



Case Summary
The Dili District Court
December 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 Dili District Court

1. Total cases monitored by JSMP : 52

Article	Case Type	Number of cases
Article 145 of the Penal Code (PC) in conjunction with Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence	Simple offences against physical integrity characterized as domestic violence (Article 2 on the concept of domestic violence, Article 3 on family relationships, Article 35 on different types of domestic violence and Article 36 on domestic violence as a public crime)	12
Article 145 of the Penal Code (PC) in conjunction with Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence	Crime of simple offences against physical integrity characterized as domestic violence and the crime of threats	2
Article 145 of the Penal Code (PC) in conjunction with Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence, and Article 145 of the PC	Crime of simple offences against physical integrity characterized as domestic violence, and the crime of simple offences against physical integrity	1
Article 267 and Article 145 of	Crime of aggravated fraud and the crime of simple	1

the Penal Code (PC) in conjunction with Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence	offences against physical integrity characterised as domestic violence	
Article 154 of the PC in conjunction with Articles 2, 3, 35(a) and 36 of the Law Against Domestic Violence	Mistreatment of a spouse	5
Articles 23, 172, 23, 171 of the PC	Attempted rape and attempted sexual coercion	1
Article 172 of the PC	Rape	1
Articles 163, 163 & 164 & 303 of the PC	Aggravated human trafficking, and forgery of documents or technical report	1
Article 139 and Article 2.2 (a) of Law No. 5/2017	Aggravated homicide where the victim was a relative of the perpetrator in the ascending line and a bladed object or instrument was used	1
Articles 138 & 23, 24, 138 of the PC	Attempted homicide, punishability of attempt, homicide	1
Articles 259 and 145 of the Penal Code	Aggravated property damage and simple offences against physical integrity	1
Articles 258.1 & 157 of the PC	Property damage and threats	1
Article 267 of the PC	Aggravated fraud	3
Article 252 of the PC	Aggravated larceny	2
Article 295 of the PC	Embezzlement	1
Articles 295, 297 & 275 of the PC	Embezzlement, abuse of power, negligent mismanagement	1
Articles 267, 297 & 306 of the PC	Aggravated fraud, abuse of power, use of another person's identification document	1
Articles 299, 295 & 303 of the PC	Economic involvement in business, embezzlement, forgery of documents or technical report	1
Articles 319 and 297 of the	Mismanagement of public funds and abuse of	1

Penal Code	power	
Articles 202, 188, 194, 270 & 267 of the PC	Violation of the rule of law, criminal association, abuse of public signals or uniform, extortion and aggravated fraud	1
Article 146 and Article 2.2 (a) of Law No. 5/2017	Serious offences against physical integrity and use of a bladed object or instrument	1
Articles 145 & 258 of the PC	Simple offences against physical integrity and property damage	2
Article 145 of the PC	Simple offences against physical integrity	10
Total		52

2. Total decisions monitored by JSMP :29

Type of Sentence	Number
Prison sentence	3
Suspension of execution of a prison sentence (Article 68 of the PC)	13
Suspension of execution of a prison sentence (Article 68 of the PC) and acquittal	1
Suspension of a prison sentence on condition that certain duties be performed (Article 69)	3
Fine (Article 67 of the PC)	1
Fine (Article 67 of the PC) and civil compensation	1
Endorse withdrawal of complaint (Article 262 of the CPC)	3
Admonishment (Article 82)and endorse withdrawal of complaint (Article 262 of the CPC)	1
Acquittal	3
Total	29

3. Total cases adjourned based on JSMP monitoring: 9

Reason for adjournment	Number
Victim and witness were not present	1
Defendant and victim were not present	1
Victim not present	1
Defendant not present	5
Total	8

4. Total ongoing cases based on JSMP monitoring: 14

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

1. Crime of simple offences against physical integrity characterized as domestic violence and the crime of threats

Case No.	: 0158/18. PDDIL
Composition of the Court	: Single Judge
Judge	: Albertina Neves
Prosecutor	: Bartolomeu de Araújo
Public Defender	: Humberto Alves
Type of Sentence	: Six months in prison, suspended for 1 year and six months

On 3 December 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence and the crime of threats involving the defendant JdC who allegedly committed the offence against his wife in Dili District.

Charges of the Public Prosecutor

The prosecutor alleged that on 7 April 2018, at 4.00pm, the victim told the defendant to fix their child's bicycle but the defendant was making preparations for a ceremony for staff promotions at the Fire Brigade in Kaikoli. Therefore, the defendant was in a hurry and told the victim to get a tyre tube for a bicycle but because the victim didn't know what a tyre tube was, the victim asked the defendant "what is a tyre tube?" When the victim asked him the defendant swore at the victim and told the victim that "don't you know what a tyre tube is!"

They argued and the defendant jabbed the victim on the left of her stomach with some scissors that he was holding and caused a minor injury. The victim took a plastic chair to strike the defendant in the throat and the defendant took the plastic chair and threw it at the victim, but he missed, because the victim ran into her mother's bedroom and locked the door. After this incident the victim and her mother expelled the defendant from their house so the defendant went to live with his parents. This act caused the victim to suffer an injury to the left side of her stomach and she received treatment at Pradet.

The prosecutor also alleged that on 27 April 2018 the defendant gave US\$40 to the victim to buy some things they needed. The victim not only bought some necessities for their children but she also used some of the money to pay her debt and then she used the rest to take their child to play at Timor Plaza. When the victim and their child went to Timor Plaza the defendant rang the victim so he could see their child, but because the victim was afraid that the defendant would hit her, the victim lied to the defendant and said that she was playing with their child at the 5 May Park.

The defendant went to the 5 May Park but could not find the victim. Therefore the defendant rang the victim again but the victim said they were already at home. The defendant followed the victim home and grabbed a knife to stab the victim but did not manage to do so because the victim ran inside the house and locked the door so the defendant slashed a hole in the door. The defendant's acts caused the victim to feel afraid and traumatised.

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, as well as Articles 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence, as well as Article 157 of the Penal Code on threats that carries a maximum penalty of 1 year in prison or a fine.

Presentation of evidence

During the trial the defendant partially confessed the facts in the indictment. The defendant confessed that in relation to the incident on 7 April 2018 the defendant stabbed the victim with scissors that he was holding because the victim inconvenienced the defendant when he was making preparations for staff promotions at his work place, namely the Fire Brigade.

In relation to the incident on 27 April, the defendant denied that he stabbed the door and said that he did not threaten the victim with a knife. The defendant stated that he threatened the victim but only verbally because the victim lied to the defendant when the defendant wanted to see his child. However, the defendant stated that he regretted his actions and promised not to reoffend in the future.

The victim confirmed all of the facts set out in the indictment of the prosecutor, namely that the defendant swore at her and stabbed the victim in the stomach with some scissors that caused a minor injury. The victim acknowledged that when she was stabbed she took a plastic chair to strike the defendant in the throat and the defendant took the plastic chair and threw it at the victim, but he missed, because the victim ran into her mother's bedroom and locked the door.

The defendant also confirmed that on 27 April 2018 the defendant grabbed a knife to stab her to death but he did not manage to do so because the victim ran inside the house and locked the door so the defendant slashed a hole in the door.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the two crimes against the victim, namely the crime of simple offences against physical integrity characterised as domestic violence that carries a prison sentence of three years or a fine, and the crime of making threats that carries a prison sentence of one year or a fine and therefore the prosecutor requested for the

court to apply a single penalty against the defendant of six months in prison, suspended for one year.

The public defender requested for the court to impose a fine because the defendant partially confessed to the facts, regretted his behaviour and he is a public servant.

Decision

After evaluating all of these facts, the court found the defendant guilty of committing the crime of simple offences against physical integrity and the crime of threats against the victim based on the facts set out in the indictment of the prosecutor. Therefore, based on the partial confession of the defendant, and the confirmation of the victim, including careful consideration of all circumstances, the court concluded the matter and sentenced the defendant to eight months in prison for the crime of simple offences against physical integrity and three months in prison for the crime of threats. The court accumulated the two prison sentences and imposed a single penalty of six months in prison, suspended for one year and six months.

2. Crime of property damage and threats

Case No.	: 0209/17.ERHAT
Composition of the Court	: Single Judge
Judge	: Eusébio Xavier Victor
Prosecutor	: Osorio de Deus
Public Defender	: Jonas Henrique da Costa
Type of Sentence	: Acquittal

On 3 December 2018 the Dili District Court announced its sentence in a case of property damage and threats involving the defendants Jose Salsinha “Bertapa”, Abilio Carmona, Filomeno dos Santos Borges (deceased) and the victim Estevão Martins, that allegedly occurred in Ermera District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 15 August 2017 the victim and his family were asleep and suddenly somebody threw stones at them. The victim went outside and saw the defendants Filomeno dos Santos Borges, Abilio Carmona and the defendant Jose Salsinha saying “Bertapa is outside”. At that time the defendants Filomeno dos Santos and Abilio Carmona told the victim “*If you mess with us, we will burn down this house and kill all of you*”. In addition, the defendants swore at and insulted the victim and said that victim had caused the death of the mother of the defendant Filomeno dos Santos Borges. The defendants and the victim are related in accordance with East Timorese customs.

On 18 August 2017, when the victim and his family members went to tidy up a grave that was a long distance from their home, the victim received a telephone call from some family members telling him that someone had burned his house. The following goods were burned: crockery, cups, saucepans, frypans, and a Revo motorcycle valued at US\$600. The goods that were destroyed had a total value of US\$717, not including the house.

The public prosecutor alleged that the defendants violated Article 258.1 of the Penal Code on property damage that carries a maximum penalty of three years in prison or a fine, as well as Article 157 of the Penal Code on the crime of threats that carries a maximum penalty of one year in prison or a fine.

Presentation of evidence

During the trial the defendant Jose Salsinha “Bertapa” denied the facts alleged against him. The defendant stated that he did not throw stones and did not burn the victim's home because the defendant never had a problem with the victim. The defendant stated that the defendant Filomeno dos Santos Borges had not burned the victim's home because the defendant Filomeno had told the defendant that he had burned the victim's house. The defendant added that Filomeno dos Santos Borges burned the victim's home because he suspected that the victim was a sorcerer and had caused the death of the defendant's mother.

In addition, the defendant Abilio Carmona also denied throwing stones and did not burn the victim's home because he never had a problem with the victim and the defendant and the victim lived a long distance from each other.

The defendant Filomeno dos Santos Borges died several years ago so the court did not hear his testimony.

The victim confirmed the facts set out in the indictment of the prosecutor and stated that he saw the defendants throw stones at the house and threaten to burn the house and the victim. The victim also stated that in addition to being sworn at by the defendants, they also accused the victim of causing the death of the mother of the defendant Filomeno dos Santos Borges who was the victim's aunt. However, in relation to the burning of the house, the victim stated that he did not witness it because the victim had attended an event in another sub-village.

The witness Domingas dos Santos, who is the wife of the victim, stated that she saw the three defendants stone their house. But when the house was on fire the witness did not see who had burned it because she was with her husband attending an event at another sub-village.

Final recommendations

The prosecutor requested for the court to convict the defendant Filomeno dos Santos Borges and acquit the two defendants, because there was not enough evidence to convict the two defendants. The public defender requested for the court to acquit the two defendants because the main perpetrator was Filomeno Martins (deceased), not the two defendants.

Decision

After evaluating the facts, the court concluded that Filomeno dos Santos Borges (deceased) had burned the victim's house. However because this defendant has passed away, the court decided to close this case. The court acquitted the defendants Jose Salsinha “Bertapa” and Abilio Carmona from the charges of the prosecutor because it was not proven that they had stoned and burned the home of the victim.

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

Case No.	: 0132/18.PNSIC
Composition of the Court	: Single Judge
Judge	: Jose Maria de Araujo
Prosecutor	: Bartolomeu de Araujo
Public Defender	: Esmail Lopez
Type of Sentence	: 3 months in prison, suspended for 1 year

On 5 December 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JMB (PNTL officer) who allegedly committed the offence against his daughter aged 20, that allegedly occurred in in Dili District.

Charges of the Public Prosecutor

The prosecutor alleged that on 20 June 2018, at approximately 9pm, the defendant grabbed the victim by both of her feet and lifted her up and slammed her head on the ground. The defendant kicked the victim once on her left side, and twisted the victim's left hand behind her back and kicked the victim once on her left shoulder. The defendant stopped this act when the victim's younger sister intercepted him.

Prior to this assault the defendant went looking for a television cable but could not find one because the defendant's wife had hidden the cable. The defendant stated angrily that “If I find the cable, and the television comes on, I will smash the television”. Therefore the victim responded by asking the defendant why he didn't just go and watch television at someone else's home. When he heard the victim's comment the defendant went into the victim's bedroom and asked the victim about her comments and committed these acts of violence against the victim.

The defendant's wife hid the television cable because she was not satisfied that the defendant had closed their BRI Bank ATM account so his wife no longer had any access so they argued and his wife hid the cable.

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

Presentation of evidence

During the trial the defendant denied some of the facts in the indictment, namely that he did not kick the victim on her side and did not lift the victim up by her feet and did not slam her head on the cement floor. However, the defendant acknowledged that he did kick the victim once on her backside. The defendant stated that he never hit the victim but because he was looking for the television cable and the victim responded by saying to him “it would be better for you to pack up your clothes and leave this house.” For this reason the defendant committed these crimes against the victim.

The defendant added that now he and his wife have separated and his six children are living with his wife. The defendant regretted his actions and has reconciled with the victim who is his daughter, although they are no longer living together.

The victim confirmed the facts set out in the indictment and stated that at that time the victim packed her clothes to leave the home because she heard the defendant say “*All of you should leave this house*”. However, the victim decided to leave the house with the idea that if she left then her younger siblings would be leaving as well. The victim added that before the assault the defendant and the victim's mother argued about the BRI Bank ATM account. The victim also stated that her father always told her that he had relationships with other women.

