



JUDICIAL SYSTEM MONITORING PROGRAMME  
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

**Case Summary**  
**Oecusse District Court**  
**February 2019**

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

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

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

**1. Total cases monitored by JSMP: 10**

Article	Case Type	Total
Articles 177, 23 and 24 (PC) as well as Articles 2, 3, 35 of the Law Against Domestic Violence	Crime of attempted sexual abuse of a minor characterized as domestic violence	1
Article 154 of the PC	Crime of mistreatment of a spouse	2
Article 316 of the PC	Crime of smuggling	7
<b>Total</b>		<b>10</b>

**2. Total decisions monitored by JSMP: 9**

Type of decision	Total
Suspension of execution of a prison sentence (Article 68 of the PC)	8
Suspension of a prison sentence with conditions (Article 69 of the PC)	1
<b>Total</b>	<b>9</b>

**3. Total cases adjourned based on JSMP monitoring: 0**

**4. Total ongoing cases based on JSMP monitoring: 1**

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

**1. Crime of mistreatment of a spouse**

Case No. : 0016/17.OEPSB

Rua setubal, Colmera, Dili Timor Leste

PoBox: 275

Telephone: 3323883

[www.jsmp.tl](http://www.jsmp.tl)

[info@jsmp.minihub.org](mailto:info@jsmp.minihub.org)

Facebook: [www.facebook.com/timorleste.jsmp](https://www.facebook.com/timorleste.jsmp)

Twitter: @JSMPtl

Composition of the court : Panel  
Judges : João Ribeiro, Sribuana da Costa, Eusébio Victor Xavier who were accompanied by Alexandre E. Brige Viegas (mentor judge)  
Prosecutor : Mateus Nesi  
Defence : Calisto Tout  
Decision : 3 years in prison, suspended for 4 years with conditions

On 25 February 2019 the Oecusse District Court conducted a hearing to announce its decision in a case of maltreatment against a spouse involving the defendant BO who allegedly committed the offence against his wife in Oecusse District.

### **Charges of the public prosecutor**

The public prosecutor alleged that on an unspecified day and time in April 2017 the defendant kicked the victim once in the head when the victim was sitting down and caused the victim to suffer pain. This act occurred when the defendant did not want the victim to say anything against the defendant's mother who was swearing at the victim.

Then, on an unspecified date and time in June 2017, the defendant kicked the victim once in her left thigh and the victim fell to the ground. Then the defendant pulled the victim's hair and dragged her inside the house. These acts caused the victim to suffer pain. This incident occurred when the defendant told the victim to leave the home but the victim did not want to and the defendant threatened that one day the victim would die.

On 23 July 2017 the defendant kicked the victim once on the right side of her head and caused the victim to fall to the ground and lose consciousness. This act occurred when the defendant expelled the victim from the home but the victim did not want to leave the home. The case file included a photo from the police showing the victim's condition at that time.

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 in prison as well as Articles 2, 3 and 35 (a) and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant denied all of the facts in the indictment and did not show regret for his actions. The defendant stated that they have three children and when the defendant returned from purchasing a buffalo in Maquelab for resale the victim left the home to go and live with her parents. The defendant also stated that he works as a farmer and has no fixed monthly income, and was a first time offender. After this incident the defendant and the victim have been living separately.

Meanwhile the victim maintained all of the facts in the indictment and stated that two weeks after the incident the defendant took IA (who now is the defendant's second wife) to live in their house so the victim decided to leave the defendant and return to her parents. The victim stated that the defendant and the victim had been together from 2006 until 2016 and during that time they lived happily and the defendant always gave money for the victim to manage. However,

from early 2017 until 23 July 2017 the defendant never gave any money to the victim and always took IA to their house.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime of mistreatment against his wife even though during the examination of evidence the defendant denied all of the facts in the indictment. However, the prosecutor gave more credence to the victim's statement because when the court sought corroboration of the facts, the victim confirmed these facts. Therefore, the prosecutor stated that the defendant tried to lie to the court. The public prosecutor stated that if no problem existed between the defendant and victim, then why did the victim want to leave the house that the two of them had established together. Therefore the public prosecutor requested for the court to apply the penalty prescribed in Article 154 of the Penal Code against the defendant.

The defendant denied all of the facts and did not express regret for his actions because the defendant did not physically assault the victim. The defence believed the statement of the defendant because he spoke honestly. The defence also argued that the defendant works as a farmer and has no fixed monthly income and if he goes to jail, there will be nobody to provide for his children. Therefore the defence requested for the court to acquit the defendant from the charges, or for the court to use its discretion to uphold justice.

