



Case Summary
The Dili District Court
August 2018

Statement: The following case summaries set out the facts and the proceedings of cases before the court based on JSMP's independent monitoring, and the testimony given by the parties before the court. This information does not reflect the opinions of JSMP as an institution.

JSMP strongly condemns all forms of violence, especially against women and vulnerable persons. JSMP maintains that there is no justification for violence against women.

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

1. Total cases monitored by JSMP: 7¹

Article	Case Type	Number of cases
Article 172 of the PC	Rape	1
Articles 23, 24, 172 of the PC	Attempted rape	1
Article 139 (i, g) KP	Aggravated homicide	1
Articles 23 and 138 of the Penal Code	Attempted homicide	1
Article 299 of the PC	Economic participation in business	1
Article 253 (1) of the PC	Robbery	1
Article 207 of the PC	Driving without a licence	1
Total		7

2. Total decisions monitored by JSMP: 5

Type of penalty	Number of cases
-----------------	-----------------

¹ A limited number of cases are discussed in this Case Summary because the courts had their annual judicial recess between 1 August 2018 - 15 September 2018.

Prison sentence	2
Fine (Article 67 of the PC)	1
Acquitted	2
Total	5

3. Total cases adjourned based on JSMP monitoring: 0

4. Total ongoing cases based on JSMP monitoring: 2

B. Descriptive summary of decisions handed down in cases monitored by JSMP:

1. Crime of Robbery

Case No. : 0225/17. DICMR
Composition of the Court : Panel
Judges : Duarte Tilman, Zulmira A. Barros da Silva and Sribuana da Costa
Prosecutor : Pedro Baptista
Public Defender : Aderito dos Reis
Type of penalty : 1 year in prison, suspended for 3 months

On 6 August 2018 the Dili District Court announced its decision in a case of robbery involving the defendant Januario do Santos Fátima and the victim Mario de Jesus Mota, in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 05 May 2017, at approximately 10pm, the victim was riding a Mega-Pro motorcycle from Lafatik Komoro to Rai-kotu. The defendant and two of his friends stopped the victim in the middle of the road, and without any clear reason the defendant shoved some bread into the victim's mouth, and punched the victim once in the nose. The defendant also removed the victim's helmet from his head and struck the victim three times in the head with the helmet. The victim left his motorcycle behind and ran off to complain to the police.

The prosecutor alleged that when the police arrived at the scene the defendant had pushed the victim's motorcycle to his house.

The public prosecutor alleged that the defendant violated Article 253.1 of the Penal Code on robbery that carries a maximum penalty of 3-10 years in prison.

Presentation of evidence

During the trial the defendant partially confessed that he and two friends were drunk when they stopped the victim. The defendant acknowledged that he shoved some bread in the victim's

mouth and punched the victim once in the nose but the defendant denied that he struck the victim three times in the head with the helmet and pushed the victim's motorcycle to his house. The defendant stated that he regretted his actions and promised not to reoffend in the future.

The court did not hear the victim's testimony because the victim has passed away, based on a statement from his village.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime of robbery based on the facts set out in the indictment of the public prosecutor but because the defendant partially confessed, regretted his actions and was drunk when he committed the crime, the public prosecutor requested for the court to sentence the defendant to three years in prison, suspended for five years.

The public defender requested for the court to acquit the defendant from the charges because the defendant's actions did not fulfil the elements of the crime of robbery. The public defender argued that the defendant was guilty of shoving some bread in the victim's mouth and punching him once in the nose, but the defendant did not push the victim's motorcycle to his house and the victim left his motorcycle at the scene.

Decision

After evaluating all of the facts the court found that the defendant shoved some bread into the victim's mouth and punched the victim once in the nose, but did not take the victim's motorcycle. The court stated that this violence was an element of the crime of robbery. For this reason the court imposed a prison sentence of 1 year and 3 months against the defendant. The court found that the defendant had already served this sentence because during the investigation process and trial the defendant was in pre-trial detention for one year and three months.