The witness SOB, who was the defendant's second daughter, testified that the defendant grabbed the victim's feet and lifted her upside down, but did not slam the victim's head on the ground. The witness also stated that the defendant kicked the victim on her side and back. The witness added that the defendant hit the victim because the victim responded to the defendant by asking him why he didn't just go and watch television at someone else's house.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime against the victim but because the defendant regretted his actions, was a first time offender and the defendant also provides for his six children, the prosecutor requested for the court to impose a prison sentence of six months against the defendant, suspended for one year.

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 six children. Therefore the public defender requested for the court to apply an appropriate punishment against the defendant.

Decision The court found the defendant guilty of committing the crime against the victim. Based on the facts that were proven and all of the mitigating circumstances, namely that the defendant confessed, regretted his actions, was a first time offender and has reconciled with victim, the court imposed a prison sentence of 3 months against the defendant, suspended for 1 year, and ordered the defendant to pay court costs of US\$50.

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

Case No.	: 0068/18.DIDIL
Composition of the Court	: Single Judge
Judge	: Edite Palmira Reis
Prosecutor	: Bartolomeu de Araujo
Public Defender	: Humberto Alves
Type of Sentence	: 6 months in prison, suspended for 2 years

On 6 December 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant FGL who allegedly committed the offence against his girlfriend in Dili District.

Charges of the Public Prosecutor

The prosecutor alleged that in 2016, at approximately 3pm, the defendant went to the victim's house and took a piece of wood and struck the victim twice on the leg which caused swelling and an injury. In addition, on 20 April 2018, at approximately 5pm in Mota Maloa, the defendant saw the victim standing on the side of the road and the defendant approached the victim and grabbed her mobile phone and threw it at the victim's head which caused an injury and bleeding. The victim ran home and received treatment at the Guido Valadares National Hospital in Dili. Prior to the incident, the defendant was jealous and suspected the victim of having another boyfriend.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3(a), 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 has reconciled with the victim and promised not to commit any further violence against the victim in the future. The defendant also stated that even though the defendant was a student, they were economically dependent on each other. Also, the victim confirmed the facts set out in the indictment of the prosecutor and stated that after receiving treatment in hospital, it took three days for the victim to recover.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim and therefore even though the defendant regretted his actions, they are still continuing their romantic relationship and therefore in the future the crime could happen again. Based on these considerations, the public prosecutor requested for the court to sentence the defendant to 6 months in prison, suspended for 1 year.

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. Therefore the public defender requested for the court to apply a fair and appropriate punishment against the defendant.

Decision

After evaluating all of the facts the court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. Based on the facts that were proven and all of the mitigating circumstances, namely that the defendant regretted his actions, was a first time offender and has reconciled with victim, the court imposed a prison sentence of 6 months in prison against the defendant, suspended for 2 years.

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

Case No.	: 0405/17.PDDIL
Composition of the Court	: Single Judge
Judge	: Sribuana da Costa
Prosecutor	: Bartolomeu de Araujo
Public Defender	: Agustinha Pinto
Type of Sentence	: 1 year in prison, suspended for 1 year

On 10 December 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JNS who allegedly committed the offence against his wife in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 12 November 2017, at 9:30am, the victim went looking for the defendant in their house to ask for money to bury her aunty in Letefoho. However, the defendant was in the bathroom. When the defendant was still in the bathroom the victim took his mobile phone and saw that he had a photo of a woman, who is the victim's cousin, on his mobile phone.

When the defendant came out of the bathroom he didn't say anything to the victim and punched her twice on the left ear, kicked her in the ribs on the left side and pulled her by the hair and threw her on the ground to get his mobile phone back from the victim. This assault caused the victim to feel pain to her ear, bruising and swelling to her ribs on the left side and she received treatment at the Letefoho Health Centre.

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

Presentation of evidence

During the trial the defendant stated that he punched the victim, but only once on her left ear and he denied that he kicked her in the ribs. The defendant claimed that the victim suffered bruising to her ribs because she struck the stairs when the defendant dragged the victim out of the house. However, previously the defendant stated that he dragged the victim inside the house. The defendant added that he tried to convince the victim to talk inside the house, but the victim did not want to, so the defendant dragged the victim because he felt embarrassed when the victim was shouting at him in a public place.

The defendant denied having a relationship with the victim's cousin as suspected by the victim, because he stated that the photo had been edited by someone.

Also, the victim confirmed that she looked at the defendant's mobile phone and saw a photo on the phone and when the defendant came out of the bathroom he saw the victim holding his phone and the defendant punched the victim twice, kicked the victim once in the ribs on the left side, grabbed her by the hair and dragged her from the house onto the street then took the mobile phone from the victim's hand.

The victim also stated that since this incident they have been living separately and the victim rang the defendant to ask him to help organise a baptism certificate for their child but the defendant never answered so the victim told their child to send a message to the defendant. When the victim's child sent a message to the defendant, he answered the phone call from the

victim and she spoke with him so they could collaborate to organise a baptism certificate for their child, but the defendant never collaborated.

Final recommendations

The public prosecutor stated that the defendant denied some of the facts and tried to lie about dragging the victim outside of the house. When the court sought confirmation from him, the defendant stated that he dragged the victim outside. For this reason the prosecutor stated that he was guilty of committing the crime and requested for the court to impose a prison sentence of 1 year, suspended for 2 years.

Meanwhile, the public defender requested for the court to impose a fair penalty against the defendant, because the defendant partially confessed to some of the facts, and was a first time offender.

Decision

After evaluating the facts produced during the trial, the court found all of the facts alleged by the prosecutor to have been proven. Therefore, based on the facts that were proven, the court sentenced the defendant to 1 year in prison, suspended for 1 year.

6. Crime of attempted rape and attempted sexual coercion

Case No.	: 0141/16.DINFT
Composition of the Court	: Panel
Judges	: António Helder Viana do Carmo, Ivan Patrocínio Goncalves and Albertina da Conceição das Neves
Prosecutor	: Remígia de Fátima da Silva
Public Defender	: Juvinal Yanes Freitas
Type of Sentence	: 3 years in prison, suspended for 4 years, and civil compensation of US\$ 800.00

On 10 December 2018 the Dili District Court conducted a hearing to announce its decision in a case of attempted rape and attempted sexual coercion involving the defendant AGA who allegedly committed the offence against the victim aged 16, that allegedly occurred in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 11 November 2016, at approximately 7am, the victim left the home to go to a Secondary School in Tasitolu. When the victim was walking along the main road the defendant was travelling on a motorcycle and he approached the victim and offered to take her to her school. However, the victim told the defendant “*Sorry, I will just walk*”. The defendant again called out to the victim and she still refused a lift from the

defendant. Then victim stepped up onto the side of the road but the defendant kept following her. When she arrived in front of the Komoro Clinic the defendant again offered her a lift. Because the victim felt uncomfortable with the defendant calling out to her again and again, the victim got onto the defendant's motorcycle.

When they reached the Nicolau Lobato roundabout the defendant did not take the victim to school, but took another road. The victim asked the defendant "*Where are we going, I need to go to school.*" The defendant told the victim "*It's okay to miss school for one day*". The victim then asked the defendant to take her to school because she was going to have exams and the semester was ending soon. However, the defendant took the victim to a hotel in Bairro Formosa.

The defendant told the victim to get off the motorcycle and told the victim to wait but she didn't need to remove her helmet. The victim asked the defendant "*What type of place is this?*" The defendant said that it was his friend's house. The defendant went into the hotel and spoke with the owner. The owner gave a room key to the defendant and the defendant called out to the victim to go into Room No. 806. When the victim entered the bedroom the defendant quickly locked the door. The victim sat on a chair and the defendant approached her and grabbed her knee. The victim pushed the defendant's hand away and told him not to touch her knee. The victim tried to run away but the defendant pushed her, dragged her and covered her mouth. The defendant pushed the victim into a wall and tried to kiss her neck but he couldn't because the victim refused and pushed him. The victim tried to run away, and she screamed, but nobody heard her.

The defendant pushed the victim onto the bed and used one hand to cover the victim's mouth and with the other hand he tried to remove the victim's sporting uniform. However, the victim used her two hands to hold on tightly to her pants and curled up into a tight ball and shoved the defendant's hand away. The defendant threw the victim on the bed and tried to rape the victim but the victim forcefully pushed him away. The victim yelled out for help and not long after a hotel security guard pulled open the window to help the victim.

The defendant also told the victim that if the hotel security guard asked the victim why she had screamed she had to say that there was no real reason. When the victim went outside, the security guard asked why she had screamed and she told the security guard "*This old man tried to rape me*" whilst pointing at the defendant. The defendant followed the victim outside and forced the victim to get on the motorcycle, but the victim did not want to and the hotel security guard told the victim not to go with the defendant and told the defendant to stay, and not long after the police arrived at the scene and took the defendant to the police station.

The public prosecutor alleged that the defendant violated Article 23 of the Penal Code on attempt and Article 172 of the Penal Code on rape that carries a prison sentence of 5 to 15 years in prison as well as Article 171 of the Sexual Coercion that carries a prison sentence of 2-8 years.

Presentation of evidence

During the trial the defendant confessed to the facts set out in the indictment, and stated that he picked up the victim and went to a hotel in Bairro Formosa because previously they had agreed to have sexual intercourse. However, they did not manage to have sexual intercourse because the victim did not want to because she was afraid of her family. Also, the defendant acknowledged that at that time the victim screamed and the hotel security guard knocked on the door but did not open the door and then opened the window. The defendant added that the defendant and the victim had been in a romantic relationship for two and a half weeks and he always picked up the victim. Previously they had been in a romantic relationship but her family did not agree because the defendant had previously been in a relationship with the victim's older sister.

The defendant stated that the problem in the hotel had been resolved in accordance with East Timorese cultural practices and he compensated the victim and her family by giving them four *tais* (traditional cloth) and US\$400 cash. However, the family of the victim only accepted two *tais* and US\$160 cash. The defendant stated that he was a first time offender, regretted his actions and promised not to repeat his actions in the future.

The victim confirmed the facts set out in the indictment and stated that the defendant forced her to have sexual intercourse but he did not manage to do so because the victim resisted with force. The victim also stated that previously the defendant had been in a romantic relationship with the victim's older sister but the defendant had not been in a romantic relationship with the victim. Two years after the incident in the hotel the defendant received a notification from the court and only then he decided to resolve the matter in accordance with East Timorese cultural practices, because previously the family of the victim did not want to resolve the matter.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the facts set out in the indictment. The sexual intercourse did not take place because the victim refused and screamed so the hotel security guard took action to help the victim. Based on the testimony of the witness, who was a security guard at the hotel, the victim's clothes were dishevelled and the defendant had a mark on his shoulder that looked like a hand print. In addition, the defendant and his family tried to resolve this problem, but the family of the victim did not want to, and only two years later the issue was resolved, when the defendant received the notification from the court.

The prosecutor also argued that the defendant regretted his actions, was a first time offender and the defendant was married to another woman and had a child. For this reason the public prosecutor requested for the court to sentence the defendant to 3 years in prison.

The public defender stated that the defendant confessed, regretted his actions and promised that in the future he would not commit any crimes against the victim. The defendant has one child and initially he tried to resolve the problem, but the family of the victim did not want to, and it was only resolved after two years. The defendant compensated the victim by giving four *tais* (traditional cloth) and US\$400 cash. However the family of the victim only accepted US\$160. Based on these arguments and considerations, the public defender requested for the court to impose a suspended prison sentence on the defendant.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. Based on the facts that were proven and all of the mitigating circumstances, namely the defendant confessed, regretted his actions, was a first time offender, promised not to reoffend in the future, and this matter had been resolved in accordance with East Timorese cultural practices, the court sentenced the defendant to three years in prison, suspended for four years and ordered the defendant to pay civil compensation of US\$800 to the victim.

7. Crime of aggravated larceny

Case No.	: 0585/16.DICMR
Composition of the Court	: Panel
Judges	: António Helder Viana do Carmo, Ivan Patrocínio Goncalves and Albertina das Neves
Prosecutor	: Pedro Baptista
Public Defender	: Estaque Pereira Guterres
Type of Sentence	: Acquittal

On 10 December 2018 the Dili District Court announced its decision in a case of aggravated larceny involving the defendant Vitor de Deus Maya and the victim Manuel dos Santos, that allegedly occurred in Beto Timur, Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 24 September 2016, at approximately 7:30am, the defendant went with his wife and younger brother to the victim's house. When they arrived at the victim's house the defendant saw the victim's motorcycle which was a red Honda CVR, with the number plate 1-3948TL that was parked at the house and had the key in it. After seeing the

motorcycle, the defendant took it without the knowledge of the victim. The defendant's behaviour caused the victim to suffer a loss of US\$1,500.

The public prosecutor alleged that the defendant violated Article 252 of the Penal Code on aggravated larceny that carries a maximum penalty of 2-8 years in prison.

Presentation of evidence

During the trial the defendant partially confessed to the facts in the indictment. The defendant acknowledged that he went with his wife and younger brother to the victim's house, but not with the intention of taking the victim's motorcycle. At that time the victim gave his motorcycle to the defendant, because previously the defendant had purchased the victim's land for the price of US\$6,500 and the defendant gave him US\$1,500 and there was a purchase and sale agreement for the defendant to pay the remaining US\$5,000. However, after a month the victim sold the land to another person and put up a wall on the land. Therefore, the defendant and his wife went to the victim's house with the intention of asking for their US\$1,500 that the defendant had already given to the victim. However, the victim said "*There is no money because I just bought a motorcycle.*" After this conversation the victim gave the motorcycle key to the defendant and took the motorcycle documents from the baggage section of the motorcycle and gave them to the defendant. The defendant added that the motorcycle was parked at his house for one week. The defendant also stated that he gave the motorcycle back to the victim and told the victim to just return US\$1,000 of the money he had already paid, even though the agreement stated US\$1,500.