### **Decision**

After evaluating all of the facts, the court found that the defendant committed the crime based on the facts set out in the indictment. Based on the facts that were proven, the court concluded this matter and sentenced the defendant to 3 years in prison, suspended for 4 years. the court also applied additional conditions (suspension with conditions) for the defendant to apologise to the victim before the local authorities within 2 months and the written record of the apology from the village needs to be submitted to the court to be placed in the case file.

### **2. Crime of smuggling**

Case No.	: 0199/17.OESIC
Composition of the court	: Panel
Judges	: João Ribeiro, Sribuana da Costa, Eusébio Victor Xavier who were accompanied by Alexandre E. Brige Viegas (mentor judge)
Prosecutor	: Mateus Nesi
Defence	: Marcelino Marques Coro
Decision	: 2 years in prison, suspended for 2 years

On 25 February 2019 the Oecusse District Court announced its decision in a case of smuggling involving the defendant Andreas Colo Metan and Fikus Neno who allegedly committed the crime against the State of Timor-Leste, in Bobometo Village, Oesilo Sub-District, Oecusse District.

### **Charges of the public prosecutor**

The public prosecutor alleged that on 20 Augustu 2017, at approximately 11pm, the two defendants illegally imported some goods through the Poto border. The goods were 2,360 litres of petrol, 1,445 litres of diesel and 275 litres of kerosene.

The public prosecutor alleged that on 31 Augustu 2017, at approximately 11pm, the two defendants illegally imported some goods through the Poto border. The goods were 1,220 litres of petrol, 360 litres of diesel and 80 litres of kerosene.

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

### **Presentation of evidence**

During the trial the two defendants confessed all of the facts set out in the indictment and also said they regretted their actions and promised to the court that they would not reoffend in the future. The defendants added that they paid tax of approximately 1,000 into the prosecutor's coffers to pay back the money for the illegal goods. The defendants work as farmers, and have no fixed monthly income. The defendants also stated that previously the two defendants committed the same crime and in December 2018 the court imposed a prison sentence of one year against the defendants suspended for one year. The defendant Andreas has two children and the defendant Fikus has one child.

The court decided to not to hear testimony from the witness, who is from the Border Patrol Unit, because during the presentation of evidence the two defendants confessed all of the facts in the indictment.

### **Final recommendations**

The public prosecutor stated that the defendants were guilty of committing the crime of smuggling in accordance with all of the facts in the indictment because during the presentation of evidence the defendants completely confessed to the facts. The public prosecutor reinforced that the defendants showed no regret because they continued to commit the same crime. Therefore the public prosecutor requested for the court to apply the penalty prescribed in Article 316 of the Penal Code against the two defendants.

The defence stated that the defendants confessed all of the facts set out in the indictment and regretted their actions. The defendants collaborated with the court and they have no fixed monthly income and promised not to repeat such acts in the future. The defendant Andreas is married and has no children, and the defendant Fikus is married and has one child. Therefore the public prosecutor requested for the court to impose a fair penalty against the defendants.

### **Decision**

After evaluating the facts produced during the trial, the court found the defendants guilty of committing the crime of smuggling based on the facts set out in the indictment of the prosecutor. However, the defendants used their own initiative to pay tax into the prosecutor's coffers. The court also considered all of the mitigating and aggravating circumstances and imposed a prison sentence of two years, suspended for two years, against each of the two defendants.

### **3. Crime of smuggling**

Case No.	: 0186/17.OESIC
Composition of the court	: Panel
Judges	: João Ribeiro, Sribuana da Costa and Eusébio Victor Xavier, accompanied by Alexandre E. Brige Viega (mentor judge)
Prosecutor	: Mateus Nesi
Defence	: Calisto Tout
Decision	: 1 year in prison, suspended for 1 year

On 25 February 2019 the Oecusse District Court announced its decision in a case of smuggling involving the defendant Maria Dulce Ramos Bobo who allegedly committed the crime against the State of Timor-Leste, in Bobometo Village, Oesilo Sub-District, Oecusse District.

#### **Charges of the public prosecutor**

The public prosecutor alleged that on 21 September 2017, at approximately 2.30pm, the defendant imported fuel illegally from Indonesia into the territory of Timor-Leste and did not go through Customs to pay tax to the State of Timor-Leste. The goods included 655 litres of petrol and 165 litres of kerosene. The defendant imported fuel from the territory of Indonesia to sell to others to obtain a maximum profit.