2. Crime of attempted of rape

Case No.	: 0003/13. DIDIL
Composition of the Court	: Panel
Judge	: José Maria de Araujo (representing the panel of judges)
Prosecutor	: Pedro Baptista
Public Defender	: Américo Martins (private lawyer)
Type of penalty	: Acquitted

On 27 August 2018 the Dili District Court conducted a hearing to announce its decision in a case of attempted rape involving the defendant JdS who allegedly committed the offence against the victim RdC, aged 18, in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 07 July 2013, at approximately 11pm, the defendant grabbed and fondled the victim's sexual organs with the intention of having sexual intercourse with the victim who was sleeping in the bedroom of her cousin (ANL). However, the defendant was unable to carry out his action because the victim kicked him and ran away and told her nephew (VGL) who was studying in the guest room, who managed to grab the defendant.

The public prosecutor alleged that the defendant violated Article 172 of the Penal Code on the crime of rape that carries a prison sentence of 5 to 15 years in prison together with Article 23 and 24 of the Penal Code on attempt and punishability of attempt.²

Decision

The court found that the defendant was in a romantic relationship with ANL (the victim's cousin) and on the night of the incident the defendant went to the home of ANL and the victim, so he could get US\$40.00 that ANL had promised to give to the defendant.

The court found that when he arrived at ANL's home, the defendant went in to ANL's bedroom, and the defendant grabbed and fondled the victim who was asleep in ANL's bed. The court also found that that the defendant did not manage to have sexual intercourse because the victim screamed and kicked the defendant. These facts were proven based on the victim's statement, and also the testimony of the witness VGL who is the younger brother of ANL.

However, after evaluating all of the facts the court found that the defendant had no intention of grabbing or having sexual intercourse with the victim because at that time the power was off and the defendant could not see and did not know that the victim was sleeping in ANL's bedroom. The court found that the defendant's act was human error and occurred because the power was off and the defendant thought that the person sleeping in the bedroom was his girlfriend ANL. Therefore, the court did not find evidence showing that the defendant intended to commit this act against the victim.

In addition, the court also considered the testimony of the witness ANL, who is the girlfriend of the defendant, who testified that she is in a relationship with the defendant and they regularly have sexual intercourse.

Pursuant to Article 17.1 of the Penal Code on error regarding circumstances of the act,³ the court concluded the matter and acquitted the defendant from the charges of the prosecutor and

² JSMP did not monitor the presentation of evidence and final recommendation because the case was closed to the public.

³Error regarding circumstances of the act: 1. Error regarding elements of the law or acts related to a legally defined crime or prohibition that would reasonably be considered essential for the perpetrator to have knowledge of in order to comprehend the unlawfulness of the act excludes. 2. The system described in the previous sub article includes

requested for the Public Prosecution Service to immediately release the defendant who had been in pre-trial detention in prison.

3. Crime of driving without a license

Case No. : 0018/18. DISTR
Composition of the Court : Single judge
Judge : Ivan J. S. Patrocínio A. Goncalves
Prosecutor : José Elu
Public Defender : Miguel A. Fernandes
Type of penalty : Fine of US\$ 90.00

On 29 August 2018 the Dili District Court conducted a hearing to announce its decision in a crime of driving without a licence involving the defendant Cris Joanico Ponte Cruz that allegedly occurred in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that the defendant, who is a secondary school student, on 27 August 2018 at approximately 12.47pm was riding a Supra-X motorcycle and picked up a female friend without wearing a helmet. Therefore, the traffic police stopped the defendant in front of Hotel Timor and found out that the defendant had no 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 of the prosecutor and stated that he regretted his actions, and promised not to reoffend in the future.

Final recommendations

The public prosecutor considered that the defendant committed the crime of driving without a licence, and therefore requested for the court to impose a fine of US\$60.00 against the defendant.

The public defender requested for the court to impose a fine against the defendant because the defendant confessed, regretted his actions and is a first time offender. In addition, the defendant is a secondary school student.

Decision

error regarding existence of assumptions of a cause for exclusion of unlawfulness or guilt.

The court found the defendant guilty of committing the crime of driving without a licence based on the facts set out in the indictment of the public prosecutor. Based on the facts that were proven the court ordered the defendant to pay a fine of US\$90.00 through daily instalments of US\$ 0.50 for 180 days. If the defendant does not pay this fine then he will be sent to prison for 120 days as an alternative punishment.