The victim stated that the defendant took the motorcycle but then gave it back to the victim. When the defendant gave the motorcycle back the defendant told the victim to give him US\$1,000. The victim confirmed that previously they had an agreement for the defendant to purchase the victim's land but the defendant had not looked at the land for two months and based on information received by the victim, the defendant had purchased land in Ailok-Laran so the victim sold the piece of land to another person. However, the victim forgave the defendant.

Final recommendations

The public prosecutor stated that the defendant went to the victim's house with the intention of asking for US\$1,500 that the defendant had previously given to the victim to purchase the victim's land at a total price of US\$6,500. The defendant denied that he took the victim's motorcycle without the knowledge of the victim; but rather the victim gave the motorcycle to the defendant. The defendant returned the victim's motorcycle and told the victim to give him US\$1,000. However, the prosecutor still requested for the court to impose a prison sentence of 3 years, suspended for 3 years, against the defendant.

The public defender requested for the court to acquit the defendant from the charges because the defendant partially confessed to the facts set out in the indictment, regretted his actions and promised not to reoffend against the victim in the future. The defendant gave back the victim's motorcycle and told the victim to give him back US\$1,000 from the original amount of US\$1,500.

Decision

After evaluating all of the facts, the court found that the defendant and the victim had an agreement regarding the purchase of a piece of land. The defendant purchased the victim's land and gave US\$1,500 to the victim, from the total price of US\$6,500. However, the victim sold the land to someone else. Therefore the defendants went to the victim's house with the intention of asking for their US\$1,500. The victim did not give the money back but instead gave his motorcycle to the defendant. The defendant took the motorcycle to his house and parked it there for one week and then gave it back to the victim. When the defendant returned the motorcycle, the defendant asked the victim to give US\$1,000 back to the defendant. Based on these facts and the extraordinary circumstances of this case the court acquitted the defendant from the charges.

8. Aggravated attempted homicide with a bladed weapon

Case No. : 0019/18. LIBRM
Composition of the Court : Panel
Judges : Zulmira Auxiliadora Barros da Silva, Ana Paula Fonseca and Eusébio Xavier Vitor
Prosecutor : Hipolito Exposto Santa
Public Defender : Afonso Fatima Gomes
Type of Sentence : 16 years in prison

On 11 December 2018 the Dili District Court announced its decision in a case of aggravated homicide and use of a bladed weapon involving the defendant José Gonçalves and the victim Aurelia Maria de Jesus (the defendant's aunty/his father's sister), that allegedly occurred in Liquica District.

Charges of the Public Prosecutor

The prosecutor alleged that on 19 May 2018, at 8am, in Maubara Sub-District, the victim was sitting on a bamboo bench, and suddenly the defendant came from behind and used a machete to slash the victim twice in the head and the victim screamed that he was going to die and the defendant took a knife and stabbed the victim in the chest and the victim fell down from the bamboo bench. The victim's son Sebastião Maria Soares heard the victim scream and ran out of the house to save the victim, but the defendant was holding a machete and chased the victim's son and he ran away. The victim suffered large injuries to her head and chest and the victim died immediately at the scene.

The public prosecutor alleged that the defendant violated Article 139(g) of the Penal Code on aggravated homicide where the victim was a relative in the ascending line which carries a prison sentence of 12 - 25 years in prison in conjunction with Articles 2.2 of Law No. 5/2017 on the use of a bladed object or tool as a weapon, that carries a prison sentence of 4-8 years.

Presentation of evidence

During the trial the defendant acknowledged some of the facts and rejected other facts. The defendant acknowledged that he used a machete to strike the victim once in the head and took a knife from his side and stabbed the victim on the left side of her chest, and the victim screamed and said she was going to die. The defendant stated that he stabbed the victim because the defendant went to the victim's house to look for her son, Arcanção Soares, but did not find him, and he saw the victim sitting on a bamboo bench, so the defendant changed his intention and stabbed the victim who was the mother of Arcanção Soares. The defendant stated that he was looking for Arcanção Soares because he suspected that Arcanção Soares had dismantled the defendant's house and smashed the defendant's table and chairs inside the house. The defendant acknowledged that he went looking for the victim's son Sebastião Maria Soares with a machete because he had run out to meet the defendant carrying a machete to stab the defendant. However, the defendant stated that he regretted his actions.

The witness Sebastião Maria Soares, who is the son of the victim, testified that at that time the witness was inside the house and suddenly he heard the victim scream "I am going to die". Therefore, the witness ran out and saw the defendant carrying a machete and slash the victim twice in the head and the victim fell from the bamboo bench. After witnessing this incident the witness ran to his neighbour and screamed "*José stabbed my mother, José stabbed my mother!*" The neighbours and the witness went to the scene and saw that the victim had died and the defendant had run away.

The witness also testified that he was related to the defendant based on East Timorese customs and to date they had no problems, but suddenly the defendant stabbed the victim.

The witness Arcanção Soares, who is the son of the victim, testified that up until that time the witness was in Aileu and never went to Liquica and only went to Liquica if there was an event. Therefore the witness testified that he did not dismantle the defendant's house. The witness also added that when the defendant's mother died he and his wife and children did not go to Liquica.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime of aggravated homicide and the crime of using a bladed weapon. The prosecutor based this statement on the medical report from the Dili National Hospital and photos that showed the machete that was used

by the defendant to slash the victim. Therefore, the prosecutor requested for the court to carefully consider the facts and impose a fair and appropriate penalty.

The public defender requested for the court to apply a fair and appropriate penalty against the defendant considering the mitigating circumstances such as the defendant confessed, and regretted his actions.

Decision

The court found the defendant guilty of committing the crime of aggravated homicide against the victim and the crime of using a bladed weapon based on the facts set out in the indictment of the public prosecutor. Based on these facts the court concluded the matter and found the defendant guilty of committing the crime of aggravated homicide and imposed a prison sentence of 15 years, and for the crime of using a bladed weapon the court imposed a prison sentence of 4 years against the defendant. The court accumulated the sentences for these two crimes and determined a minimum of 15 years and a maximum of 19 years in prison, and imposed a prison sentence of 16 years in prison against the defendant.

9. Crime of aggravated human trafficking, and forgery of documents or technical report

Case No.	: 0229/15.DICMR
Composition of the Court	: Panel
Judges	: Jose Maria, Francisca Cabral and Maria Solana
Prosecutor	: Remigia de Fátima da Silva
Public Defender	: Marçal Mascarenhas
Type of Sentence	: 15 years in prison

On 11 December 2018 the Dili District Court announced its decision in a case of aggravated human trafficking, and forgery of documents or technical report, involving the defendant ABS and the victims MC, ZBM, IS, JC, MdC and RBM, that allegedly occurred in Dili District.

Charges of the Public Prosecutor

The prosecutor alleged that on 15 October 2014 the defendant went to the home of the victim RBM in Lahane Oriental and told the victim that he could work in Malaysia with a monthly salary of US\$1,000. The defendant also said that this work was legal, so he would need to hand over his electoral card, a copy of his secondary school diploma, a copy of his RDTL certificate, and a copy of his baptism certificate, so that the defendant could organise a passport for the victim.

Between October and December 2014 the defendant also informed the other victims MC, ZBM, victim JC and MdC about working in Malaysia and asked for their documents. After gathering

all of the victims' documents, on 6 January 2015, at approximately 6pm, the defendant rang the victims and told them to wait at the Tasi-Tolu Terminal so that they could travel together to Batugadé (Mota-ain). At 12 midnight the defendant and the victims took public transport to Mota-Ain. When they arrived at Mota-Ain the defendant rang her bosses named Jefri and Denis and asked them to take them into Indonesian territory via an illegal path.

After Jefri and Denis picked them up, the defendant handed over the victims ZBM and MC to Jefri and Denis who took them to Kupang. In Kupang, without the knowledge of the two victims, Jefri and Denis organised Indonesian Identity Cards and Passports using false identities to facilitate the travel of the victims to Sumatra, Indonesia. In addition to these victims, there were also some women from Indonesia, who would be traveling together with these victims.

On 23 January 2015 when the victims were about to depart for Malaysia on a wooden boat from Sumatera, they were arrested by the Indonesian police because they were using illegal documents and the victims were sent back to Kupang.

For three days in Kupang the two victims were beaten with a chair by Jefri and Denis, who forced the two victims to carry out domestic chores without payment and they also threatened to kill the two victims if they didn't want to go to Malaysia. On 27 January 2015 the two victims were going to return to Sumatera via the Eltari-Kupang airport but the police recognised the two victims at the airport and helped transport the two victims to Batugede. Jefri and Denis ran away and hid.

Also, in Atambua the defendant and her co-perpetrators Leo, Alex, Deny and Emy organised documents for the victims RBM, JC, and MdC. Suddenly the victims heard information from the defendant's family, who they were staying with, that the documents organised by the defendant were based on false identities. After hearing this information the victims were shocked and started looking for a way to flee by lying to the defendants about visiting their family in Betun-Atambua. However, the victims used this opportunity to flee to Timor-Leste.

Previously, in October 2014, using the same method, the defendant together with Jefri and Denis, managed to take the victim IS to Malaysia with an Indonesian identity and passport. The victim IS has lost contact with her family and her whereabouts are unknown.

The defendant recognised the victims at the Taibesi Market and some of them were recognised by the defendant's friends.

The prosecutor stated that the defendant committed this crime through an international network because she was collaborating with co-perpetrators such as Jefri, Leo, Denis, Alex, Deny and

Emy in Kupang and an agency in Malaysia to carry out this illegal activity, without the knowledge of the competent authorities in Timor-Leste.

The prosecutor alleged that the defendant was the main perpetrator who had violated Article 163 of the Penal Code regarding the crime of human trafficking which carries a sentence of 8-20 years in prison. The prosecutor also accused the defendant of violating Articles 163 and 164 of the Penal Code on aggravated human trafficking that carries a penalty of 12-25 years prison and for violating Article 303 of the Penal Code on the forgery of documents or technical reports that carries a sentence of 3 years or a fine.

Presentation of evidence

During the trial the defendant partially confirmed the facts, namely that the defendant did not force the victims, but they asked for her assistance to find them employment. Therefore, the defendant helped them go overseas to gain employment. The defendant stated that she did not know what Jefri and Denis did to the victims ZBM and MC. Also, the defendant had no knowledge about the whereabouts of the victim IS.

The victim RBM confirmed the facts set out in the indictment of the prosecutor and stated that he only found out that they were using illegal documents when they arrived in Atambua and the Indonesian military arrested them at the border. At the time of the arrest the victims had to kneel for half a day at the Atambua military post, and run around the Indonesian flag and salute the Indonesian flag under the hot sun. The defendant ran away and hid in the afternoon and she told Denis to come and get the victims and take them to the defendant's house.

The victim ZBM confirmed the facts set out in the indictment and stated that the immigration police in Kupang, Indonesia contacted Timor Travel to pick up the two victims at the Kupang airport in Indonesia in order to take them to Batugadé-Atambua. The police also provided them with a document instructing the driver to hand them over to the police in Batugadé, including the two victims.

The victim then stated that the co-perpetrators followed their vehicle and stopped it and told the two victims to get out. However, the two victims did not want to get out and asked the driver to help them by not stopping. The victim added that the co-perpetrators tried to give money to the driver to let the two victims out, but the driver did not want to and threatened to call the immigration police who had entrusted the two victims to him. Finally the driver managed to take the victims to Batugadé and the victims were handed over to the Timor-Leste immigration police. Also, the victim confirmed the statement of the victim RBM about being arrested by the Indonesian military and being punished.

The victim MdC confirmed the facts set out in the indictment and stated that the defendant had gone to his house in 2014 to inform him about working in Malaysia in relation to processing

coconut oil with a salary of US\$500; but those who worked hard would get US\$1,000. Upon hearing this, the victim agreed and handed over documents such as an electoral card, baptism certificate and secondary school diploma to the defendant with the intention of getting a passport. However, less than one week later the defendant came to the victim's house to tell the victim to pack some clothes because they needed to travel to Atambua-Indonesia.

The victim added that they went to Atambua on 6 January 2014 and when they arrived in Batugadé the defendant let the victims travel via an illegal channel. When they arrived in Motain the victims were arrested by the Indonesian military and punished. The victim also stated that when he was at the defendant's house the victim heard from some of the defendant's family that the defendant was lying to them and told them to go back to Timor-Leste. Upon hearing this, the victim lied to the defendant and said that they were going to visit their families, but in reality they fled to Timor-Leste.

The victim IS stated that the defendant organised her documents so she could work in Malaysia. However, while she was in Malaysia the victim stated that she worked in a house for two years. For two years she had no breaks, no telephone calls and only received a monthly salary of US\$80 and the victim never contacted her family. She returned to Timor-Leste because the owner of the house ended her employment and bought a ticket for her and organised her documents. The victim stated that she was lucky because the owner of the house was kind.

The victim MC and JC were not present, because the court did not know their whereabouts.

Final recommendations

The prosecutor stated that the facts set out in the indictment had been proven because the defendant had lied in order to recruit and transfer victims to her friends who were set up in Indonesia. However, they did not succeed in the end, because some of the victims fled and an employer managed to transfer one person to Malaysia and she was able to return to Timor-Leste in healthy condition. However, the other victims did not make it to Malaysia because they were arrested and some returned because they were helped by the Indonesian police and some fled and returned home, but not because the defendant brought them home. Based on these facts, the prosecutor requested for the court to sentence the defendant to 7 years in prison.

The public defender stated that the facts set out in the indictment were not proven because the defendant did not get any benefit from the trips made by the victims because the defendant just helped them to travel so they could get work. In relation to the alleged mistreatment of the victims, including providing them with false documents in Atambua and Kupang, this was not the defendant's plan and he had no knowledge of this. The public defender also argued that the defendant did not lie to the victims because there is work in Malaysia because the victim IS did

actually work in Malaysia and then returned to Timor-Leste. In relation to the visit to Malaysia via Kupang, the victims themselves agreed to receive assistance to get there.