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

#### **Presentation of evidence**

During the trial the defendant confessed to all of the facts in the indictment, regretted her actions and stated that she paid money into the prosecutor's coffers to pay for the fuel that was confiscated. The defendant knew that she was doing the wrong thing, and the defendant is a housewife and has no fixed monthly income and promised that she will not repeat such acts in the future. The defendant said she has 5 children and was a first time offender.

The court decided to not to hear testimony from the witness, who is from the Border Patrol Unit, because during the presentation of evidence the defendant confessed all of the facts in the indictment.

#### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime of smuggling because during the presentation of evidence the defendant confirmed all of the facts in the indictment of the prosecutor. Therefore the public prosecutor requested for the court to apply the penalty prescribed in Article 316 of the Penal Code against the defendant.

The defence stated that the defendant confessed all of the facts set out in the indictment and regretted her actions. The defendant collaborated with the court and has no fixed monthly income and promised not to repeat such acts in the future and has five children. Therefore the public defendant requested for the court to impose a fair penalty against the defendant proportionate to her crime.

## **Decision**

After evaluating all of the facts, the court found the defendant guilty of committing the crime of smuggling based on the facts set out in the indictment of the prosecutor. However, the defendant used her own initiative to pay tax to the prosecutor's coffers. Therefore, the court concluded this matter and sentenced the defendant to 1 year in prison, suspended for 1 year.

### **4. Crime of mistreatment of a spouse**

Case No.	: 0150/17.OESIC
Composition of the court	: Panel
Judges	: João Ribeiro, Sribuana da Costa and Eusébio Victor Xavier who were accompanied by Alexandre E. Brige Viega (mentor judge)
Prosecutor	: Mateus Nesi
Defence	: Marcelino Marques Coro
Decision	: 3 years in prison, suspended for 4 years

On 27 February 2019 the Oecusse District Court conducted a hearing to announce its decision in a case of mistreatment of a spouse involving the defendant DC who allegedly committed the offence against his wife DL in Oecusse District.

### **Charges of the public prosecutor**

The public prosecutor alleged that on 4 August 2017 at approximately 12.00 noon the defendant slapped the victim once on her right cheek, slapped her once in the face near her eyes, slapped her once on the left cheek, slapped her twice on the right cheek. Also, the defendant kicked the victim once in the nose and caused the victim to suffer a bloody nose and pain.

On 6 August 2017 at approximately 8.00pm the defendant slapped the victim once on her right cheek, choked her and stomped on her left leg which caused the victim to suffer pain. These acts were committed when the victim asked the defendant about their money that the defendant had wasted. A medical report from PRADET and photographs from Police-VPU were also attached to this case file.

The public prosecutor alleged that the defendant violated Article 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 all of the facts set out in the indictment and regretted his actions. The defendant is a farmer, and has no fixed monthly income, and has four children. One week after this incident the defendant went looking for his wife and child who had been taken by the parents of the victim back to stay with them. At that time they immediately reconciled and have been living together since that time as husband and wife. The defendant also stated that previously he committed the crime of domestic violence against the victim and was given a suspended prison sentence in 2016.

Meanwhile the victim maintained all of the facts in the indictment and confirmed the defendant's statement that one week after this incident the defendant went looking for her and took her back

home and they immediately reconciled and have been living together as husband and wife since that time.

The court did not require the testimony of the witness, who is a neighbour, because during the examination of evidence the defendant confessed to all of the facts in the indictment of the prosecutor.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime of mistreatment against his wife based on the facts set out in the indictment. The public prosecutor stated that the defendant had strong intent to beat his wife because he would hit her one day, the next day, two days later and three days later. Namely, the defendant could continue to beat the victim. The defendant did not show regret for his previous crime event though he was given a suspended sentence, therefore the public prosecutor requested for the court to impose the sentence provided for in Article 154 of the Penal Code against the defendant.

The defence requested for the court to apply a lenient sentence against the defendant based on his wrongdoing because the defendant collaborated with the court because he confessed the facts without reservation and regretted his actions. The defendant has four children and after the crime the defendant used his own initiative to find his wife and children at the home of the victim's parents and took them back home. The defendant also reconciled with the victim and they are living together as husband and wife.

### **Decision**

After evaluating all of the facts, the court found that the defendant committed the crime based on the facts set out in the indictment. Based on the facts that were proven during the trial, and after considering the circumstances, the court concluded the matter and sentenced the defendants to 3 years in prison, suspended for 4 years.

