



Case Summary
The Oekusi 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 Oekusi District Court

1. Total cases monitored by JSMP: 22

| Articles | Case Type | Number of cases |
|---|--|-----------------|
| Article 145 of the Penal Code (PC) and Articles 2, 3 and 35 (b) of the Law Against Domestic Violence (LADV) | Simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence | 12 |
| Article 171 of the PC | Sexual coercion | 1 |
| Article 216 of the PC | Smuggling | 2 |
| Article 252 of the PC | Aggravated larceny | 1 |
| Article 151 of the PC | Reciprocal offences against physical integrity | 2 |
| Article 145 of the PC | Simple offences against physical integrity | 2 |
| Article 157 of the PC | Threats | 1 |
| Article 207 of the PC | Driving without a licence | 1 |
| Total | 22 | 22 |

2. Total decisions monitored by JSMP: 22

| Type of decision | Number of cases |
|---|-----------------|
| Suspension of execution of a prison sentence (Article 68 of the PC) | 13 |
| Fine pursuant to Article 67 of the Penal Code | 1 |

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|-------------------------|-----------|
| Penalty of admonishment | 2 |
| Acquitted | 1 |
| Withdrawal of complaint | 5 |
| Total | 22 |

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

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

Case No. : 0155/18.OESIC
Composition of the Court : Single judge
Judge : João Ribeiro
Prosecutor : Mateus Nesi
Public Defender : Daniel Elu (Private Lawyer)
Type of penalty : Prison sentence of 1 year, suspended for 1 year and 6 months

On 11 December 2018 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CA who allegedly committed the offence against his wife in Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 31 August 2018, at approximately 6.45pm, the defendant and the victim argued because the victim suspected that the defendant was in a romantic relationship with another woman, so the defendant punched the victim once in the chest and this caused the victim to fall to the ground and she lost consciousness and suffered pain. A medical report was included in the case file from the Oekusi Referral Hospital and photos from the VPU-PNTL.

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

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions. The defendant is unemployed and has no fixed monthly income and has two children. The defendant also stated that he has reconciled with the victim and they are living together again as a family.

The public prosecutor requested for the court to disregard the victim's statement because the defendant confessed all of the facts in the indictment.

Final recommendations

The public prosecutor stated that the defendant had been proven guilty of committing the crime against the victim based the confession of the defendant. The public prosecutor stated that the

defendant was supposed to protect the victim, but on the contrary the defendant committed the crime against the victim. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender requested for the court to apply a lenient sentence against the defendant with the consideration that the defendant confessed, regretted his actions, has two children, has reconciled with the victim and they are living together under the same roof as a family.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on all of this evidence, the court sentenced the defendant to 1 year in prison, suspended for 1 year and 6 months.

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

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|--------------------------|---|
| Case No. | : 0138/17.OESIC |
| Composition of the Court | : Single judge |
| Judge | : João Ribeiro |
| Prosecutor | : Mateus Nesi |
| Public Defender | : Daniel Elu (Private Lawyer) |
| Type of penalty | : 1 year in prison, suspended for 2 years |

On 11 December 2018 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant FS who allegedly committed the offence against his wife in Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 08 July 2017, at approximately 5pm, the defendant and the victim argued and the victim told the defendant “*every day all you ever do is go and get drunk, why don't you look for a job to feed the children.*” Then the defendant kicked the victim twice in the chest, choked her once, pulled her hair and then threw the victim on the ground. This act caused the victim to suffer swelling, redness and pain. A medical report from PRADET and photographs from Police-VPU were also attached to this case file.

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

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions. The defendant is a farmer and has no fixed monthly income, and has eight children, was a first time offender, has reconciled with the victim and is living together with his wife.

The public prosecutor requested for the court to disregard the victim's statement because the defendant confessed all of the facts in the indictment.

Final recommendations

The public prosecutor stated that the defendant was found guilty of committing the crime against the victim. According to data from the Public Prosecution Service in Oekusi, there are many domestic violence cases occurring in the Oekusi Region in comparison with other districts/municipalities. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender stated that that the defendant admitted all of the facts alleged against him, regretted his actions and has eight children. The public defender stated that the defendant has no fixed monthly income and was a first time offender. Therefore he requested for the court to impose a lenient penalty 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 1 year against the defendant, suspended for 2 years.