Based on these facts, the public defender requested for the court to acquit the defendant after considering the mitigating circumstances such as the defendant was a first time offender, she collaborated during the trial even though it took two years, the defendant also was placed in pre-trial detention for two years and then coercive measures were adjusted to impose a requirement to Prove Identity and Residence.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime of trafficking five persons as well as one count of aggravated human trafficking. The court did not find the defendant guilty of two counts of forging a document or technical report and attempted forging of a document because it was not the defendant who forged the victims' documents, but rather the co-perpetrators in Indonesia.

Based on this evidence, the court sentenced the defendant to 5 years in prison for the crime of human trafficking for each count. The court imposed a prison sentence of 12 years against the defendant for the crime of aggravated human trafficking. The court imposed a single sentence of 15 years in prison against the defendant. The court acquitted the defendant from the two charges of forging a document or technical report and attempted forgery of documents or technical report because it found that the co-perpetrators in Indonesia committed these crimes.

10. The crime of serious offences against physical integrity and use of a bladed weapon

Case No.	: 0089/18.DIDIL
Composition of the Court	: Panel
Judges	: Edite Palmira, Jumiaty Freitas and Sribuana da Costa
Prosecutor	: Reinato Bere Nahak
Public Defender	: Jose da Silva
Type of Sentence	: 3 years in prison, suspended for 3 years

On 11 December 2018 the Dili District Court announced its decision in a case of serious offences against physical integrity and the crime of using a bladed weapon involving the defendant Daniel Soares and the victim Armando Eko, who is the brother in law of the defendant, which allegedly occurred in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that in May 2018 the defendant used a vegetable knife and stuck the knife into the victim's right arm which caused an injury and heavy bleeding and required four

stiches. The defendant committed this assault because the victim chased the defendant's sister who is the wife of the victim.

The public prosecutor alleged that the defendant violated Article 146 of the Penal Code on serious offences against physical integrity that carries a maximum penalty of 2-8 years in prison in conjunction with Articles 2.2 of Law No. 5/2017 on the use of a bladed object or tool as a weapon, that carries a prison sentence of 4-8 years.

Presentation of evidence

During the trial the defendant confessed the facts and stated that at that time the victim chased his wife and his wife ran to the defendant's house. When she arrived at the defendant's house, the defendant took the victim's wife back to the victim's house. However, the victim did not want to accept his wife and did not want to resolve this problem. Therefore, the defendant took a vegetable knife that was on the table and stabbed the victim in the vicinity of his right elbow. Then, the defendant ran to his house and the police arrested him and detained the defendant for 72 hours. The defendant and the victim have reconciled and the victim has also reconciled with his wife.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime in accordance with the facts alleged in the indictment. The public prosecutor requested for the court to impose a prison sentence of 2 years, suspended for 3 years, against the defendant

The public defender requested for the court to consider the mitigating circumstances such as the defendant confessed, regretted his actions and was a first time offender. Therefore the public defender requested for the court to impose a lenient penalty against the defendant.

Decision

The court found that the defendant used a vegetable knife and stuck the knife into the victim's right arm which caused an injury and heavy bleeding and required four stiches. Based on this evidence, the court sentenced the defendant to 3 years in prison, suspended for 3 years, and ordered the defendant to pay court costs of US \$20.

11. Crime of Simple offences against physical integrity characterized as domestic violence

Case No.	: 0013/18.DINFT
Composition of the Court	: Single Judge
Judge	: Albertina da Conceição das Neves
Prosecutor	: Benvinda do Rosario
Public Defender	: Afonso Fátima Gomes

Type of Sentence : 6 months in prison, suspended for 1 year

On 12 December 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant LdA who allegedly committed the offence against his sister in law in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that in 2018 the defendant's child was admitted to the Dili National Hospital and therefore the victim was staying with the defendant's older sister who was looking after her sick nephew. When she was at the hospital, the victim's older sister lost her Xiao Mi mobile phone valued at US\$175. The victim's sister asked the defendant but the defendant said he didn't know. On that evening the defendant went home and took his clothes and went to stay with his family.

On 18 January 2018 at approximately 11:00am the victim logged on to facebook and saw the defendant's posting status as "*Who wants to buy a second hand android Xiao Mi mobile phone?*" The victim showed this her older sister and her older sister posted the word "*thief*" on the victim's facebook account. The defendant saw the post and in the afternoon he went to the victim's house and said something and slapped her once on her right cheek, and punched her once on her left cheek. When the defendant slapped the victim, the victim saw her older sister's mobile phone in the defendant's hand. These acts caused the victim to feel pain and swelling to her left and right cheeks for two days.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3(a), 35(b) 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. The defendant acknowledged that he took his wife's mobile phone and posted the sale of the phone on facebook. The defendant also acknowledged that he went to the house and slapped the victim because the victim said she didn't know when the defendant asked why she had mentioned the defendant's name on facebook. The defendant denied punching her on the left cheek. The defendant stated that he left the house because he suspected his wife of having a romantic relationship with another person. The defendant regretted his actions and promised not to repeat such actions in the future against the victim.

The victim confirmed the facts set out in the indictment and stated that the defendant went to the house and without saying anything punched and slapped the victim and when he committed this crime the victim had just got back from school and changed her clothes.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against his sister in law, even though the defendant denied some of the facts, but the victim confirmed the facts set out in the indictment. Therefore, although the defendant regretted his actions, and was a first time offender, the prosecutor requested for the court to impose a prison sentence of three years, suspended for three years, against the defendant.

The public defender requested for the court to consider the mitigating circumstances surrounding this crime, such as the defendant confessed, regretted his actions and promised not to commit any further violence against the victim. Based on these mitigating circumstances, the public defender requested for the court to impose a fine against the defendant.

Decision

The court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. Based on the facts that were proven and the mitigating circumstances, namely that the defendant regretted his actions, was a first time offender and has a child, the court imposed a prison sentence of 6 months against the defendant, suspended for 1 year, and ordered the defendant to pay court costs of US\$10.

12. Crime of aggravated property damage and simple offences against physical integrity

Case No. : 0046/14.DICMR
Composition of the Court : Panel
Judges : Albertina das Neves, Eusébio Xavier Victor and Zulmira Auxiliadora B. da Silva
Prosecutor : Reinato Bere Nahak
Public Defender : Fernando Lopes de Carvalho
Type of Sentence : Acquittal

On 12 December 2018 the Dili District Court announced its decision in a case of aggravated property damage and simple offence against physical integrity involving the defendant David da Costa Silveiro and the victim Amilcar Elando da Silva, that allegedly occurred in Dili District.

Charges of the Public Prosecutor

The prosecutor alleged that on 5 February 2014, at approximately 2:20pm, the victim was driving a Number 10 minibus with the numberplate 31.205 TLS between Bidau-Tasitolu. When he arrived at Bidau, the defendant and his five friends stopped the minibus and got inside. The defendant argued with the victim and kicked the victim once on his back and grabbed him by the shirt and said “This minibus can't go past the Comoro market.” When the minibus got to the

Komoro market the defendant told it to stop and smashed the front window, two side mirrors and main glass causing damage totalling US\$1,295.00.

The public prosecutor alleged that the defendant violated Article 259 of the Penal Code on aggravated property damage that carries a maximum penalty of 2-8 years in prison 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.

Presentation of evidence

During the trial the defendant denied all of the facts in the indictment of the prosecutor and stated that the victim was not the driver of the minibus but the assistant. At that time the defendant and his friends got on the victim's minibus and travelled from Bidau heading to their home in Komoro. But when they got on the minibus suddenly the victim grabbed the defendant by the shirt and told him and his friends to get off saying that the minibus was already full. The defendant sat in a chair for five people because it was still empty. However, the victim still told the defendant and his friends to get off and when the defendant and his friends got off the victim kicked the victim once in the leg. After this incident, the defendant and his friends got in a taxi and made a complaint at the Becora Police Station and after making the complaint the defendant went home to Komoro and not long after the police went looking for the defendant at his house and said that the defendant had smashed the minibus.

The court did not manage to hear testimony from the victim because he has passed away.

The witness Manuel Freitas was a passenger on the minibus and was travelling from the Cathedral to Komoro. He testified that when the minibus arrived at the Komoro Market, the witness saw many people attack the minibus and he saw people smash the front window of the minibus. When this incident occurred the witness was sitting at the front of the vehicle and did not see the defendant at the scene.

Final recommendations

The prosecutor requested to change the charge from the crime of aggravated property damage and simple offences against physical integrity to the crime of property damage with violence. The prosecutor stated that the defendant denied all of the facts in the indictment, the witness did not see the defendant at the scene and the victim has passed away. Even so, the prosecutor requested for the court to impose an effective prison sentence of 4 years against the defendant and also requested for the court to order the defendant to pay civil compensation for smashing the window of the minibus.

In addition, the public defender agreed with the request of the prosecutor to change the charges to the crime of property damage with violence. However, because the defendant was not guilty

of committing the crime against the victim, because the witness testified that the defendant was not at the scene when people smashed the window of the minibus. However, photos showed that the window of the minibus had been smashed, and the public defender requested for the court to acquit the defendant from the charges of the prosecutor. The public defender also argued that actually the defendant was the victim but after the defendant and his friends made a complaint to the police and went home, the police arrested the defendant and accused the defendant of smashing the window of the minibus.

Decision

After evaluating the facts that were produced during the trial, the court acquitted the defendant from the charges because the court did not find that the defendant smashed the window of the minibus. The court decided to acquit the defendant based on his statement that actually he was the victim, and the witness testified that he did not see the defendant at the scene even though photos showed that the window of the minibus had been smashed.

13. Crime of simple offences against physical integrity

Case No.	: 0137/18. DICMR
Composition of the Court	: Single Judge
Judge	: Ivan José Suritay Patrocínio Goncalves
Prosecutor	: José Elo
Defence	: Emilio de Jesus Pereira and Miguel Fernandes (trainee lawyer)
Type of Sentence	: Withdrawal of complaint

On 13 December 2018 the Dili District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant David Dias Freitas who allegedly committed the offence against the victim Arão Ximenes in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 16 March 2018, at 3.30pm, the defendant kicked the victim once in the head and caused the victim to fall to the ground. When the victim was on the ground the defendant and his friends, who the victim did not recognise, punched and kicked the victim multiple times on his body and caused the victim to suffer a wound above his eye and pain to his body where he had been punched and kicked. The victim received treatment at the Komoro Health Centre and received two stitches above his eye.

Prior to the incident, the victim went to visit his uncle, who is a teacher at the 10 de Dezembro School, and when the victim arrived, the defendant who was a student at that School and his friends without any motive committed the assault against the victim.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on

simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Before proceeding to the examination of evidence the court attempted conciliation between the defendant and the victim but the victim wanted the case to be processed.

Presentation of evidence

During the trial the defendant confessed that he kicked the victim in the head and the victim fell to the ground. When the victim was on the ground, suddenly the defendant and his school friend, who the defendant did not recognise, came from behind and kicked and punched the victim. The defendant added that they ran from the scene when the victim' uncle yelled at the defendant and his friends. The defendant also stated that previously the defendant and the victim had a problem when they were in Baucau District.

After the production of evidence the victim wanted to withdraw his complaint against the defendant because they are related. The defendant also agreed to this request and apologised to the victim.

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 finalise the matter and validate the settlement.

14. Crime of simple offences against physical integrity

Case No.	: 0145/18.ERSIC
Composition of the Court	: Single Judge
Judge	: Jumiaty Maria Freitas
Prosecutor	: Osorio de Deus
Public Defender	: Sebastião Amado
Type of Sentence	: 3 months in prison suspended for 6 months and acquitted

On 14 December 2018 the Dili District Court, through the mobile court in Ermera District, announced its ruling in a case of simple offences against physical integrity involving the defendant Lucas da Conceição Salsinha and the defendant Deizia Soares da Silva (wife and husband) and the victims Agusta Salsinha and Julio Salsinha (wife and husband), in Ermera District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 13 June 2018, at 6pm, when the male victim was returning home from work, the defendants were standing there and asked the victims about the defendants' dirty water receptacle that the victim had closed off. The male victim answered that he had closed off the dirty water receptacle for two days because he was the owner of the land where the defendant's dirty water was accumulating and he told the defendants to leave.

Then the defendant took a broom and beat the male victim twice on his arms and back until it broke. At that time the female defendant provided words of support by saying that the police had given guidelines to beat these types of people to death because they are troublemakers.

When she saw this incident the female victim also came out of the house and tried to stop the male defendant and the male victim but the female defendant Deizia Soares da Silva insulted her and told her to be quiet. Then the male defendant Lucas da Conceição took a branch from a coffee tree and beat the female victim twice in the head and shoulder which caused swelling and she became dizzy and fell into the gutter. The male defendant then used the branch from the coffee tree to beat the male victim Julio Salsinha three times on his left arm and twice on his right arm until the branch broke.

The public prosecutor alleged that the male defendant was the main perpetrator and instigator of this crime and 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 Lucas da Conceição stated that some of the charges were correct in that he used a broom to strike the female victim once on the head, but she did not fall down because he had pushed her, but rather she fell because she was trying to scratch the female defendant. The male defendant denied the allegation that his wife supported him when he was carrying out this act. However, the male defendant acknowledged that he used the broom to hit the male victim twice on his right arm and left arm until the broom broke. The defendant regretted his actions.

The female defendant Deizia Soares da Silva denied the allegation that she provided words of support for the defendant to beat the victim. The female defendant stated that her husband used a broom to strike the male victim on his left arm and back, including once on the female victim's head. The female defendant denied the allegation that the male defendant took a branch from a coffee tree to beat the female victim in the head until she fell in the gutter. In relation to the female victim falling over, the male defendant stated that the female victim slipped when she was trying to scratch the female defendant.