4. Crime of Rape

Case No. : 0153/14.DIBCR
Composition of the Court : Panel
Judges : Jacinta Correia da Costa, Ana Paula Fonseca and Eusebio Xavier Victor
Prosecutor : Pedro Baptista
Public Defender : Marçal Mascarenhas
Type of penalty : 5 years in prison

On 31 August 2018 the Dili District Court conducted a hearing to announce its decision in a case of rape involving the defendant MN who allegedly committed the offence against the victim ME his girlfriend, aged 18, in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 19 April 2014, at approximately 10.30am, the defendant picked up the victim from the defendant's hostel and took the victim into a bedroom. Inside the bedroom the defendant removed the victim's clothes and had sexual intercourse with the victim. Although the victim screamed the defendant used his hands to cover the victim's mouth. Prior to the incident, the defendant rang the victim to meet with him in front of the Government Palace. When the victim arrived at the designated place, the defendant immediately took the victim to his hostel and raped the victim.

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

Presentation of evidence

During the trial, the defendant used his right to remain silent. The victim was not notified because the court did not know the victim's address.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime against the victim even though during the trial the defendant chose to remain silent and the victim was not notified. The prosecutor's considerations were based on the statements previously made by the defendant

and the victim to the Public Prosecution Service that the crime took place. For this reason the public prosecutor requested for the court to sentence the defendant to 7 years in prison.

The defence requested for the court to acquit the defendant from this crime because it considered that although the defendant picked up the victim from his hostel, the defendant and the victim did not have sexual intercourse and there were no witnesses and also there was no medical report.

Decision

After evaluating all of the facts that had been proven, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. The court arrived at this conclusion based on the statements made by the defendant and the victim in front of the Public Prosecution Service that the crime did occur, even though the defendant chose to remain silent and the court did not notify the victim because the court did not know the whereabouts of the victim. The court concluded this matter and sentenced the defendant to 5 years in prison.

5. Crime of aggravated of homicide

Case No. : 0049/15.PGGC
Composition of the Court : Panel
Judges : Jacinta Correia da Costa. Ana Paula Fonseca and
Eusebio Xavier Victor
Prosecutor : Lidia Soares
Public Defender : Aderito dos Reis (private lawyer)
Type of penalty : Acquitted

On 31 August 2018 the Dili District Court conducted a hearing to announce its decision in a case of aggravated homicide involving the defendant CGP who allegedly committed the offence against the victim HS (deceased), his wife, in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 7 October 2014 the defendant and the victim argued about a *WhatsApp* (WA) message that the victim received from the victim's former boyfriend that he still kissed the victim's photograph in his bedroom. After reading this message the defendant immediately left the house.

On 8 October 2014, at approximately 7am, the defendant returned home and again argued with the victim about the message he saw on the victim's WA and said “*you are not ready to be with a man*”. The victim responded to the defendant by saying “*Be quiet, you hypocrite*”.

After arguing the defendant took one change of work clothes and left the home but the victim stopped the defendant. At the same time the defendant knocked her hand away and struck the victim in her stomach. The defendant also told the victim that he would not come back and live with the victim and would not withdraw his statement. The defendant got on his motorcycle and took off from the house revving the motorcycle loudly and collided with the wall of the house. The victim's mother was also at the home (MMF), as well as the victim's younger sibling (AdS) and another person (RdC) who works at the home of the victim and the defendant.

From 10 am to 2.00pm the defendant and the victim sent messages to each other via their mobile phones in relation to this problem.

The victim sent a message to the defendant that she would go far away, and asked the defendant to not take anything from the home when he left if he wanted to end the relationship with the victim. The victim also sent a message that she would cut her wrists. In addition, the victim sent a message to the defendant that their separation would make the victim happy, and she wouldn't want to kill herself. The victim also sent a response (to the defendant's message that the defendant cried when he read the victim's message) and told the defendant to return home so that the victim could hug him and also sent a message to the defendant telling him that there was US\$500 in her pocket, which was the final message from the defendant.