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

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|--------------------------|---|
| Case No. | : 0147/18.OESIC |
| Composition of the Court | : Single judge |
| Judge | : João Ribeiro |
| Prosecutor | : Mateus Nesi |
| Public Defender | : Daniel Elu (Private Lawyer) |
| Type of penalty | : 1 year in prison, suspended for 2 years |

On 11 December 2018 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AI who allegedly committed the offence against his wife in Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 20 August 2018, at approximately 10pm, the defendant punched the victim many times in the forehead and then threw the victim on the ground. This assault caused the victim to suffer pain and lose consciousness. A medical report was included in the case file from the Oekusi Referral Hospital and photos from the VPU-PNTL.

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

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions. The defendant is a farmer and has no fixed monthly income, and has 1 child, was a first time offender, has reconciled with the victim and is living together with his wife.

The public prosecutor requested for the court to disregard the victim's statement because the defendant confessed all of the facts in the indictment.

Final recommendations

The public prosecutor stated that the defendant had been proven guilty of committing the crime against the victim based the confession of the defendant. The public prosecutor mentioned that cases of domestic violence are prevalent in the Oekusi Region in comparison with other districts/municipalities. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender requested for the court to impose a lenient penalty against the defendant, based on the consideration that the defendant confessed to all of the facts, regretted his actions, was a first time offender, has reconciled with the victim, and has a child.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime based on the facts set out in the indictment of the prosecutor. Based on all of the facts that were proven, the court sentenced the defendant to 1 year in prison, suspended for 2 years.

4. Crime of simple offences against physical integrity

Case No. : 0046/18.OEBCN
Composition of the Court : Single judge
Judge : João Ribeiro
Prosecutor : Mateus Nesi
Public Defender : Marcelino Marques Coro
Type of penalty : Validating withdrawal of complaint

On 11 December 2018 the Oekusi District Court conducted a trial to attempt conciliation for the crime of simple offences against physical integrity involving the defendants Otelio Bene and Pedrunela Quefi who allegedly committed the crime against their neighbour Pedru Tanines, in Beneufe Village, Nitibe Sub-District, Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 25 August 2018, at approximately 7.30pm, the defendant Otelio slapped the victim once on the back of the neck, punched the victim once in the head, choked the victim once and punched the victim once in the back. Meanwhile the defendant Pedrunela punched the victim Otelio once in the back and scratched the victim once on the back. The defendants' assault caused the victim to suffer swelling, redness and scratches. The incident occurred because the defendants wanted the victim's wife to work in the rice field, but the victim prohibited his wife from working in the rice field, because a pig had died from a disease and she was heavily pregnant. A medical report from the Baocnana Medical Centre and photographs from Police-VPU were also attached to this case file.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on the crime of simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendants and victim.

During this attempted conciliation the victim wanted to reach an amicable agreement with his neighbours and he withdrew his complaint on the condition that the defendants had to provide civil compensation of US\$50.00 and a traditional cloth (*tais*) for a man. The defendants agreed with this request and expressed regret for their actions and promised not to repeat such acts 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, the Court decided to validate the settlement and the amicable agreement between the parties, and requested for the defendants to provide civil compensation to the victim and \$ 50.00 and a traditional cloth (*tais*).

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

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| Case No. | : 0018/18.OEBCN |
| Composition of the Court | : Single judge |
| Judge | : João Ribeiro |
| Prosecutor | : Mateus Nessi |
| Public Defender | : Daniel Elu (Private Lawyer) |
| Type of penalty | : Penalty of admonishment |

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

Charges of the Public Prosecutor

The public prosecutor alleged that on 23 April 2018, at 5pm, the defendant used a branch to strike the victim once on her back and caused the victim to suffer pain. A medical report from the Baocnana Medical Centre and photographs from Police-VPU were also attached to this case file.

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

Presentation of evidence

During the trial the defendant fully confessed to all the facts set out in the indictment. The defendant stated that he regretted his actions, has no fixed monthly income and has five children.

The defendant also declared that he was a first time offender and he has reconciled with the victim.

The public prosecutor requested for the court to disregard the victim's statement because the defendant confessed all of the facts in the indictment.

Final recommendations

The public prosecutor stated that the defendant had been proven guilty of committing the crime against the victim based the confession of the defendant. The prosecutor also added that the defendant is supposed to protect the victim and should do the right thing for his daughter, but on the contrary the defendant committed the crime against the victim. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender requested for the court to issue an admonishment against the defendant with the idea that during the examination of the evidence the defendant collaborated with the court and confessed all of the facts in the indictment, regretted his actions, has five children and has reconciled with victim and they are living together as a family. The public defender stated that the defendant struck her once with the aim of educating his daughter how to do housework but if the court decides otherwise, then he requested for the court to uphold justice.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime based on the facts set out in the indictment of the prosecutor. Based on the facts that were proven, the court issued an admonishment against the defendant.