The male victim confirmed the facts set out in the indictment and stated that the male defendant did not just use a broom, but also the branch of a coffee tree. The male victim said that the male defendant first hit him on the left arm and back with a broom until it broke. Then the defendant took the branch of a coffee tree and struck the male victim on his left and right arms until the branch broke. The defendant also used the branch of the coffee tree to strike the female victim once in the head until she fainted and fell to the ground. The female victim confirmed some of the facts, namely that the male defendant hit the male victim and the female victim but only until the branch of the coffee tree broke.

Final recommendations

The public prosecutor stated that the two defendants were guilty of committing the crime in accordance with the charges. Therefore the prosecutor requested for the court to impose a suspended prison sentence against the two defendants.

The public defender requested for the court to impose a lenient penalty against the two defendants because the statements of the two victims were contradictory about the branch breaking. In addition, the two defendants were first time offenders and the male defendant also stated that he regretted his actions.

Decision

After evaluating all of the facts, the court found that the testimony of the victims was contradictory. The male victim stated that the defendant hit him with a broom and a branch of a coffee tree until they broke. However, the victim stated that only the branch of the coffee tree broke. There was also a contradiction about the male defendant striking the female victim in the head, because the male victim said that the male defendant struck her once, but the female victim stated that she was hit twice.

Based on these considerations, the court concluded this matter and imposed a prison sentence of three months, suspended for six months against the male defendant, however the female defendant was acquitted from the charges of the prosecutor due to a lack of evidence.

15. Crime of simple offences against physical integrity

Case No.	: 0311/17. PDDIL
Composition of the Court	: Single Judge
Judge	: Patr�cinio Antonio Goncalves
Prosecutor	: Bartolomeu de Araujo
Public Defender	: Jonas Henrique da Costa
Type of Sentence	: 3 months in prison, suspended for 1 year

On 14 December 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendant Miguel Costa Freitas and the victim Natalia Goncalves, that allegedly occurred in Liquica District.

Charges of the Public Prosecutor

The prosecutor alleged that on 4 September 2017, at approximately 4pm, the defendant went to the victim's house to ask the victim to pay US\$500 that she owed him. However the victim told the defendant that the money had been paid, so they argued and the defendant slapped the victim once on her right cheek and took a pestle in order to hit the victim but did not manage to do so because the victim's neighbour, Francisca Amaral, grabbed the pestle.

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.

Before proceeding to the examination of evidence the court attempted conciliation between the defendant and the victim but the victim wanted the case to proceed.

Presentation of evidence

During the trial the defendant denied the facts set out in the indictment of the prosecutor and stated that he did not slap the victim, but rather the victim slapped the defendant twice on the cheek when they argued about the money. The defendant added that at that moment when the victim slapped the defendant, their neighbour (Mr. Alberto) was also there. The defendant also stated that on the morning of 5 September 2017 they went to resolve this problem in front of the local authorities (Sub-Village Chief and Village Police Officer) but they did not succeed because the victim's son (Gilberto) called the F-FDTL to threaten the defendant. The victim maintained the facts set out in the indictment of the public prosecutor.

The witness Francisca dos Santos Amaral, who is the victim's neighbour, testified that the witness was returning from a plantation and was sitting outside her house and she saw the defendant ask the victim for money and they argued and the defendant slapped the victim once on her right cheek and took a pestle in order to hit the victim but did not manage to do so because the witness grabbed the pestle.¹

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime of simple offences against physical integrity based on the facts set out in the indictment of the prosecutor. Based on the facts that were proven, including all of the relevant circumstances, the

¹JSMP did not monitor the testimony of the witness Alberto and the final recommendation because several trials were carried out by the mobile court in Liquica District.

court finalised the matter and sentenced the defendant to 3 months in prison, suspended for 1 year. The court also ordered the defendant to pay court costs of US\$10.

16. Crime of aggravated fraud

Case No. : 0591/16.DICMR
Composition of the Court : Panel
Judges : Ana Paula Fonseca, Julmira Maria da Silva and Eusébio Xavier Victor
Prosecutor : Reinato Bere Nahak
Public Defender : Marçia Sarmiento
Type of Sentence : 2 years in prison, suspended for 4 years and ordered to repay money

On 14 December 2018 the Dili District Court announced its decision in a case of aggravated fraud involving the defendant Muhamad Firdaun and the victim Nur Huda, that allegedly occurred in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that in June 2016 the defendant went to the victim's house to borrow US\$2,000 from the victim to conduct some business activities relating to construction materials. The defendant promised to give the money back by July 2016. The victim also lent the money at the request of the defendant. One month later, the victim contacted the defendant but the defendant's phone was off and the victim went looking for him but could not find him.

The public prosecutor alleged that the defendant violated Article 267 of the Penal Code on aggravated larceny that carries a maximum penalty of 3-10 years in prison.

Presentation of evidence

During the trial the defendant confessed and acknowledged that he borrowed US\$2,000 from the victim but was not able to give it back on time because he formed a consortium with his friends for a project to build a road in Manufahi District. The defendant promised that he would pay back the victim's money based on his financial capacity in the near future.

The victim confirmed the facts set out in the indictment and stated that the defendant made many promises but did not keep them. Therefore, the victim requested for the court to force the defendant to pay back the money, based on his capacity.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the facts as alleged in the indictment because the defendant tried to lie to the victim to take the money for himself. The

defendant also did not comply with the agreement or his promise to give the money back on time. Therefore, the prosecutor requested for the court to sentence the defendant to three years in prison, suspended for four years, with the condition that the defendant must give back the victim's money during the period of suspension.

The public defender requested for the court to amend the charges from the crime of aggravated fraud to the crime of abuse of trust as provided in Article 256 of the Penal Code. The public defender requested this amendment because the defendant did not lie to the victim and the defendant did not force the victim to lend money to the defendant, but rather the victim used his own conscience to lend the money to the defendant. The victim knew about and believed that the defendant was involved in business activities. However, in the end the defendant could not give back the victim's money on time because the defendant's business was bankrupt. The public defender also argued that the agreement between the two parties did not really bind the defendant with any obligations because the agreement was verbal. Therefore the public defender requested for the court to impose a lenient penalty against the defendant.

Decision

After evaluating the evidence the Court did not grant the request of the public defender to amend the charges and maintained the charge of aggravated fraud. The court found that the defendant committed the crime of aggravated fraud as alleged in the indictment because the defendant confessed and the victim also confirmed these facts. Based on the facts that were proven, the court sentenced the defendant to two months in prison, suspended for 4 years, and ordered the defendant to pay back the victim's money totalling US\$2,000 within two months.

17. Crime of simple offences against physical integrity and property damage

Case No.	: 0343/14. DIDIL
Composition of the Court	: Single Judge
Judge	: Francisca Branco
Prosecutor	: Bemvinda da Costa do Rosario
Public Defender	: Manuel Exposto
Type of Sentence	: Withdrawal of complaint

On 17 December 2018 the Dili District Court attempted conciliation in a case of simple offences against physical integrity and property damage involving the defendants Alexandre de Oliveira and Marino de Jesus and the victim João Nunes, that allegedly occurred in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that the defendants 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 258 of the Penal Code on the crime of property damage that carries a maximum penalty of three years in prison or a fine.²

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 defendants and the victim.

During the attempted conciliation the victim was willing to withdraw the complaint against the defendants but the victim requested for the court to remind the defendants not to repeat their behaviour in the future against the victim. The defendants apologised to the victim and promised not to act in this way against the victim in the future.

Final recommendations

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

Decision

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

18. Crime of simple offences against physical integrity characterized as domestic violence, as well as the crime of simple offences against physical integrity

Case No.	: 0053/18. PDDIL
Composition of the Court	: Single Judge
Judge	: Ivan Patrocinio Antonino Goncalves
Prosecutor	: Bartolomeu de Araujo
Public Defender	: Jonas Henrique da Costa
Type of Sentence	: Admonishment and withdrawal of complaint validated

On 17 December 2018 the Dili District Court announced its ruling in a case of simple offences against physical integrity characterized as domestic violence involving the defendants SPG and defendant PPS (mother and daughter) against the victim FFX, who is the husband of the defendant SPG, and the son in law of the defendant PPS.

The court also announced its ruling in the case of simple offences against physical integrity involving the defendant FB (the uncle of the defendant SPG) against the victim FFX, in Dili District.

² The court did not read out the charges of the prosecutor.

Charges of the Public Prosecutor

The public prosecutor alleged that on 28 January 2018 the female defendant SPG sent a message to the male victim to meet and discuss their relationship because the victim left the home to go and live with his mother and father since 2016 when they had a problem. Also, the victim had a relationship with another woman.

Then on 29 January 2018, at 7am, the defendant SPG went to the victim's house and argued with the victim. The female defendant scratched the victim's arm, left cheek and mouth and caused redness and injury to his arm, cheek and mouth.

Then on 4 February 2018 the defendant SPG rang the victim's girlfriend to discuss and find out about the relationship between her and the victim. The defendants SPG, PPS and FB went to the side of Hotel Katuas and met with the victim's girlfriend and the victim. The victim came because the victim's girlfriend rang him because she was afraid to meet with the female defendant SPG by herself. The female defendant and the others argued with the victim, and the female defendant SPG grabbed the victim by the shirt, and the defendant PPS grabbed the victim around the throat and the female defendant FB punched the victim in the head. These acts caused the victim to suffer redness and pain to his throat and pain to his head.

The public prosecutor alleged that the defendants SPG and PPS violated Article 145 of the Penal Code on simple offences against physical integrity characterised as domestic violence that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence. The public prosecutor alleged that the female defendant FB 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.

Before proceeding with the production of evidence the court attempted conciliation in relation to the crime of simple offences against physical integrity involving the female defendant FB and the victim. During this attempted conciliation the victim agreed to withdraw the complaint. The female defendant agreed with the request to withdraw the complaint and promised to the court that she would not reoffend in the future. Based on this request, and after hearing the stance of the prosecutor and public defender, the court validated the withdrawal of complaint.

After validating the withdrawal of complaint, the court proceeded with the crime of simple offences against physical integrity characterised as domestic violence.

Presentation of evidence

During the trial the female defendant SPG acknowledged that she scratched the victim because for two years the victim had not been living in the home and the problem had remained unresolved, and the victim had another girlfriend.

The female defendant SPG added that she and the victim got together in 2010, when they were studying at university in Indonesia and they have two children. When they returned from Indonesia they lived with the parents of the female defendant SPG for 4 years and during this 4 years the parents of the female defendant SPG looked after them because the victim didn't have any employment.

The female defendant PPS denied that she grabbed the victim by the throat and stated that she just grabbed the victim by his shirt. However, she said that if the victim believes that she scratched him, perhaps it did happen, because it has been a long time and she couldn't recall. The female defendant PPS added that this incident occurred when the victim was no longer living with them and the victim was not economically dependent on the female defendant.

The victim confirmed the facts set out in the indictment of the prosecutor, namely that on 28 January 2018 the female defendant SPG sent a message to him to meet up and talk about his relationship with his girlfriend. The victim also confirmed that on 29 January 2018, at 7am, the female defendant SPG went to the victim's house and scratched the victim's arm, left cheek and mouth.

The victim confirmed the statement of the female defendant SPG that they got together in 2010 when they were studying at university in Indonesia and they have two children. When they returned from Indonesia they lived with the parents of the female defendant SPG for 4 years and during this 4 year period the parents of the female defendant SPG looked after them. However, in 2016 the female defendant SPG insulted and swore at the victim's parents and did not respect the victim, so the victim left the house.

After hearing the statement from the defendants and the victim, the prosecutor requested for the court to amend the charge from the crime of simple offences against physical integrity characterized as domestic violence and to maintain the charge of simple offences against physical integrity because at the time of the incident the victim was not economically dependent on the female defendant PPS. The public defender agreed with this request from the prosecutor.

After hearing the request from the prosecutor and the stance of the public defender, the court amended the first charge and maintained the charge of simple offences against physical integrity. Because this is a semi-public crime, the court attempted conciliation between the female defendant PPS and the victim.

During this attempted conciliation, the victim wanted to withdraw his complaint against the female defendant PPS and the female defendant also agreed to this request. The female defendant PPS also promised not to repeat her behaviour against the victim in the future. Based

on this request, and after hearing the stance of the prosecutor and public defender, who accepted the agreement between the two parties, the court validated the withdrawal of complaint.

After validating the withdrawal of complaint, the court proceeded with the final recommendations regarding the crime of simple offences against physical integrity characterised as domestic violence involving the female defendant SPG.

Final recommendations

The prosecutor stated that the female defendant SPG was guilty of committing the crime of simple offences against the physical integrity of the victim, who is her former husband, and therefore requested for the court to impose a penalty of 30 days in prison, suspended for one year.

The public defender requested for the court to issue an admonishment or a fine because the defendant confessed to the facts, regretted her behaviour and was a first time offender.

Decision

After evaluating all of the facts, the court found the female defendant SPG guilty of committing the crime of simple offences against physical integrity based on the facts set out in the indictment of the prosecutor. Even though the defendant confessed the facts, regretted his actions and was a first time offender, the court finalised the matter and issued an admonishment against the defendant and ordered the defendant to pay court costs of US\$10.

19. Crime of simple offences against physical integrity

Case No.	: 0033/15.TDDIL
Composition of the Court	: Single Judge
Judge	: Zulmira Maria Auxiliadora
Prosecutor	: Nelson de Carvalho
Public Defender	: Fernando de Carvalho
Type of Sentence	: Fine of US\$ 180

On 18 December 2018 the Dili District Court announced its ruling in a case of simple offences against physical integrity involving the defendants Gusmão da Costa, Armando Cornelio, Raul Vicente Soares and Domingos Reinato, who are members of F-FDTL, and the victim Ivan Patricinio Gonçalves, that allegedly occurred in Dili.

Charges of the Public Prosecutor

The public prosecutor alleged that in June 2015 the victim, who is a trainee judge, was driving a car with the number plate 005-TDD from Dili to Baucau as a member of a panel of judges trying a case at the Baucau District Court. When he arrived at the Hera Police Station, the victim saw F-

FDTL and PNTL members conducting a joint operation and they stopped the victim's car. The victim stopped in front of the Police Station and the four defendants approached the victim's car and asked him to open the window so they could conduct a check. The victim put down the window of the car and told the defendants that he did not want the defendants to search his car because it was a court vehicle and the victim had to go to work.