#### **5. Crime of smuggling**

Case No.	: 0177/17.OESIC
Composition of the court	: Panel
Judges	: João Ribeiro, Sribuana da Costa, Eusébio Victor Xavier who were accompanied by Alexandre E. Brige Viega (mentor judge)
Prosecutor	: Mateus Nesi
Defence	: Marcelino Marques Coro
Decision	: 1 year in prison, suspended for 1 year

On 27 February 2019 the Oecusse District Court announced its decision in a case of smuggling involving the defendants Marta Punef, Filomena Suni, Yohanes Siqui no Mateus Caet who allegedly committed the crime against the State of Timor-Leste, in Bobometo Village, Oesilo Sub-District, Oecusse District.

#### **Charges of the public prosecutor**

The public prosecutor alleged that on 22 September 2017, at approximately 11.00am, the defendants imported illegal goods through the border at Oesilo between Indonesia and Timor-

Leste. The goods imported by the defendants were 1,295 litres of petrol, 540 litres of diesel and 95 litres of kerosene.

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

### **Presentation of evidence**

During the trial the defendants confessed all of the facts set out in the indictment and regretted their actions and promised that they would not reoffend in the future. The defendants added that they have paid tax into the prosecutor's coffers and the goods that were confiscated were given back to the defendants. The defendants are farmers, have no monthly fixed income and the defendants are all married.

The court decided to not to hear testimony from the witness, who is from the Border Patrol Unit, because during the presentation of evidence the defendants confessed all of the facts in the indictment.

### **Final recommendations**

The public prosecutor stated that the defendants were guilty of committing the crime of smuggling in accordance with all of the facts in the indictment because during the presentation of evidence the defendants completely confessed to the facts. The public prosecutor reinforced that these types of crimes are regularly being committed at the border and the State of Timor-Leste suffers a loss from revenue that is supposed to be paid to the State. Therefore the public prosecutor requested for the court to apply the penalty prescribed in Article 316 of the Penal Code against the defendants.

The defence stated that the defendants confessed all of the facts set out in the indictment and regretted their actions. The defendants collaborated with the court and they have no fixed monthly income and promised not to repeat such acts in the future. The defendants all have children. Therefore the defence requested for the court to impose a lenient penalty against the defendants proportionate to their respective culpability.

### **Decision**

After evaluating the facts produced during the trial, the court found the defendants guilty of committing the crime of smuggling based on the facts set out in the indictment of the prosecutor. The court concluded this matter and sentenced the defendants to one year in prison but because the defendants used their own initiative to pay tax into the prosecutor's coffers, and completely confessed to the facts and regretted their behaviour, the court suspended the prison sentence for one year against each defendant.

## **6. Crime of smuggling**

Case No. : 0182/17.OESIC

Composition of the court : Panel

Judges : João Ribeiro, Sribuana da Costa, Eusébio Victor Xavier who were accompanied by Alexandre E. Brige Viegas (mentor judge)

Prosecutor : Mateus Nesi

Defence : Calisto Tout  
Decision : 1 year in prison, suspended for 1 year

On 27 February 2019 the Oecusse District Court announced its decision in a case of smuggling involving the defendants Berta Caet and Natalia Tefa who allegedly committed the crime against the State of Timor-Leste, in Bobometo Village, Oesilo Sub-District, Oecusse District.

### **Charges of the public prosecutor**

The public prosecutor alleged that on 14 September 2017, at approximately 08.00am, the defendants imported illegal goods through the border at Oesilo between Indonesia and Timor-Leste. The defendants imported 1,220 litres of petrol, 1,030 litres of diesel, 190 litres of kerosene, 4 boxes of napoleon alcohol and 5 packets of joker tobacco (137 individual packets).

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

### **Presentation of evidence**

During the trial the defendants confessed to all of the facts in the indictment, regretted their actions and stated that they paid tax into prosecutor's coffers. The defendants knew that their behaviour was wrong but they are small traders with a monthly income of US\$30. However, the defendants promised not to reoffend in the future. The defendants also stated that they were first time offenders.

The court decided to not to hear testimony from the witness, who is from the Border Patrol Unit, because during the presentation of evidence the defendants confessed all of the facts in the indictment.

### **Final recommendations**

The public prosecutor believed that the defendants were guilty of committing the crime of smuggling and therefore he requested for the court to find the defendants guilty in accordance with Article 316 of the Penal Code.

The public defender stated that the defendants confessed all of the facts in the indictment, regretted their actions, collaborated with the court and paid tax into the prosecutor's coffers, were first time offenders and have children. The defendants are small traders with a monthly income of US\$30. Therefore the defence requested for the court to apply an appropriate punishment against the defendants.