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

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| Case No. | : 0134/18.OESIC |
| Composition of the Court | : Single judge |
| Judge | : João Ribeiro |
| Prosecutor | : Mateus Nesi |
| Public Defender | : Daniel Elu (Private Lawyer) |
| Type of penalty | : 1 year in prison, suspended for 1 year |

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

Charges of the Public Prosecutor

The public prosecutor alleged that on 31 July 2018, at approximately 12.00 midday, the defendant and the victim argued because the defendant asked the victim for US\$5.00, but the victim did not give it to him, so the defendant punched the victim once on the left side of the head, choked the victim and threw the victim on the ground. A medical report from PRADET and photographs from Police-VPU were also attached to this case file.

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

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions. The defendant works as a security guard with a monthly income of US\$115.00, has one child and was a first time offender. The defendant reiterated that he has reconciled with the victim and they are living together in the same house as a husband and wife.

The public prosecutor requested for the court to disregard the victim's statement because the defendant confessed all of the facts in the indictment.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime against the victim based on the facts that were obtained from the confession of the defendant, and therefore to avoid the same crime from happening in the future, the prosecutor requested for the court to find the defendant guilty pursuant to Article 145 of the Penal Code.

The public defender requested for the court to impose a lenient penalty against the defendant, based on the consideration that the defendant confessed, regretted his actions, was a first time offender, has reconciled with the victim and has one child.

Decision

After evaluating all of the facts that had been proven, the court found the defendant guilty of committing the crime against his wife based on the facts set out in the indictment. Based on the facts that were proven, the court concluded the matter and sentenced the defendant to 1 year in prison, suspended for 1 year, and ordered him to pay court costs of US\$20.

7. Crime of reciprocal offences against physical integrity

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| Case No. | : 0019/18.OEBCN |
| Composition of the Court | : Single judge |
| Judge | : João Ribeiro |
| Prosecutor | : Mateus Nesi |
| Public Defender | : Daniel Elu |
| Type of penalty | : Validating withdrawal of complaint |

On 12 December 2018 the Oekusi District Court attempted conciliation in a case of reciprocal offences against physical integrity involving the defendant EL and her husband, which occurred in Nitibe Sub-District, Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 23 April 2018, at approximately 5pm, the defendant and the victim argued because the defendant became angry and struck their child, but the victim did not respond, so the defendant punched the victim twice on the shoulder and bit the victim once on the shoulder which caused the victim to suffer pain. Then the victim reacted towards the defendant and slapped the defendant on her left cheek which caused the defendant to suffer pain.

The public prosecutor alleged that the defendants violated Article 151 of the Penal Code on reciprocal offences against physical integrity that carries a maximum penalty of two years in prison or a fine.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation, the victim wanted to achieve an amicable agreement and withdraw the complaint without any conditions and they also stated that they regretted their actions and they promised not to repeat their actions 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.

8. Crime of making threats

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| Case No. | : 0153/18.OESIC |
| Composition of the Court | : Single judge |
| Judge | : João Ribeiro |
| Prosecutor | : Mateus Nesi |
| Public Defender | : Daniel Elu (Private Lawyer) |
| Type of penalty | : Validating withdrawal of complaint |

On 12 December 2018 the Oekusi District Court attempted conciliation in a case of reciprocal offences against physical integrity involving the defendant CMK and his wife, which occurred in Pante-makasar Sub-District, Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 20 August 2018, at approximately 08.00am, the defendant chased the victim from their home and told the victim that if victim did not want to leave, the defendant would get a machete and kill the victim. Therefore, because she was afraid of the defendant's threats the victim left the house and went to live with her younger siblings.

The public prosecutor alleged that the defendant violated Article 157 of the Penal Code on making threats with that carries a maximum penalty of two years in prison or a fine.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation, the victim wanted to reconcile and withdrew the complaint without any conditions. The defendant agreed and stated that he regretted his actions and promised that he will not repeat such acts in the future and now they are living together as husband and wife.

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.

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

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| Case No. | : 0026/18.OEBCN |
| Composition of the Court | : Single judge |
| Judge | : João Ribeiro |
| Prosecutor | : Mateus Nesi |
| Public Defender | : Daniel Elu (Private Lawyer) |
| Type of penalty | : 9 months in prison, suspended for 1 year |

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

Charges of the Public Prosecutor

The public prosecutor alleged that on 16 May 2018, at approximately 8.00pm, the defendant and the victim argued because the defendant wanted to expel the victim from the house, but the victim responded that the home belonged to both of them. Then the defendant slapped the victim once on the left cheek and caused the victim to suffer pain.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3, 35 (b) and 36 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 is a farmer and does not have a fixed monthly income and has 7 children. The defendant promised that he would not commit any further crimes against the victim or other person in the future, the defendant also stated that after this incident they immediately reconciled and until now they have been living together in the house as a husband and wife.