After hearing the victim's words the defendant Gusmão da Costa approached the victim and said "So what if it's a court vehicle?" Then he told the victim that an order had been issued. The victim asked which one was higher, the law or an order. Then they argued and the defendant Gusmão put his arm inside the car and grabbed the victim by the back of his head and shoved his head forward with force. Then the other defendants opened the back of the victim's car and conducted a search of the car. Then the defendants told the victim to continue with his journey to Baucau but the victim returned to Dili and made a complaint to the police.

The public prosecutor alleged that the defendants 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

Because this crime was semi-public in nature, before proceeding to the examination of evidence the court attempted conciliation between the victim and the defendants, but the victim wanted to continue with the matter.

During the trial, the three defendants Gusmão da Costa, Raul Vicente Soares and Domingos Reinato chose to remain silent. However, the defendant Armando Cornelio, who was the commander of the joint force group, wished to respond to the charges of the prosecutor.

The defendant Armando Cornelio stated that the defendant Gusmão da Costa did push the victim in the head because the victim spoke in a loud voice towards them and did not authorise the defendants to search the victim's car. The defendant added that they conducted this search based on a resolution issued by the State when there was an emergency situation prohibiting movement between Dili-Baucau except for emergencies, on the condition that searches must be carried out.

The victim confirmed the facts set out in the indictment and stated that the defendant Gusmão da Costa pushed his head with force because he did not allow the defendants to search his car. The victim told the defendants that the car he was driving belonged to the court and he was heading to work but the defendants took no notice. The victim stated that before traveling to Baucau he knew that there were problems relating to the case involving Mauk Moruk and a check would take place. Therefore, the victim rang his superior at the Baucau District Court to ask permission

not to travel to Baucau but the superior did not allow him because the victim was a member of a panel of judges.

The victim acknowledged that when he asked which one was higher, the law or an order, he spoke in a loud voice. The victim also took out and showed his card identifying him as a trainee judge but the defendants did not want to look at it and told the victim to put his card away.

The victim stated that the resolution was issued after this incident, but the public defender confirmed that this resolution was issued in April 2015 before this incident. The resolution states that all citizens are prohibited from traveling at night and cannot travel between Dili-Baucau, except for emergencies, with the condition that they must be searched by the joint force. Those with the privilege to not be searched are President of the Republic, Prime Minister, President of the National Parliament and President of the Court of Appeal.

After hearing the testimony of the victim the public defender requested for the court to call as a witness the individual who was the Commander of the Hera Police Station at the time of the incident, because he was standing next to the victim and defendants. Also, the public defender requested for the court to present the Chief of Staff of the F-FDTL, Lere Anan Timur, as a witness to explain this resolution.

However the court only accepted the request to present the Commander of the Hera Police Station and rejected the request to present the Chief of Staff of the F-FDTL because the court had a good understanding of this resolution. However, if there was still confusion in the future then the Chief of Staff could be called as a witness.

The witness João Pinto, who was the Commander of the Hera Station at the time of the incident, testified that at that time there was a joint operation between PNTL and F-FDTL to search all citizens travelling to the eastern region, except for sovereign organs mentioned in the resolution. When the defendants went to search the court vehicle that was being driven by the victim, the victim refused. Therefore, the defendant Gusmão da Costa stepped over and pushed the victim's head forward with force and told the victim *"Alright, you can go, but don't say anything else"*. The witness added that when the defendant committed this assault the witness was standing next to the victim and the defendants.

Final recommendations

The prosecutor stated that the victim and the defendants were performing their different missions and roles, and therefore they argued and in the end the defendant Gusmão da Costa pushed the victim's head forward and the defendant's act is a crime. Therefore, the public prosecutor requested for the court to impose a prison sentence of 6 months, suspended for 1 year, against the

defendant Gusmão da Costa. The prosecutor requested for the court to acquit the other three defendants because they did not commit any crimes against the victim.

The public defender requested for the court to acquit all of the defendants from the charges of the prosecutor with consideration of the mitigating circumstances, namely that the defendants were carrying out their function in an emergency situation and at that time the victim did not collaborate and the resolution did not grant special privilege to judges, only the President of the Court of Appeal.

Decision

After evaluating the facts, the court found that the defendant Gusmão da Costa guilty of committing the crime of simple offence against the physical integrity of the victim by pushing his head. Based on this evidence, he court ordered the defendant Gusmão da Costa to pay a fine of US\$ 180 through daily instalments of US\$ 5.00 for 36 days. If the defendant does not pay this fine then he will be sent to prison for 40 days as an alternative punishment. In relation to the other three defendants, namely Armando Cornelio, Raul Vicente Soares and Domingos Reinato, the court acquitted them from the charges of the prosecutor because it was not proven that they committed the crime against the victim.

20. Crime of simple offences against physical integrity

Case No.	: 0112/17.DINTF
Composition of the Court	: Single Judge
Judge	: Edite Palmira Reis
Prosecutor	: Hipolito Santa
Public Defender	: Agustinha de Oliveira
Type of Sentence	: 2 years in prison, suspended for 3 years

On 19 December 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendant Jorge Miranda Borges who allegedly committed the offence against the victim Noel Savio dos Santos in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 12 July 2017 the victim was invited to a marriage ceremony in Kuluhun de Baixo. At approximately 2:30am the victim was returning home and when he was walking along the main road he saw a group fighting on the road. The victim kept walking and suddenly the defendant took a knife and stabbed the victim in the back which caused heavy bleeding and the victim fainted and fell to the ground. People who witnessed this incident took the victim for treatment at the Dili National Hospital and the victim suffered an 8cm wound and received an unknown number of stitches. The victim was given Amoxicillin,

Paracetamol and Ibuprofen. The victim only felt better after three weeks. The defendant and the victim previously had no problem and they knew each other from school.

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 the production of evidence, the court attempted conciliation between the defendant and the victim. However the victim wanted to proceed with the matter because the defendant had not sought out the victim to resolve this problem.

During the trial the defendant confessed the facts set out in the indictment and stated that at that time the victim went outside and was heavily drunk and was shouting and provoking people on the road. Therefore the defendant went outside and took a vegetable knife from the side of the road and stabbed the victim. The defendant stated that he didn't know that the person he had stabbed was the victim. The defendant also stated that victim had a problem with his other friends so the victim was shouting on the road and fighting with his friends on the main road. The defendant stated that there was intent to resolve this problem with the victim but they did not manage to do so because the defendant was afraid of the victim and his family. The defendant stated that he regretted his actions and promised not to reoffend in the future.

The victim acknowledged that he was invited to participate in a marriage celebration in Kuluhun de Baixo and at the party the defendant was drinking with the victim. At that time the victim went out to buy some cigarettes and heard people making a lot of noise on the road. Then the victim was heading back inside the marquee and suddenly the defendant stabbed him from behind. The victim also said that previously there was a problem between the defendant's neighbourhood and the victim's neighbourhood.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim and used a knife to stab the victim in the back after he picked it up from the side of the road and caused heavy bleeding and an 8 centimetre wound and the victim received an unknown number of stiches. The victim received treatment at the Dili National Hospital and the victim only felt better after three weeks. Before proceeding to the trial of this matter, the court attempted conciliation because this was a semi-public crime, but the victim wanted to continue with the matter. The prosecutor also argued that previously the defendant's neighbourhood and the victim's neighbourhood had a problem. The defendant stated that he regretted his actions and was a first time offender, so the prosecutor requested for the court to convict the defendant for violating the article mentioned in the indictment.

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

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. Based on the facts that were proven and the mitigating circumstances, namely that the defendant regretted his actions, and was a first time offender, the court finalised the matter and imposed a prison sentence of 2 years against the defendant, suspended for 3 years, and ordered the defendant to pay court costs of US\$ 20.

21. Crime of simple offences against physical integrity and the crime of property damage

Case No.	: 0381/15. DICMR
Composition of the Court	: Single Judge
Judge	: Francisca Cabral
Prosecutor	: Reinato Bere Nahak
Public Defender	: Sebastião Amando
Type of Sentence	: Withdrawal of complaint

On 20 December 2018 the Dili District Court attempted conciliation in a case of simple offences against physical integrity and property damage involving the defendants Jaime Pereira, Leonildo de Jesus Ximenes and Osvaldo Trindade dos Santos, and the victim Conçensio da Cruz, who was the cousin of the defendants, that allegedly occurred in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that the defendants 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 258 of the Penal Code on property damage that carries a maximum penalty of three years in prison or a fine.³

Presentation of evidence

Because these crimes were semi-public in nature, 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 defendants and the victim.

³ The court did not read out the charges of the prosecutor.

During this attempted conciliation the victim was willing to withdraw the complaint against the defendants because they are related, but the victim requested for the defendants to make a statement recognising their wrongdoing and apologise to the victim and they must sign the statement.

The defendant Leonildo de Jesus Ximenes requested for the court to provide some time to contact the other two defendants who were not present in court because the notification regarding the victim's request because currently the two defendants were attending school in Indonesia.⁴

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.

22. Crime of simple offences against physical integrity

Case No.	: 0213/17. DIBCR
Composition of the Court	: Single Judge
Judge	: Edite Palmira dos Reis
Prosecutor	: Reinato Bere Nahak
Public Defender	: Marcia Sarmiento
Type of Sentence	: 6 months in prison, suspended for 1 year

On 21 December 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendant Antonio Abel Lemos who allegedly committed the offence against the victim Hi Jia Le, a shop owner, in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 29 September 2017 the defendant's daughter went to buy milk at the victim's shop. However, the defendant's daughter bought Lactogen 2 milk by mistake, whereas she should have bought Lactogen 1. Therefore, the defendant's daughter and the defendant's wife went back to the victim's shop to swap the milk already purchased with Lactogen 1. When they went to swap the milk the victim did not agree because the boxes of milk had been opened/were torn. Suddenly the defendant appeared in the victim's shop and punched

⁴ The court gave time to the defendant Leonildo de Jesus Ximenes to contact the other two defendants so they could attend the trial on 20 December 2018, at 17:30. On that date the defendant Leonildo de Jesus Ximenes submitted a statement recognising their wrongdoing, and represented the other two defendants, and apologised to the victim.

the victim twice on his left and right cheeks and threw rocks smashing the victim's TV, fridge, door and approximately 10 bottles of perfume. The defendant's actions caused the victim to suffer pain and redness to his left and right cheeks and caused him to suffer a loss of approximately US\$500.

The public prosecutor alleged that the defendant violated Article 260 of the Penal Code on property damage and violence that carries a maximum penalty of 4 - 12 years in prison.

Presentation of evidence

During the trial the defendants stated that some of the charges of the prosecutor were true and some were not true. The defendant acknowledged that his daughter made a mistake and bought the wrong milk at the victim's shop and went back to exchange the milk but the victim did not agree. Therefore the defendant's wife took the milk back to the victim's shop but the victim didn't want to take the milk back. Therefore, the defendant's wife threw the milk on the victim's table. The victim took the milk and threw it at the defendant's wife. The defendant's daughter told the defendants about this incident and the defendant went straight to the victim's shop to ask the victim and he slapped the victim.

In relation to throwing rocks and smashing the television, fridge, door and perfume, the defendant denied the allegations and said he did not throw any stones. The defendant suspected that there were many people at the front of the victim's shop who had thrown rocks and smashed the goods.

The victim Hi Jia Le stated that a young girl aged approximately five years old came and bought Lactogen 2 milk for babies aged six to 12 months from the victim's shop. Not long after, the child came back to exchange the milk with Laktogen 1 milk for babies aged 0 to six months. The victim stated that he did not want to accept this milk because the boxes of milk were torn. Therefore, the child took the milk and not long after a person came back and threw the milk on the victim's table and took the Laktogen 1 milk and walked outside.

The victim added that soon after the defendant arrived with a lot of people and punched the victim once on the cheek. The other people threw stones and smashed the television, eggs, cosmetics and damaged a door and fridge. The victim stated that approximately US\$500 of damage was caused.

The witness Go Chun, who is the victim's girlfriend, confirmed the victim's statement that the defendant came with a lot of people to their shop and hit the victim and smashed their goods.

The witness Tazia da Costa, who is the defendant's daughter, went to purchase milk at the victim's shop, and testified that she went back to the victim's shop with the intention of

exchanging the milk that she had bought but the victim did not agree. The witness returned home and her mother took the milk back to the victim's shop but the victim did not accept the milk. The witness saw her mother throw the milk on the victim's table and the victim took the milk and threw it at her mother and it hit her younger sibling that was in her mother's arms. Therefore, her mother told the witness to inform the defendant to come and argue with the victim.

The witness Tazia also testified that the defendant did not punch the victim on the cheek and did not throw rocks and smash the victim's goods in his shop. The witness did not see who had thrown rocks and smashed the goods because many people came to the victim's shop.

The witness Clara Florentina Martins, who is the defendant's wife, confirmed the testimony of the witness Nizia and added that she was holding her small child and holding the hand of the witness Nizia to take her home but suddenly the victim came from behind and threw the milk at the witness and struck the small child that she was holding.

Final recommendations

The prosecutor maintained the facts set out in the indictment and stated that the defendant was guilty of committing the crime of property damage with violence against the victim because in addition to smashing the victim's goods, the defendant also committed physical violence against the victim. Therefore, the prosecutor requested for the court to impose a suspended sentence against the defendant but on the condition that the defendant has to pay for the victim's loss.

The public defender requested for the court to amend the charge from the crime of property damage with violence to the crime of simple offences against physical integrity because the victim didn't know for sure that the defendant had thrown rocks and smashed his goods and no witness saw the defendant smash the goods. Therefore the public defender requested for the court to impose a fair and appropriate penalty against the defendant.