The defendant also sent a message to the victim's mother saying that *"Tell that woman to show those messages to her father about the conversations she had on WhatsApp"*. In addition the defendant also told the victim's mother that she did not want to be with the victim because he had no more dignity as a husband and he would not call on the family to resolve this problem.

At about 12.00 the victim told RdC that the defendant sent a message to her about having lunch at the home. So RdC prepared some lunch and placed it on the table. After putting the food on the table the victim told RdC to go home because the victim saw that RdC was sick. The victim took the witness to the front gate and asked the victim to close the gate.

At about 4.00pm the victim's mother (MMF) contacted the victim via mobile phone but the victim did not respond. MMF tried to contact the victim but there was no response, until the victim's telephone went dead. In response to this situation MMF started to suspect that something was wrong and that something had happened to the victim. MMF rang RdC, who had returned to her home, and asked her to go and see if the victim was okay. RdC went to the victim's home and saw that the front gate was locked from inside and the victim's motorcycle was parked in front of the house before the witness returned to her home.

AdS, who is the victim's younger brother, returned from school and was waiting for the victim to pick him up because normally the victim picked up AdS from his school at about 3pm. On that

day AdS waited a long time but the victim did not come. So AdS decided to use public transport and when he arrived home, AdS saw RdC standing in front of the gate. RdC and AdS decided to climb the back wall near the kitchen. When they arrived inside, RdC and AdS were shocked and cried when they saw that the victim was hanging by a rope. RDC and AdS asked the neighbours to help and many neighbours went to the scene until the police arrived.

At the same time the defendant received a phone call from MMF about the victim and he returned home and saw a lot of people. The defendant decided not to go inside the house and just stood about 100 metres away. When the defendant was standing there and watching all of the people he received a phone call from a police officer telling the defendant that the victim was dead because she had hung herself and the defendant was asked to return to his home. When he received the phone call the defendant decided to hand himself in to the Kaikoli Police at 7.30pm.

At 10pm the defendant sent a message to his family in Fatuhada explaining the root cause of the problem which caused the victim to end her life. The defendant also asked his family via a message to move from Fatuhada to Fatuahi and also asked his family to arrange a car to pick up the defendant and take him to Sagadate-Baucau because he was afraid of threats made by the family of the victim. However, the defendant was not threatened at that time by the family of the victim, the defendant avoided the victim's family and did not attend the victim's funeral ceremony and did not go to their house in Aimutin.

The prosecutor also alleged that the results of a forensic examination showed that the victim died at approximately 2.00pm and the victim's skin had started to peel because of the sun, and one leg was on a chair and the other leg was touching the ground. The rope was wrapped around the victim's throat and was 5.34 long and the rope was tied to the ventilation above the door with two loops that were 2.68 cm long. The victim suffered a bruise to her cheek near her throat and bruising and injuries to her bicep.

In addition, the autopsy report stated that the victim was smothered by the defendant who covered her mouth and nose until the victim died. The autopsy report also stated that the victim's top and bottom lips had been injured, and there was bruising on the victim's lower cheek near her neck and her lungs had burst and she bled from her nose and foam came out of the victim's mouth. This report also stated that the victim died before the defendant tied rope around the victim's neck and hung up the victim on the door because the autopsy results did not find any signs on the victim's neck.

The police identified the body and found US\$500 in the victim's pocket, a red necklace around the victim's throat and a mobile phone above the door.

The public prosecutor alleged that the defendant violated Article 139(g) of the Penal Code on aggravate homicide that carries a prison sentence of 12 years to 25 years prison as well as Articles 2, 3 and 35(a) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant partially confessed to the facts set out in the indictment of the prosecutor in that he left the house on the evening after reading a message sent by a man to the victim using WA. The defendant also stated that he returned home in the morning to get a shirt and left the house again. However, the defendant denied that he killed the victim and hung her up. The defendant acknowledged that when they were at a meeting in Gopal, he received a telephone call from MMF. The defendant stated that at lunch time he ate at a canteen near his work place and did not go home to have lunch. At 2pm the defendant attended a meeting and sent a message to the victim, but the victim did not respond.