### **Decision**

After evaluating the facts produced during the trial, the court found the defendants guilty of committing the crime of smuggling based on the facts set out in the indictment of the prosecutor. However, the defendants used their own initiative to pay tax to the prosecutor's coffers. The court also considered all of the mitigating and aggravating circumstances, and the court imposed a prison sentence of one year, suspended for one year against each of the defendants.

## **7. Crime of smuggling**

Case No. : 0149/17.OESIC.

Composition of the court : Panel  
Judges : João Ribeiro, Sribuana da Costa, Eusébio Victor Xavier who were accompanied by Alexandre E. Brige Viegá (mentor judge)  
Prosecutor : Mateus Nesi  
Defence : Calisto Tout  
Decision : 1 year in prison, suspended for 1 year

On 27 February 2019 the Oecusse District Court announced its decision in a case of smuggling involving the defendant Mateus Saco who allegedly committed the crime against the State of Timor-Leste, in Bobometo Village, Oesilo Sub-District, Oecusse District.

### **Charges of the public prosecutor**

The public prosecutor alleged that on 1 August 2017 at approximately 1am the defendant illegally imported goods such as fuel through the Poto border, namely 120 litres of petrol, 80 litres diesel and 100 litres of kerosene. The defendant imported these goods to be resold to others to obtain maximum profit.

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

### **Presentation of evidence**

During the trial the defendant completely confessed all of the facts and regretted his actions. The defendant promised not to reoffend in the future and stated that he has paid tax into the prosecutor's coffers and the confiscated goods have been returned. The defendant is a farmer, and has no fixed monthly income, is a first time offender and has four children.

The court decided to not to hear testimony from the witness, who is from the Border Patrol Unit, because during the presentation of evidence the defendants confessed all of the facts in the indictment.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty and all of the elements of the crime of smuggling have been fulfilled because the defendant himself confirmed all of the facts set out in the indictment of the public prosecutor. The public prosecutor further emphasised that these types of crimes are prevalent at the border and caused the State of Timor-Leste to suffer a significant loss. Therefore the public prosecutor requested for the court to apply the penalty prescribed in Article 316 of the Penal Code against the defendant.

The defence stated that the defendant confessed all of the facts set out in the indictment and regretted his actions. The defendant collaborated with the court and has no fixed monthly income and promised not to repeat such acts in the future. The defendant has paid tax into the prosecutor's coffers and has three children. Therefore the defence requested for the court to impose an appropriate penalty against the defendant proportionate to his crime.

## **Decision**

The court found the defendant guilty of committing the crime of smuggling because during the examination of evidence the defendant confessed to all of the facts in the indictment of the prosecutor, even though the defendant used his own initiative to pay tax to the prosecutor's coffers. Therefore, the court imposed a prison sentence of one year against the defendant, however with consideration of the mitigating circumstances, the Court suspended the penalty for one year.

### **8. Crime of smuggling**

Case No. : 0160/17.OESIC  
Composition of the court : Panel  
Judges : João Ribeiro, Sribuana da Costa, Eusébio Victor Xavier who were accompanied by Alexandre E. Brige Viega (mentor judge)  
Prosecutor : Mateus Nesi  
Defence : Calisto Tout  
Decision : 1 year in prison, suspended for 1 year

On 27 February 2019 the Oecusse District Court announced its decision in a case of smuggling involving the defendant Francisca Sasi who allegedly committed the crime against the State of Timor-Leste, in Bobometo Village, Oesilo Sub-District, Oecusse District.

### **Charges of the public prosecutor**

The public prosecutor alleged that on 17 August 2017, at approximately 3am, the defendant brought in some goods illegally through the Poto border. These goods were 40 litres of petrol, 120 litres of diesel and 65 litres of kerosene. The defendant imported this fuel from Indonesia into the territory of Timor-Leste with the aim of selling it to others to obtain maximum profit, and to avoid paying tax to the directorate of Customs.

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

### **Presentation of evidence**

During the trial the defendant confessed to all of the facts in the indictment, regretted her actions and stated that she paid tax into the prosecutor's coffers. The defendant knew that her behaviour was wrong and illegal but she is a small trader with a monthly income of US\$ 50 and promised not to reoffend in the future. The defendant also stated that she was a first time offender.

The court decided to not to hear testimony from the witness, who is from the Border Patrol Unit, because during the presentation of evidence the defendant confessed all of the facts in the indictment.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime of smuggling because during the presentation of evidence the defendant confirmed all of the facts in the indictment. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 316 of the Penal Code.