Decision

After evaluating the facts the court agree with the final recommendation of the public defender and amended the charge from property damage with violence to the crime of simple offences against physical integrity (Article 145 of the PC). The court did not find any facts to indicate that the defendant committed the crime of property damage with violence against the victim.

The court found the defendant guilty of committing the crime of simple offences against physical integrity because he slapped the victim. Based on this amended charge, and after considering all of the circumstances, the court finalised the matter and sentenced the defendant to 6 months in prison, suspended for 1 year, and ordered him to pay court costs of US\$ 10.

23. Crime of simple offences against physical integrity characterized as domestic violence and the crime of threats

Case No.	: 0091/17. PNSIC
Composition of the Court	: Single Judge
Judge	: Jumiatty Freitas
Prosecutor	: Bartolomeu de Araujo
Public Defender	: Manuel Sarmiento
Type of Sentence	: 3 months in prison, suspended for 1 year and 6 months

On 21 December 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence and the crime of threats against the defendant RF (member of the PNTL) who allegedly committed the offence against his wife (member of the PNTL) in Dili District.

Charges of the public prosecutor

The prosecutor alleged that on 20 June 2016 at approximately 8am the defendant punched the victim once on her back, once in the head and once on the back of the neck, and the victim fell to the ground and hit her head on the concrete. These acts caused the victim to suffer pain and redness to her back, head and the back of her neck. After the assault the defendant was returning from a ceremony marking 40 days since the death of his cousin. When the defendant was changing his clothes the victim found a pair of female underpants folded inside the right side of the defendant's pants. The victim grabbed these underpants and asked the defendant who the underpants belonged to. However, the defendant said that he bought the underpants to be worn. However, the victim noticed that the underpants were old, so they argued and in the end the defendant committed the assault against the victim.

The prosecutor also alleged that previously on 26 March 2013 the defendant and the victim argued and the defendant punched the victim in the head. The victim took some teargas and sprayed it in the defendant's eyes. Then the defendant took a gun and chased the victim so he could shoot her dead.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence. Also, the public prosecutor alleged that the defendant violated Article 157 of the Penal Code on making threats with that carries a maximum penalty of 1 year in prison or a fine.

Presentation of evidence

During the trial the defendant stated that some of the allegations were true and some were not. The defendant said that he didn't know who the underpants belonged to and stated that he did not

punch the victim. The victim fell down and struck her head on the bed and not on the concrete, because the victim grabbed the defendant's shirt and was wrestling with the defendant and the victim fell down. In relation to the alleged incident on 26 March 2013, the defendant acknowledged that he punched the victim but did not chase the victim with a gun, but threatened to shoot the victim dead. The defendant stated that after this incident they reconciled as wife and husband.

The victim confirmed the facts set out in the indictment of the prosecutor that they argued about the underpants that were folded inside the defendant's pants and the defendant punched the victim once in the back, head and back of the neck. Also regarding the incident on 26 March 2013, the victim confirmed that the defendant punched her in the head so the victim took the teargas and sprayed it in the defendant's eyes. Then the defendant took a gun and chased the victim to shoot her dead.

The witness JdO, a neighbour, testified that the witness did not see the defendant and the victim fight but heard a commotion at their home. The witness went to the defendant's house and saw many police officers there. When the witness went inside the victim asked the witness to take her to the hospital. The witness took the victim to the Dili National Hospital and on the way the witness saw a wound on the victim's head as well as swelling and an injury to her hand. After this incident, the witness never heard the defendant and the victim arguing. Meanwhile, the witness said she had no knowledge about the incident on 26 March 2013.

The witness CM, who is the victim's nephew, lived with the defendant and victim from 2016 onwards, and testified that the witness heard the defendant and the victim arguing but because it was late at night the witness was not brave enough to see what was happening. The witness had just woken up when he heard the defendant and the victim shouting and saw a lot of police inside the house. The witness did not see the victim's injury.

The witness AG, who is the victim's nephew, was also living in the house and testified that he heard the defendant and the victim arguing but did not know that the defendant and the victim were fighting because the incident occurred late at night when they were sleeping. The witness woke up after the incident and saw many police officers at the house and picked up the defendant and took him to the police station. The witness only saw the victim's injury the next day.

The witness JAL, who is the son of the defendant and the victim, testified that he saw the defendant and the victim arguing but he did not see the defendant and the victim fighting. At the time of the incident the witness went to bed but because there was a commotion the witness woke up and saw the police taking the defendant to the Aimutin PNTL Station. The witness also testified that on this evening he didn't know that the victim was there and had an injury, and the

witness only found out about this incident in the morning from the victim and other witnesses and only then he saw the victim's injury.

After hearing the testimony of the witnesses, the court then cross-examined the defendant and the victim because the court doubted the statements of the defendant and the victim that were contradictory and the testimony of the witnesses who said that they did not see the defendant hit the victim. However during this cross-examination the defendant and the victim each maintained their previous statements.

Final recommendations

The public prosecutor stated that even though the defendant denied the facts and the witnesses did not see the defendant hit the victim, the defendant testified at the start of the trial that they had argued and pushed each other and the victim struck her head on the bed which caused the injury to her head. Based on the testimony of the defendant, the prosecutor stated that the defendant was guilty of committing the crime of simple offences against the physical integrity of his wife. To deter the defendant from committing such crimes in the future, the public prosecutor requested for the court to sentence the defendant to 1 month in prison, suspended for 1 year.

The public defender argued that the defendant testified that he did not hit the victim and the victim was the only one who maintained and confirmed the facts set out in the indictment. After the cross-examination of the defendant and the victim, each of them maintained their statements. In addition, the witnesses also did not see the defendant hit the victim, and therefore the public defender had doubts. Based on these doubts, the public defender requested for the court to acquit the defendant from the charges.

Decision

After evaluating all of the facts, the court found that even though the defendant denied some of the facts and the witnesses had no knowledge about this incident, the court believed that this crime was committed based on the facts set out in the indictment. The court made its decision based on the aforementioned considerations and the statement of the victim and the confirmation provided during the trial, as well as a medical report from the Dili National Hospital, and the statement of the defendant who said that the victim grabbed the defendant's shirt and this is what caused the victim to fall down and hit her head on the bed.

Based on this evidence, and after considering all of the circumstances surrounding this crime, the court sentenced the defendant to 3 months in prison, suspended for 6 months, and ordered him to pay court costs of US\$ 20.

24. Crime of simple offences against physical integrity

Case No. : 0024/18.PDDIL

Composition of the Court : Panel
Judges : Maria Modesta de Almeida Viera, Ivan Patrocínio Goncalves and Edite P. Reis
Prosecutor : Hipolito Santa
Public Defender : Humberto Alves
Type of Sentence : Fine of US\$120 and civil compensation of US\$400

On 26 December 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendant Jaime dos Santos de Araujo who allegedly committed the offence against the victim Natercio Barros Florindo in Dili District.

Charges of the public prosecutor

The public prosecutor alleged that on 4 February 2018, at approximately 12pm, in Villa Verde Village, the defendant punched the victim in the mouth causing a tooth to fall out. The defendant continued to punch the victim on his left and right cheeks and punched the victim many times in the back and caused him pain to his whole body. The defendant smashed the victim's helmet which was valued at US\$34, and the defendant also smashed the victim's Samsung mobile phone valued at US\$135. The total loss was US\$168. Before the assault the victim received a phone call from his girlfriend, who is the wife of the defendant, asking to meet with the victim in Tuana-Laran. The victim went to that location and had not yet gotten off his motorcycle and had not yet taken off his helmet, the defendant approached the victim and committed the assault.

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 the facts set out in the indictment and stated that he committed the assault because the victim always rang his wife who the victim believed was his girlfriend. However, the defendant also stated that he regretted his actions and promised not to commit any further crimes against the victim in the future.

The victim confirmed the facts set out in the indictment and stated that after this incident the defendant's wife rang the victim and said “*From now on don't call me, let me call you*”. The victim stated that he always picked up the defendant's wife when she travelled around Dili and went to her hostel accommodation. The victim added that he was in a romantic relationship with the defendant's wife because the defendant's wife told the victim that she didn't have a husband.

The witness AL, who is the defendant's wife, testified that at that time she was going to her friend's house and on the way the victim blocked the witness. The witness told the victim not to block the road but the victim still did not let the witness past. The witness called the defendant and when the defendant arrived at the scene, the defendant immediately punched the victim as stated in the indictment. The witness acknowledged that she was in a romantic relationship with the victim for six months, but this was before the victim had a husband or before she became the defendant's wife.

Final recommendations

The public prosecutor stated that the defendant confessed that he committed the assault against the victim and caused the victim to lose a tooth, a mobile phone and his helmet visor was smashed. However, the defendant regretted his actions, was a first time offender and promised not to repeat his actions in the future, and requested for the court to convict the defendant based on the charges of the prosecutor. In addition, the prosecutor requested for the court to pay civil compensation to the victim in relation to the lost tooth and the damaged goods.

The public defender stated that the defendant confessed the facts, regretted his actions and promised that in the future he would not commit any crimes against the victim. Based on these considerations, the public defender requested for the court to impose a fair penalty.

Decision

After evaluating the facts produced during the trial, the court found that the defendant committed the assault against the victim and he lost a tooth. The court also found that the defendant smashed the victim's helmet and Samsung mobile phone.

Based on the facts that were proven, the court concluded this matter and ordered the defendant to pay a fine of US\$ 120 to be paid in daily instalments of \$ 0.50 for 240 days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine. The court also ordered the defendant to pay for the goods that were damaged, namely the helmet and phone valued at US\$168.00, as well as US\$400 for the victim's lost tooth.

25. Crime of mistreatment of a spouse

Case No.	: 0020/17. DIBCR
Composition of the Court	: Panel
Judges	: José Maria de Araujo, Fransisca Cabral Marques and Maria Modesta de Almeida Viera
Prosecutor	: Pedro Baptista
Public Defender	: Humberto Alves
Type of Sentence	: Prison sentence of 2 year and 6 months, suspended for 3 years

On 27 December 2018 the Dili District Court announced its decision in a case of mistreatment of a spouse involving the defendant EBS who allegedly committed the offence against his wife in Dili District.

Charges of the public prosecutor

The public prosecutor alleged that on 14 October 2016 at approximately 7am the victim woke up and was sitting next to her sister in law watching a video on a laptop and the defendant said to the victim *“When you wake up, do some work, and don't just sit around watching videos”*. The victim told the defendant *“I am cleaning the pus from my eyes.”* However the defendant kept on saying the same things to the victim and the victim told the defendant *“If another man had a sick wife he would understand, but you make me work, because you treat me like a maid.”*

After this argument the defendant tried to hit the victim on the back of the neck but missed because the victim ducked down and he hit the victim in her eye, which was still painful, and caused more swelling and heavy bleeding from the victim's eye. Then the defendant grabbed a knife and was pacing back and forth in front of the victim and scared the victim. The victim asked for the defendant's younger siblings to help take her to the hospital because she could not see out of her eye. But when the defendant heard the victim asking for assistance from the defendant's younger siblings, the defendant himself took the victim for treatment at the Dili National Hospital.

Then at midday on 13 January 2017 the defendant followed the victim to her older brother's house. When they got there they argued about their daughter crying and the defendant kicked the victim once on her right leg and immediately took their daughter back to their house.

The defendant always threatened the victim by saying that he would kill her slowly and he always taught their young daughter to swear in the Lospalos dialect so that she would swear at the victim. The defendant also told the victim that he was going to pay other women to have sexual intercourse and sometimes the defendant told the victim that he was going to marry another woman in his home town of Iliomar-Lospalos.

The defendant always drank alcohol, played cards all day, and his wife (the victim) always told him to stop drinking alcohol and playing cards but the defendant did not listen and they always argued. The victim was afraid that the defendant would hit her, therefore when there was a problem, the victim went to say with her family. When the problem had passed the victim would return home. The defendant's actions also seriously offended the victim when they were living together as wife and husband.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on the mistreatment of a spouse that carries a prison sentence of 2 years to 6 years prison together with Articles 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial, the defendant used his right to remain silent. The victim reinforced the facts set out in the indictment and stated that on 14 October 2016 the victim had conjunctivitis and was wiping her eyes in front of a laptop, and not watching a video. At that time the defendant told her to make some rice porridge for their daughter and they argued and the defendant committed the assault and struck her in the eye which caused swelling and bleeding. In relation to the incident at her older brother's house, the victim confirmed that the defendant kicked her on her left side.

The victim added that her daughter always swore at her in the Lospalos dialect because the defendant taught her to do so. The victim stated that now they have reconciled and are living together as husband and wife and the defendant is providing for the victim and their two daughters.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim, even though he chose to remain silent. The prosecutor stated that the testimony of the victim confirmed the facts set out in the indictment as a person who was regularly assaulted by the defendant, who beat the victim and was always drunk, and when he got drunk he always beat the victim. The defendant also taught their daughter how to swear in the Lospalos dialect at her mother, and as the father he had an obligation to teach their daughter how to talk properly, not to swear.

The prosecutor argued that the defendant also knew very well that he was beating his wife who was the mother of his daughter. Therefore, to deter the defendant from reoffending in the future, the prosecutor requested for the court to impose a prison sentence of three years, suspended for three years.

The public defender requested for the court to amend the charge of mistreatment of a spouse to Article 145 of the Penal Code on simple offences against physical integrity. Even though the defendant chose the right to be silent, based on the statement of the victim they have reconciled and are living together as husband and wife. In addition, the defendant is providing for the victim and their two daughters. Therefore the public defender requested for the court to impose a fair and appropriate penalty against the defendant.

Decision

After evaluating all of the facts, the court found that while the defendant and victim were living

together as husband and wife, the defendant always hit the victim and the victim would only make a complaint if the assault was serious. However, because the defendant and the victim were living together and the defendant was providing for their children, the court imposed a prison sentence of two years and six months, suspended for three years, and ordered the defendant to pay court costs of US\$20.