The public prosecutor requested for the court to disregard the victim's statement because during the examination 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 against the victim based on the confession of the defendant, and actually the defendant was supposed to protect the victim, but on the contrary the defendant committed the crime against the victim who had no power to resist the defendant. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender stated that that the defendant confessed, has seven children, is responsible for the family, regretted his actions and promised that he would not commit any more crimes against the victim. Therefore he requested for the court to impose a lenient penalty against the defendant.

Decision

The court found that the defendant committed the crime according to the facts set out in the indictment and considered also the circumstances associated with this case, therefore the court concluded the matter and sentenced the defendant to 9 months in prison, suspended for one year.

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

Case No. : 0024/18.OEBCN
Composition of the Court : Single judge
Judge : João Ribeiro
Prosecutor : Mateus Nesi
Public Defender : Marcelino Marques Coro
Type of penalty : 1 year in prison, suspended for 1 year

On 14 December 2018 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CA who allegedly committed the offence against his wife in Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 21 May 2018, at approximately 04.00am, the defendant and the victim argued because the defendant suspected that the victim was having a relationship with another man, so the defendant slapped the victim twice on her right cheek, punched the victim once in the back and punched the victim once on the right shoulder. A medical report from the Baocnana Medical Centre and photographs from Police-VPU were also attached to this case file.

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

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions. The defendant is a teacher at primary school with a monthly income of US\$155.00 and has one child. The defendant also stated that he was a first

time offender. The defendant stated that he has reconciled with the victim and they are living together as husband and wife.

The public prosecutor requested for the court to disregard the victim's statement because during the examination of evidence the defendant confessed all of the facts in the indictment.

Final recommendations

The public prosecutor stated that the defendant had been proven guilty of committing the crime against the victim based the confession of the defendant. Prosecutor also added that actually the defendant should protect victim and do what is best and not to commit violence against the victim, but on the contrary the defendant committed the crime against the victim. To deter the defendant from committing further crimes in the future, the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender requested for the court to apply a lenient sentence against the defendant with the consideration that the defendant confessed, regretted his actions, has one child, has reconciled with the victim and they are living together under the same roof as a family, and the defendant was a first time offender.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on facts that were proven, the court concluded the matter and sentenced the defendant to 1 year in prison, suspended for 1 year, and ordered him to pay court costs of US\$20.

11. Crime of simple offences against physical integrity

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|--------------------------|--------------------------------------|
| Case No. | : 0054/18.OEPMK |
| Composition of the Court | : Single judge |
| Judge | : João Ribeiro |
| Prosecutor | : Mateus Nesi |
| Public Defender | : Marcelino Marques Coro |
| Type of penalty | : Validating withdrawal of complaint |

On 14 December 2018 the Oekusi District Court conducted a trial to attempt conciliation for the crime of simple offences against physical integrity involving the defendant Batista Elo who allegedly committed the crime against his granddaughter in Lelaufe Village, Nitibe Sub-District, Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 21 August 2017, at approximately 3.30pm, the defendant slapped the victim once on the back and once on the right cheek and caused the victim to suffer pain. The incident occurred when the defendant was drunk and argued with the victim's husband, and the victim said something. A medical report from the Baocnana Medical Centre and photographs from Police-VPU were also attached to this case file.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation, the victim wanted to reconcile and withdraw her complaint, and the defendant agreed with this request. The defendant expressed regret for his actions and promised not to repeat such acts 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.

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

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| Case No. | : 0035/18.OEBCN |
| Composition of the Court | : Single judge |
| Judge | : João Ribeiro |
| Prosecutor | : Mateus Nesi |
| Public Defender | : Marcelino Marques Coro |
| Type of penalty | : Prison sentence of 1 year and 6 months, suspended for 2 years |

On 14 December 2018 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant SSC who allegedly committed the offence against his wife in Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 2 July 2017, at 3am, the defendant punched the victim once in the mouth and caused the victim to suffer redness, swelling and pain. The defendant then punched the victim in the head and the victim suffered pain. A medical report from the Baocnana Medical Centre and photographs from Police-VPU were also attached to this case file.

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

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions. The defendant works as a security guard for the WIKA Company with a monthly income of US\$115.00 and has five children. The defendant also stated

that he was a first time offender. The defendant reiterated that after the incident they immediately reconciled.

The public prosecutor requested for the court to disregard the victim's statement because during the examination of evidence the defendant confessed all of the facts in the indictment.