The defendant stated that he handed himself in to the police to ask for security, because the defendant said that those people are from Baucau, and if there is a problem like this, the family would blame the defendant. The defendant stated that he did not participate in the funeral ceremony of the victim because the victim's family did want the defendant to be there.

The witnesses MB and AdS, from the investigative section of the police, and FdR and LdX who are police forensic officers, testified that they went to the scene and saw many people there. The witnesses saw the victim hanging from a rope with eight loops around the victim's neck. Two strands of rope were tied to the kitchen door, one leg was on a chair and the other leg was touching the ground.

The witnesses also saw US\$500 in the pants pocket and a red necklace around the victim's neck and also saw a mobile phone on top of the ventilation above the door. The witnesses also saw foam coming out of the victim's mouth, black marks on the victim's body and in the bedroom they also saw blood on a pillow slip.

The witnesses also saw that the victim was dead and her hands were open and her lips had been injured. The witnesses testified that they did not manage to take finger prints because many members of the community were at the scene.

The witnesses from the police testified also that based on their experience, a person who hangs themselves only puts one loop around their neck, but in this case there were eight loops wrapped around the victim's neck. Therefore they suspect that a person killed the victim using a pillow to smother the victim so the victim could not breathe until she died and the dead victim was hung up.

The witness MMF, who is the victim's mother, testified that on the evening in question she and the defendant ate together at the table. After dinner the defendant went into the bedroom with the victim's younger sibling (AdS). The witness testified that she did not hear the defendant and the victim argue but suddenly the defendant left the house and the victim followed him out and told the witness that the defendant read a message from the victim's male friend in England. At 8.00am the defendant returned home and took a shirt and told the witness "*that woman is not yet ready to be with a man.*"

The witness also testified that when the defendant left the home the victim stopped the defendant from leaving, but the defendant pushed her hand away and struck the victim in the stomach, got on his motorcycle and collided with the gate in front of the house. The witness testified that at 09.30 the victim took her to Mandiri Bank to collect US\$500. Then the victim dropped the witness at Becora terminal because the witness was going to Baucau. On the way the witness had regular contact with the victim.

When she got to Baucau the witness was still calling the victim but the victim did not pick up so the witness called the defendant to go to the victim's house. However, the defendant said that he was in a meeting. The witness did not feel right and kept calling the defendant but the defendant's phone was switched off. Therefore the witness rang RdC who works in the victim's home and told her to find the victim because the victim's phone was off.

The witness RdC, who was working at the victim's home, testified that on this day the defendant came home because the witness prepared breakfast in the kitchen. The witness also testified that after she cooked lunch the victim told the witness to go home because she was ill and told the witness that the defendant sent a message saying he would eat lunch at home. The victim took the witness outside and closed the gate.

The witness testified that when she arrived home she received a telephone call from the victim's mother who told her to go to the victim's house to check on her. When she arrived at the victim's house the gate was shut and not long after the victim's younger brother returned from school. The two of them decided to go into the home by climbing a gate at the back of the house. When they got inside the witness and the victim's younger brother were shocked to see the victim was hanging by a rope.

A witness from the hospital (expert on autopsies) testified that based on photographs the victim could have died from hanging herself or she could have been first killed and then hung up, because the victim's throat was not injured.

Final recommendations⁴

The prosecutor stated that the defendant was guilty of killing the victim even though the defendant denied the facts. The prosecutor relied on the testimony of witnesses including the police that based on their experience in the field a person who hangs themselves does not use 8 loops, but only one. Also, the autopsy report showed that the victim was smothered with a pillow until she could not breathe and her lungs burst. The autopsy report also reported that the victim's left cheek was bruised, her lips were injured, and there were no signs of injury to her throat. Also, some police officers stated that only someone in the house could have killed the victim because the victim still had US\$500 in her pocket and was wearing a red necklace. In regards to her relationships with other people, the victim got along well with her neighbours, had no enemies, and nobody disliked the victim and she had no problem with anyone else.