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

Case No.	: 0024/18. LIBZT
Composition of the Court	: Single Judge
Judge	: Ivan Patrocínio A. Goncalves
Prosecutor	: Bartolomeu de Araujo
Public Defender	: Jonas Henrique da Costa
Type of Sentence	: 4 months in prison, suspended for 1 year

On 27 December 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant FV who allegedly committed the offence against his wife in Liquica District.

Charges of the public prosecutor

The prosecutor alleged that on 27 February 2018 at 8:00am the defendant and the victim argued and the defendant yanked the victim's arm and punched the victim once on her left cheek. These acts caused the victim to suffer pain and swelling to her arm and left cheek. The victim and the defendant argued because the defendant was going to sell their pig to buy some lottery coupons and the rest of the money was for household needs.

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

Presentation of evidence

During the trial the defendant completely confessed to the facts set out in the indictment and stated that he committed this crime because the victim did not agree with the defendant selling the pig to buy household needs. The defendant also stated that after this incident they reconciled, and are living together as wife and husband. The defendant stated that he regretted his actions, was a first time offender, and promised not to reoffend in the future.

The victim also confirmed the facts set out in the indictment of the prosecutor and confirmed the statement of the defendant that he has reconciled with the victim and this was the first time he committed a crime against the victim.

Final recommendations

The public prosecutor stated that the defendant committed the crime based on the facts set out in the indictment of the prosecutor. Therefore, even though the defendant confessed to the facts and regretted his actions, to deter him from reoffending in the future the public prosecutor requested for the court to issue an admonishment against the defendant.

The public defender agreed with the recommendation of the prosecutor because the defendant confessed, regretted his actions, has reconciled with the victim and is the breadwinner of the family.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment of the prosecutor. Based on all of the facts that were proven and all of the relevant circumstances, the court sentenced the defendant to 4 months in prison, suspended for 1 year.

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

Case No.	: 0242/18. PDDIL
Composition of the Court	: Single Judge
Judge	: Ivan Patrocínio A. Goncalves
Prosecutor	: Bartolomeu de Araujo
Public Defender	: Afonso Fatima Gomes
Type of Sentence	: Effective prison sentence of 1 year and 6 months

On 28 December 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant PdA who allegedly committed the offence against his wife in Dili District.

Charges of the public prosecutor

The prosecutor alleged that on 13 June 2018, at 2:00pm, the defendant took a crow bar and threw it at the victim but missed. The victim ran into the house and the defendant followed the victim inside. The defendant grabbed both the victim's arms and grabbed the victim to hit her but missed because their son separated the defendant from the victim. Before the assault, the defendant called the victim at their son's house because they had argued and the victim had ran away to their son's house. When the defendant went to ask the victim to come home the victim did not want to because she was traumatised by the defendant's behaviour, and then the assault occurred. The prosecutor also alleged that in 2014 the court imposed a fine against the defendant because he had committed simple offences against the physical integrity of the victim.

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

Presentation of evidence

During the trial the defendant completely confessed all of the facts set out in the indictment of the prosecutor, the defendant also stated that he regretted his actions. The defendant added that he committed this crime when he was drunk and acknowledged that when he gets drunk he always creates problems with the victim. However, the defendant stated that after the incident on 13 June 2018 he apologised to the victim and has not consumed alcohol for five months. The defendant regretted his actions and promised not to commit any further crimes against the victim in the future.

The victim reinforced the facts set out in the indictment of the prosecutor and also confirmed the statement of the defendant that he always gets drunk with his friends and when he is drunk he always creates problems with the victim. The victim also confirmed that the defendant apologised to the victim, did not go out and has not consumed alcohol with his friends for four or five months. The victim also added that the defendant committed these crimes against her on four occasions.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against his wife based on the facts set out in the indictment. The victim stated that the defendant beat her regularly but because he apologised and has changed his behaviour the public prosecutor requested for the court to impose a prison sentence of 1 year against the defendant, suspended for one year and six months.

The public defender requested for the court to impose a lenient penalty against the defendant because the defendant confessed, regretted his actions and apologised to the victim. Also the public defender stated that the defendant has changed his attitude and is the breadwinner for his family.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime of simple offences against physical integrity based on the facts set out in the indictment of the prosecutor. The court found that the defendant repeatedly committed these crimes against the victim and the defendant is not a first time offender.

Based on this evidence and consideration of all of the circumstances, the court finalised the matter and sentenced the defendant to an effective prison sentence of one year and six months and ordered the defendant to pay court costs of US\$10. The court imposed the aforementioned sentence to ensure that the defendant does not repeat his behaviour against the victim in the future.

28. Crime of mistreatment of a spouse

Case No. : 0315/16. ERSIC
Composition of the Court : Panel
Judges : Maria Solana, António Helder Viana and Ivan José Goncalves
Prosecutor : Osorio de Deus
Public Defender : Afonso Gomes Fatima
Type of Sentence : 1 year in prison, suspended for 2 years

On 28 December 2018 the Dili District Court announced its decision in a case of mistreatment of a spouse involving the defendant AdD who allegedly committed the offence against his wife in Ermera District.

Charges of the public prosecutor

The public prosecutor alleged that on 9 September 2016 the defendant slapped the victim once in the eye, grabbed her by the hair and threw her on the ground. The defendant punched the victim four times and kicked the victim once on her side, caused the victim to fall into the gutter on the side of the road. Then the defendant punched the victim in the head and pulled the victim's hair. This incident occurred when the victim was returning from Dili and the defendant climbed on top of the car and yelled at the victim saying that she was not a good woman. The defendant got down from the car and told the victim "you make problems then you come here" and he committed these acts against the victim. On 10 September 2016 the victim's father took the victim for treatment at hospital as the result of the assault.

The prosecutor also alleged that while the defendant and the victim were living together as wife and husband, the defendant always hit the victim because the defendant was jealous of the victim and suspected that she was with another man.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on mistreatment of a spouse that carries a maximum penalty of 2-6 years in prison.

Presentation of evidence

During the trial the defendant confessed to the facts set out in the indictment and stated that the defendant hit the victim because the victim left their child and went to stay with her parents without the knowledge of the defendant. Also, the defendant stated that he saw the victim get on

a motorcycle with another man. However, the victim also stated that she has reconciled with the defendant.

Also, the victim confirmed the facts set out in the indictment and stated that the reason that the defendant committed the assault against the victim was because the defendant suspected that the victim was with another man. The victim also stated that they have reconciled and are living together as husband and wife.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime of maltreatment against his wife based on the facts set out in the indictment of the prosecutor. Therefore based on the statements of the defendant and the victim, which included a confession and collaboration of the facts, the prosecutor requested for the court to impose a prison sentence of two years against the defendant.

The public defender requested for the court to impose a fair and adequate penalty against the defendant because the defendant confessed and has reconciled with the victim.

Decision

After evaluating all of the facts produced during the trial, the court found the defendant guilty of committing the crime of mistreatment against the victim based on the facts set out in the indictment of the prosecutor. Based on the facts that were proven, and after considering all of the circumstances surrounding this case, the court sentenced the defendant to 1 year in prison, suspended for 2 years, and ordered the defendant to pay court costs of US\$ 20.

29. Crime of mismanagement of public funds and abuse of power

Case No.	: 0046/15.PNGCC
Composition of the Court	: Panel
Judges	: Sribuana da Costa, Edite Palmira and Jumiatty Freitas
Prosecutor	: Rogerio Viegas Vicente
Public Defender	: Sebastião Amado
Type of Sentence	: 2 years in prison, suspended for 3 years, and civil compensation of US\$600

On 28 December 2018 the Dili District Court announced its decision in a case of mismanagement of public funds and abuse of power involving the defendant Antonio Lelo Tasi as the National Director of the Environment, within the Ministry of Commerce and Industry (MCI), who allegedly committed the offence against the State in Dili.

Charges of the public prosecutor

The prosecutor alleged that in 2015 the defendant made a decision to award a contract to the UDA Karya company to transport dirty oil from Hera to Tibar. This agreement mentioned a payment during the initial phase of US\$160 for each vehicle and for the second phase in 2016 the payment would increase to US\$250 for each vehicle. The total payments amounted to US\$9,300 and this money was kept in a safe at the Ministry of Commerce and Industry (MCI) in 2015 and 2016.

On an unspecified date in 2016 the defendant gave an order to the staff member Carlos Conceição to take out US\$600 to support the funeral of a staff member from the Ministry of Commerce and Industry who passed away at that time. The defendant gave the money to the Public Prosecution Service when the Anti-Corruption Commission started investigating this process.

The prosecutor stated that the defendant had knowledge about the Procurement Law which meant he should not have authorised this contract because the Ministry of Commerce and Industry is not one of the institutions that provides revenue to the State. Moreover, the money was kept in a safe for a long time and the defendant used it for other activities.

The prosecutor alleged that the defendant violated Article 319.1 of the Penal Code on the crime of mismanagement of public funds and also violated Article 295 of the Penal Code on the crime of abuse of power including requesting for the court to pay civil compensation to the State totalling US\$600 that the defendant had spent.

Presentation of evidence

During the trial the defendant used his right to remain silent. The witness Carlos Conceição, who is a staff member at the National Directorate of Environmental Control at the Ministry of Commerce and Industry, testified that he had knowledge about this process because at that time EDTL (Timor-Leste Electricity) sent a request to their directorate to provide vehicle support to transport dirty oil as well as plastic that was piled up at the Hera Electricity Plant.

The witness added that this request was linked to the UDA Karya company which was responsible for transporting heavy oil in relation to the Hera Electricity Plant because there was a problem with the local company named Jerusalem which based on an inspection by the Ministry of Commerce and Industry did not fulfil the requirements for transporting dirty oil. The witness said that the Jerusalem company did not fulfil the requirements because they were transporting dirty oil every day using a sewage vehicle. However, the dirty oil and plastic has to be transported to Tibar, because there was a plan for recycling.

For this reason the MCI was willing to help the UDA Karya company provide two vehicles to pick up the dirty oil and plastic. In relation to the money, the witness testified that the Ministry of Commerce and Industry did not request any money, but the UDA Karya company wanted to provide it for fuel and vehicle maintenance. The witness confirmed that in 2015 the payment amount was US\$160 and in 2016 the payment amount increased to US\$250. The witness said that all of this money was put aside because the vehicles were not out of service and for fuel they used money from the Ministry of Commerce and Industry operational line item.

The witness admitted that he signed for this money and kept the money in a safe whilst waiting for a bank account to be set up and for a request to be sent to the Ministry of Finance to include this item in State revenue. The witness said that this was based on a superior order to the defendant and director of Finance at the MCI. The witness confirmed that in relation to the US\$600 the defendant gave an order for the witness to give the money to the family of the deceased Domingos de Almeida who was a staff member of the MCI.

Lastly, the money was not put into the State's coffers because the Anti-Corruption Commission investigated the MCI so this money was handed over to the Public Prosecution Service.

The witness Pedro Barreto, who was the Chief of the Department of Administration and Finance at the MCI at that time, testified that the UDA KARYA company made a request to the MCI to seek support to transport dirty oil and plastic from Hera because the local company Jerusalem did not follow environmental protection procedures. The EDTL request was not written down and was only made verbally, and in relation to the payment the UDA Karya company wanted to submit it to the MCI as money for fuel and maintenance because the MCI had no agreement to make any payments to the UDA KARYA company. This witness also confirmed the statement of the witness Carlos Conceição that the defendant gave an order to keep the money in a safe because there was no bank account number from the Ministry of Finance.

The witness added that he sent a letter to the Ministry of Finance requesting that an account be set up for revenue from plastic and liquid rubbish recycling in 2015. The Ministry of Finance responded to this request by sending a request to BNU to set up two bank accounts for plastic and liquid rubbish recycling. However the BNU had not managed to set these up by the time the MCI was investigated by the Anti-Corruption Commission. The witness also confirmed the order from the defendant in relation to the US\$600 to support the funeral of the staff member from the MCI who passed away at that time.

The witness Alberto Soares, who is a staff member at the Directorate of the Environment, MCI, testified that he received these payments from Carlos Conceição to be kept separately because there was a plan to put them in the bank as State revenue. However in 2016, when this case was investigated, the witness took US\$9,300 and gave it to the Public Prosecution Service.

Final recommendations

The prosecutor stated that the defendant was guilty of receiving money from the UDA KARYA company and decided to keep this money in a safe for a long time even though the law did not allow this. The defendant's behaviour violated the Law on Procurement even though in the end US\$9,300 was handed over and the remaining US\$600 was given by the defendant to support the funeral for a staff member from the MCI.

Therefore the prosecutor requested for the court to order the defendant to pay a fine. However the panel of judges did not agree because the facts set out in the indictment did not fulfil the requirements of Article 319.2 of the Penal Code. Subsection 2 did not allow for a fine and states that a prison sentence must be imposed.

Therefore, at the same time the court amended the charge from Article 319.1 to Article 319.2 because the facts set out in the indictment and the presentation of evidence fulfilled the elements of subsection 2. Based on this amendment the court gave five days to the prosecution and the defendant to assess. However the two parties did not require this time to assess and requested for the court to proceed with hearing their final recommendations.

The prosecutor maintained the considerations mentioned above and agreed with the amendment made by the court but again requested for the court to impose a suspended sentence against the defendant and to order him to pay civil compensation to the State totalling US\$600.

The public defender agreed with the request of the prosecutor and asked the court to consider the mitigating circumstances such as the defendant collaborated with the court, and was a first time offender, and he immediately handed over the money to the State.

Decision

After evaluating the facts produced during the trial, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. The court found him guilty based on the testimony of witnesses and documents. Based on this evidence, the court finalised the matter and imposed a prison sentence of two years, suspended for three years, against the defendant and ordered him to pay the State US\$600 that had been used to support the funeral of a staff member from the MCI who had passed away at that time.

For more information, please contact:

Luis de Oliveira Sampaio

Executive Director of JSMP

Email: luis@jsmp.tl

www.jsmp.tl