Final recommendations

The public prosecutor stated that the defendant had been proven guilty of committing the crime against the victim based the confession of the defendant. The prosecutor added that the defendant was supposed to protect the victim because as a woman she didn't have any power to resist the defendant and the defendant had strong intent to strike the victim for no reason. The defendant is a security guard and knows how to behave properly even if he is provoked by somebody. Therefore, to deter the defendant from committing further crimes in the future, the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender requested for the court to impose a lenient penalty against the defendant, because during the presentation of evidence the defendant collaborated with the court by confessing all of the facts set out in the indictment and regretted his actions. The defendant also has five children, has reconciled with the victim and is living together with his wife.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime based on the facts set out in the indictment of the prosecutor. Based on all of this evidence, the court sentenced the defendant to 1 year and 6 months in prison, suspended for 2 years.

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

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|--------------------------|---------------------------|
| Case No. | : 0017/18.OEBCN |
| Composition of the Court | : Single judge |
| Judge | : João Ribeiro |
| Prosecutor | : Mateus Nesi |
| Public Defender | : Marcelino Marques Coro |
| Type of penalty | : Penalty of admonishment |

On 14 December 2018 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant YT who allegedly committed the offence against his wife in Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 14 April 2018, at approximately 6pm, the defendant slapped the victim once on the right cheek and caused the victim to suffer pain. A medical report from the Baocnana Medical Centre and photographs from Police-VPU were also attached to this case file.

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

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions. The defendant is a farmer and does not have a fixed monthly income and has 1 child. The defendant also stated that he was a first time offender. The defendant reiterated that he has reconciled with the victim and they are living together in the same house as a husband and wife.

The public prosecutor requested for the court to disregard the victim's statement because during the examination of evidence the defendant confessed all of the facts in the indictment.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant, and therefore the prosecutor requested for the court to find the defendant guilty pursuant to Article 145 of the Penal Code.

The public defender requested for the court to impose a lenient penalty against the defendant, because the defendant confessed, regretted his actions, was a first time offender, has reconciled with the victim and has one child.

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, the court issued an admonishment against the defendant.

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

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|--------------------------|---|
| Case No. | : 0007/18.OEPSB |
| Composition of the Court | : Single judge |
| Judge | : João Ribeiro |
| Prosecutor | : Mateus Nesi |
| Public Defender | : Calisto Tout |
| Type of penalty | : 1 year in prison, suspended for 2 years |

On 14 December 2018 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant VNW who allegedly committed the offence against his wife in Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 11 June 2018, at approximately 8am, the defendant slapped the victim once on the back of the neck, kicked the victim once above the eye and kicked the victim once on her left knee. A medical report from the Pasabe Medical Centre and photographs from Police-VPU were also attached to this case file.

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

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions. The defendant is a farmer and has no fixed monthly income, the defendant has eight children, and was a first time offender. The defendant reiterated that he has reconciled with the victim and they are living together as husband and wife.

The public prosecutor requested for the court to disregard the victim's statement because the defendant confessed all of the facts in the indictment.

Final recommendations

The public prosecutor stated that the defendant had been proven guilty of committing the crime against the victim based the confession of the defendant. The prosecutor reiterated that problems should not be resolved with violence. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender requested for the court to apply an appropriate sentence against the defendant because he confessed, regretted his actions, has eight children, was a first time offender, has reconciled with the victim and they are living together under the same roof as husband and wife.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 1 year in prison, suspended for 2 years.

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

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| Case No. | : 0008/18.OEPSB |
| Composition of the Court | : Single judge |
| Judge | : João Ribeiro |
| Prosecutor | : Mateus Nesi |
| Public Defender | : Calisto Tout |
| Type of penalty | : 2 years in prison, suspended for 2 years |

On 14 December 2018 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JUL who allegedly committed the offence against his wife in Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 10 June 2018, at 5pm, the defendant kicked the victim three times on her back and caused the victim to suffer pain, lose consciousness and fall to the ground. A medical report from the Pasabe Medical Centre and photographs from Police-VPU were also attached to this case file.

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

Presentation of evidence

During the trial the defendant partially confessed to the facts set out in the indictment and stated that the defendant kicked the victim but only once, and not three times. The defendant stated that he regretted his actions and previously in April 2014 the defendant committed a crime against his wife and the court imposed a fine of US\$90.00 against the defendant. The defendant is a teacher at pre-secondary school with a monthly income of US\$295.00. The defendant has four children and has not yet reconciled with the victim, because since the incident the defendant and the victim have been separated.