The public defender stated that that defendant confessed to all of the facts in the indictment, regretted her behaviour, collaborated with the court and paid tax into the prosecutor's coffers, is a first time offender and has 5 children. The defendant is a small trader with a monthly income of US\$50. Therefore the public defender requested for the court to apply an appropriate sentence proportionate to the defendant's culpability.

### **Decision**

After evaluating all of the facts, the court found the defendant guilty of committing the crime of smuggling based on all of the facts set out in the indictment which were confirmed by the defendant during the examination of evidence. Therefore, the court concluded this matter and sentenced the defendant to 1 year in prison. However, because the defendant used her own initiative to pay tax into the prosecutor's coffers, the court suspended the sentence for one year.

### **9. Crime of smuggling**

Case No.	: 0098/17.OESIC
Composition of the Court	: Panel
Judges	: João Ribeiro, Sribuana da Costa, Eusébio Victor Xavier who were accompanied by Alexandre E. Brige Viega (mentor judge)
Prosecutor	: Mateus Nesi
Defence	: Calisto Tout
Decision	: Suspended prison sentence

On 28 February 2019 the Oecusse District Court announced its decision in a case of smuggling involving the defendants Quinterma Auni, Emilus Pa'e, Filomena Suni, Maria Tolo, Filaris Neno, Miguel Neno and Agostinho Siqui who allegedly committed the crime against the State of Timor-Leste, in Bobometo Village, Oesilo Sub-District, Oecusse District.

### **Charges of the public prosecutor**

The public prosecutor alleged that on 23 May 2017, at approximately 5am, the defendants imported some fuel and Napoleon alcohol illegally through the Poto Saben border. The defendants jointly imported 1,285 litres of petrol, 220 litres of diesel and 140 litres of kerosene. The defendants MN and AS jointly imported 5 boxes of Napoleon alcohol and 2 boxes of bintang beer. The defendants imported the alcohol and fuel from Indonesia into the territory of Timor-Leste with the intention of selling it to others to obtain the maximum profit by not paying tax to the directorate of customs.

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

### **Presentation of evidence**

During the trial the defendants confessed all of the facts set out in the indictment and regretted their actions. The defendants Quinterma Auni, Emilus Pa'e, Filomena Suni, Maria Tolo and Filaris Neno stated that they have paid tax into the prosecutor's coffers and the confiscated goods were returned to the defendants. Meanwhile the defendants Miguel Neno and Agostinho Siqui stated that they have not yet paid tax into the prosecutor's coffers. The defendants knew that their behaviour was improper and illegal but the defendants stated that they are farmers and

housewives who have no fixed monthly income. Therefore they became involved in these activities to support their families, even though it was done illegally. The defendants also promised not to repeat their behaviour in the future.

The court decided to not to hear testimony from the witness, who is from the Border Patrol Unit, because during the presentation of evidence the defendants confessed all of the facts in the indictment.

### **Final recommendations**

The public prosecutor stated that the defendants were guilty of committing the crime of smuggling based on the facts set out in the indictment and based on their full admission of the facts. The public prosecutor also stated that the behaviour of the defendants was illegal and caused the State of Timor-Leste to suffer a loss in revenue. Therefore the public prosecutor requested for the court to convict the defendants in accordance with the penalties provided for in Article 316 of the Penal Code.

The public defender stated that the defendants confessed all of the facts in the indictment, regretted their actions, collaborated with the court and paid tax into the prosecutor's coffers, were first time offenders and are all married. The defendants work as farmers and housewives, and have no fixed monthly income. Therefore the defence requested for the court to impose an appropriate penalty against the defendants proportionate to their respective culpability.

### **Decision**

After evaluating all of the facts, the court found the defendants guilty of committing the crime based on the facts set out in the indictment of the prosecutor. The court also stated that after considering the mitigating and aggravating circumstances, the court imposed a prison sentence of one year, suspended for one year, against the defendants Quinterma Auni, Emilus Pa'e, Filomena Suni, Maria Tolo and Filaris Neno. The defendants Miguel Neno and Agostinho Siqui have not yet paid tax into the prosecutor's coffers and the court imposed a prison sentence of two years, suspended for two years against each defendant.

For more information, please contact:

Luis de Oliveira Sampaio  
Executive Director of JSMP  
Email: [luis@jsmp.tl](mailto:luis@jsmp.tl)  
Website: <http://jsmp.tl/>