27 September 2016, at 10.30am, at a recreation area, the defendant told the victim to distribute self-learning materials by placing them on the students' tables. When the victim was distributing the materials the defendant summoned her again to his room and grabbed the victim on her genitals. When the defendant committed this act, three of the victim's friends witnessed it and immediately told their teachers.

The public prosecutor alleged that the defendant violated article 177 (1) and (2) of the Penal Code on sexual abuse of a minor by practicing vaginal, anal or oral coitus as well as an act of sexual relief with a minor aged less than 14 years.

After evaluating the relevant evidence produced during the trial the court sentenced the defendant to 14 years in prison. This penalty was an accumulation of 8 years in prison for the first and second incidents, and 6 years in prison for the third incident.

JSMP is concerned that the defendant was a teacher who is supposed to set a good example and provide guidance to his students, rather than violating them. Therefore, JSMP recommends for the Ministry of Education to pay close attention to teachers and make sure they perform their roles properly as educators.

For more information please contact:

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