The victim confirmed all of the facts in the indictment and stated that after this incident victim and the defendant have been living separately and the four children are living together with the victim.

The witness ALC, who is the victim's uncle, testified that he heard from the victim that the defendant kicked the victim, but the witness did not see it.

The witness AC, who is the defendant's mother, testified that there was a problem between the defendant and the victim, but the witness did not see this incident because he was at home.

Final recommendations

The public prosecutor stated that the defendant had been proven guilty of committing the crime against the victim based the confession of the defendant, even though during the presentation of evidence the defendant only confessed some of the facts. The prosecutor added that the defendant showed no remorse for his behaviour because previously he was convicted by the court, but the defendant continued to offend against his wife. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender requested for the court to impose an appropriate penalty against the defendant with the consideration that the defendant confessed, regretted his actions, the defendant is young and has time to improve himself outside of prison and has four children. The public defender reiterated that the defendant is an officer in the field of education and if he goes to prison he could lose his salary and he is responsible for supporting his children.

Decision

After evaluating the facts that were proven during the trial, the court found that the charges of the prosecutor were fully proven and the defendant showed no remorse, because previously the defendant committed the same crime and the court imposed a fine against the defendant. Based on the facts that were proven, the court concluded the matter and sentenced the defendant to 2 years in prison, suspended for 2 years, and ordered him to pay court costs of US\$30.

16. Crime of Sexual Coercion

Case No. : 0002/17.OESIC¹
Composition of the Court : Panel

¹ JSMP did not monitor the final recommendations from the parties because at that time the JSMP officer was participating in other activities in Dili.

Judges : João Ribeiro
: Sribuana da Costa
: Eusebio Xavier Victor
Prosecutor : Mateus Nesi
Public Defender : Marcelino Marques Coro
Type of penalty : Acquitted

On 21 December 2018 the Oekusi District Court conducted a hearing to announce its decision in a case of sexual coercion involving the defendant OAMC who allegedly committed the offence against the victim MAS in Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 05 January 2017, at approximately 02.00am, when the victim was arranging the kitchen the defendant called out to the victim and said “*come here child*” and the victim went to the defendant, so the defendant grabbed her right hand and pulled the victim to the back of the kitchen where it was dark and the defendant held the victim tightly, put his left hand over the victim's mouth, kissed the victim's left and right cheeks and grabbed both of the victim's breasts. The defendant's acts caused the victim to suffer pain to her breasts, and she was traumatised and crying.

The victim's mother came into the kitchen and the victim was not there, and the victim's mother asked the victim if the defendant had done something to her and the victim told her mother that the defendant had kissed her cheeks and grabbed her breasts. The witness and the victim went behind the kitchen and the defendant kicked the wall of the kitchen and knocked it over and ran towards the road.

The public prosecutor alleged that the defendant violated Article 171 of the Penal Code on sexual coercion that carries a maximum penalty of 2-8 years in prison.

Presentation of evidence

During the trial the defendant denied all of the facts in the accusation and stated that on that night of the incident the defendant also participated in a birthday party at the victim's house and the defendant went to urinate behind the kitchen and at the same time the victim walked out from behind the kitchen. Therefore the victim and the defendant met up and the defendant grabbed the victim's hand and the defendant asked the victim what she was doing there, because the defendant saw somebody walking in the dark and the defendant asked the victim “*who is that guy..?*,” then the victim cried and told her mother that the defendant had touched the victim. The defendant was a first time offender and works as a security guard with a monthly income of US\$115.00.

The witness JS is the victim's mother and she testified that on that night the witness met the defendant for the first time. At 2am the people at the birthday party had all returned home and the witness told the victim to tidy up the kitchen, but the defendant pulled the victim behind the kitchen to commit these acts against the victim. When the victim told the witness, the witness and the victim went behind the kitchen and saw the defendant, and then the defendant kicked the wall of the kitchen and knocked it over and ran away. On that evening the victim and some of

her family went looking for the defendant at his house and told the parents of the defendant, but the parents said that the defendant wasn't there.

Decision

After evaluating the facts that were produced during the trial, the court considered that the trial of this case had been adjourned three times and the victim always confirmed that she would attend court, but on the date of the hearing the victim did not attend because she had got married and was living in Aileu Municipality. The prosecutor stated that if the victim did not appear in court, the prosecutor could represent the victim during the examination of evidence and the trial could continue.

The court considered that none of the facts were proven during the presentation of evidence with consideration that the victim did not attend, so the court concluded the matter and acquitted the defendant from the charges.