The prosecutor also argued that only the defendant had a problem with the victim because he found a message sent by another person to the victim. Also, when the defendant heard that the victim was dead, the defendant did not go and look at the victim's body but immediately handed himself into the police and also the defendant did not attend the victim's funeral ceremony. If the defendant did not kill the victim then why would the defendant need to feel afraid and hand himself in to the police? Based on all of these facts the public prosecutor requested for the court to sentence the defendant to 20 years in prison.

The defence requested for the court to acquit the defendant from this crime because even though the defendant and victim argued about the message that the defendant discovered on that evening the defendant left the house and returned in the morning to get a shirt and returned to work. There was no physical assault against the victim. At lunch time the defendant ate at a canteen near his work place. At 2.00pm the defendant attended a meeting in Gopak.

⁴ On 8 June 2018 the court heard the final recommendations from the prosecution and defence, but because the court found that there were new facts so the court set a new date of 31 July 2018 to hear the final recommendations. On the new date the prosecution and defence maintained their recommendations.

The new facts found by the court were: the defendant and victim argued at 7.00pm; the defendant returned home at 08.00 am, not at 07.00 am; the defendant attended a meeting at Gopal at 3.00 pm not at 2.00 pm, and the defendant's name was not include din the list of participants; the defendant sent a message to the victim's mother (MMF) saying that the victim threatened to kill herself; and the defendant went to the Caicoli police station to ask for security, not to hand himself in.

The witness AP also attended the meeting and said that the defendant was sitting near him in the meeting which finished at 5pm.

The police officers stated that the victim died at 2.00pm. At 5.30pm the defendant received a telephone call from the victim's mother who told the defendant to come home because the victim's telephone was off.

The defence added that the defendant did not go and see the victim's body but handed himself in to the police, and the defence believed that the defendant made this decision to save himself because previously the defendant and the victim had a problem.

Based on testimony from the witness RdC, who was working at the victim's house, in the morning before the witness went home she did not see the defendant come home, and did not see the victim and the defendant arguing. In this case, based on the autopsy report and expert statement the victim's death was not very clear, either a person killed her or the victim died from hanging herself. Based on all of these considerations, the defence requested for the court to acquit the defendant.

Decision

After evaluating all of the facts the court found the facts proven that the defendant and the victim argued about a message sent by a man to the victim. The court also found that the defendant left the home and returned to get a shirt and told the victim's mother that the victim was not yet ready to be with a man and the defendant went to his work place. The court found that the defendant pushed the victim's hand away and struck her stomach because the victim was stopping the defendant from leaving the home and he told the victim that he would not come back home and the defendant got on his motorcycle and collided with the gate.

In addition, it was also proven that before the victim died the victim was assaulted by a person with a pillow who smothered her mouth and nose and the victim could not breathe until her lungs burst and this killed the victim. The court found that the victim died because she was hung up by someone in the house, because there was still US\$500 in her pocket and she still had her necklace on. The court also found that the victim had injuries to her mouth and throat.

The court also proved that the defendant went to the scene but did not go inside to see what had happened to the victim and went and immediately handed himself in to the Kaikoli Police Station to ask for security. The court proved that the defendant did not attend the funeral ceremony of the victim and also found that the defendant attended a meeting in Gopak, based on a video presented to the court.

Based on the aforementioned consideration and evidence during the trial, the court found that the victim died due to an act of homicide (because a person killed her) not from hanging herself (suicide) but the court had doubts that the defendant was the perpetrator of this case of homicide.

The court had doubts because of messages sent between the defendant and the victim that started at 10 am and continued until 2.00pm and the final message of the defendant was sent to the victim at 14.30 and there was no response from the victim, as well as other facts that did not match up and were inconsistent.

With the consideration of these proven facts and based on the principle of *in dubio pro reo*⁵, the court decided to acquit the defendant from this crime but requested for the Public Prosecution Service to continue investigations into this case.⁶

For more information, please contact:

Luis de Oliveira Sampaio

Executive Director of JSMP

Email: luis@jsmp.tl

info@jsmp.tl

Phone: 3323883 | 77295795

⁵ The principle *in dubio pro reo* comes is latin for if a judge has doubts about a crime alleged to have been committed by a defendant, then the court must decide in favour of the defendant.

⁶ The prosecution lodged an appeal because it did not accept the decision issued by the court of first instance.