17. Crime of driving without a licence

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| Case No. | : 0014/18.OESTR |
| Composition of the Court | : Single judge |
| Judge | : João Ribeiro |
| Prosecutor | : Mateus Nesi |
| Public Defender | : Calisto Tout |
| Type of penalty | : Fine |

On 24 December 2018 the Oekusi District Court announced its decision for the crime of driving without a licence involving the defendant Agostinho Nine who allegedly committed the crime against the State of Timor-Leste in Costa Village, Pante-makassar Sub-District, Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 19 June 2018, at approximately 9am, the defendant was riding a Honda blade motorcycle without numberplates and was travelling on a public road from Oekusi to Palaban. When police conducted a check they found that the defendant did not have a driving licence.

The public prosecutor alleged that the defendant violated Article 207 of the Penal Code on driving without a licence that carries a maximum penalty of two years in prison or a fine.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, expressed remorse for his actions and was a first time offender. The defendant added that his behaviour was wrong and against the law in Timor-Leste, the defendant has no fixed monthly income and the defendant has two children.

The public prosecutor requested for the court to disregard the victim's statement because the defendant confessed all of the facts in the indictment.

Final recommendations

The public prosecutor stated that based on the examination of evidence the defendant was guilty of committing the crime of driving without a licence, the defendant knew that he did not have a licence and was riding a motorcycle on a public road. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 207 of the Penal Code.

The defence stated that the defendant confessed, regretted his actions, has two children and does not have a fixed monthly income. The defendant also stated that he was a first time offender. Therefore he requested for the court to impose a lenient penalty 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, the court ordered the defendant to pay a fine of US\$ 75.00 to be paid in daily instalments of 50 cents for 150 days. The court also imposed an alternative penalty of 100 days in prison if the defendant does not pay this fine.

18. Crime of reciprocal offences against physical integrity

Case No. : 0018/18.OEPMK
Composition of the Court : Single judge
Judge : João Ribeiro
Prosecutor : Mateus Nesi
Public Defender : Marcelino Marques Coro
Type of penalty : Validating withdrawal of complaint

On 24 December 2018 the Oekusi District Court attempted conciliation in a case of reciprocal offences against physical integrity involving the defendant Edita de Jesus Sila against her granddaughter Elsa da Costa Cab Tilo, which occurred in Taiboco Village, Pante-makassar Sub-District, Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 12 April 2018, at approximately 2.00pm, the defendant pulled the victim's hair, scratched the victim's face, took a piece of wood and struck the victim on the right shoulder which caused the victim to suffer pain, redness and swelling. Therefore the victim reacted to the defendant and bit her on the right shoulder and caused a superficial injury and pain to the defendant's shoulder. There was no clear motive behind this incident.

The public prosecutor alleged that the two defendants violated Article 151 of the Penal Code on reciprocal offences against physical integrity that carries a maximum penalty of two years in prison or a fine.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation, the defendant and victim wanted to achieve an amicable agreement and withdraw the complaint without any conditions and they also stated that they regretted their actions and they promised not to repeat their actions 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.

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

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| Case No. | : 0136/18.OESIC |
| Composition of the Court | : Single judge |
| Judge | : João Ribeiro |
| Prosecutor | : Mateus Nesi |
| Public Defender | : Marcelino Marques Coro |
| Type of penalty | : Punishment of 1 year and 6 months in imprisonment, suspended for 2 years |

On 24 December 2018 the Oekusi District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CNL who allegedly committed the offence against his wife in Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 01 August 2018, at approximately 3.30pm, the defendant and the victim argued because the defendant asked for US\$1.00 from the victim to buy cigarettes, but the victim did not give him the money, so the defendant threw a rock at the victim's right leg and the victim suffered an injury and bleeding. The defendant then choked the victim and punched the victim in the nose and caused bleeding. A medical report was included in the case file from the Oekusi Referral Hospital and photos from the VPU-PNTL.

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

Presentation of evidence

During the trial the defendant stated that all of the facts charged by the prosecutor were all true, and the defendant has reconciled with the victim, regretted his actions, and since then the defendant has not hit the victim, and was a first time offender.

The public prosecutor requested for the court to disregard the victim's statement because during the examination 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 against the victim based on the confession of the defendant, and actually the defendant was supposed to protect the victim, but on the contrary the defendant committed the crime against the victim. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender requested for the court to apply an appropriate sentence against the defendant with the consideration that the defendant confessed, regretted his actions, was a first time offender, has reconciled with the victim and they are living together under the same roof.

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 all of this evidence, the court sentenced the defendant to 1 year and 6 months in prison, suspended for 2 years.

20. Crime of smuggling

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| Case No. | : 0126/17.OESIC |
| Composition of the Court | : Panel |
| Judges | : João Ribeiro : Sribuana da Costa : Eusebio Xavier Victor |
| Prosecutor | : Mateus Nesi |
| Defence | : Marcelino Marques Coro : Inasio Quebo and Filipe Landos (Private lawyer) |
| Type of penalty | : 1 year in prison, suspended for 1 year against all of the defendants |

On 24 December 2018 the Oekusi District Court issued a written decision in a case of smuggling involving the defendants Mateus Caet, Ficos Neno, Paulus Siqui, Domingos Lafu, Beneditu Obe who allegedly committed the crime against the State of Timor-Leste, in Bobometo Village, Oesilo Sub-District, Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 1 June 2017, at approximately 8.00pm, the defendants brought in fuel and other goods illegally from Indonesia into the territory of Timor-Leste without going through the Directorate of Customs. The defendants brought in goods such as 555 litres of diesel, 120 litres of petrol, 10 sacks of fertilizer, 1 coffee grinding machine, 4 satellite dishes, 4 receivers, 15 helmets, 4 DVDs, 4 DVD remotes, 8 small speakers and 8 large speakers, 2 rice cookers, 2 stoves, 5 cables, 1 box of dexicon M terminals, 1 box of dexicon DE terminals, 12 hot water thermoses, 2 hand planes, 1 electrical drill, 10 nokia chargers, 18 Samsung chargers, 10 nokia telephone batteries, 19 small tape recorders, 4 steel rods, 1 box of bulb fittings, 1 large plastic bag, 1 box of steel wool cleaners, 1 set of k. vision satellite dishes and 4 satellite dish rods.

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.

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 considered all of the circumstances in this case and sentenced the three defendants to 1 year in prison, suspended for 1 year, and the defendant Paulus Siqui was ordered to pay court costs of US\$ 20.

21. Crime of smuggling

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|--------------------------|---|
| Case No. | : 0016/17.PDOEC ² |
| Composition of the Court | : Panel |
| Judge | : João Ribeiro : Sribuana da Costa : Eusebio Xavier Victor |
| Prosecutor | : Mateus Nesi |
| Defence | : Calisto Tout : Inasio Quebo and Filipe Landos (Private lawyer) |
| Type of penalty | : Suspended prison sentence and acquittal |

On 26 September 2018 the Oekusi District Court issued a written decision in a case of smuggling involving the defendants Batista Poto, Jose Baqui, Carlos Juvinal Ulan, Vicente Ena, Roni Suwarno and João Elu hasoru who allegedly committed the crime against the State of Timor-Leste, in Bobometo Village, Oesilo Sub-District, Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 26 November 2017, at approximately 10.00pm, the defendants brought in goods illegally from Indonesia into the territory of Timor-Leste. The defendant Jose Baqui brought in 1 box of bintang beer, 1 box of palm wine, the defendant Carlos Juvinal Ulan was assisted by João Elu and they brought in two sacks of rice. The defendant Vicente Ena was assisted by Batista Poto and they brought in fifteen sheets of iron.

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

Decision

² In this case a written decision was issued, because the panel of judges could not be established, so therefore the decision was issued by the court in the form of a written notification issued by the court clerk. JSMP did not monitor the examination of evidence and the final recommendations of the parties.

After evaluating the facts produced during the trial, the court found the defendants guilty of committing the crime of smuggling. The court also considered all of the mitigating and aggravating circumstances and the court imposed a prison sentence of 2 years, suspended for 2 years, against the defendants Jose Baqui and Carlos Juvinal Ulan. The defendants Batista Poto and João Elu were given a prison sentence of six months, suspended for 1 year. The court acquitted the defendant Roni Suwarno because he is an Indonesian citizen and he was deported. The defendant Vicente Ena was not included in the trial because he had passed away.

22. Crime of aggravated larceny

Case No. : 0007/17.PDOEC³
Composition of the Court : Panel
Judges : João Ribeiro
: Jumiati Freitas
: Eusebio Xavier Victor
Prosecutor : Mateus Nesi
Public Defender : Marcelino Marques Coro and Calisto Tout
Type of penalty : Suspended prison sentence and acquittal

On 28 December 2018 the Oekusi District Court issued a written decision in a case of aggravated larceny involving the defendants Agostinho Mauno Elu, Yohanes Elu, Agnez Eco, Serafim Elu, Costancio Caba, Jacinto Punef and Ricardo Caba against the victims Minguel Caet and Francisco Bobi, which allegedly occurred in Bobometo Village, Oesilo Sub-District, Oekusi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 12 February 2017 the seven defendants took seven buffaloes belonging to the two victims and put them in a holding place named “Kobo” which was prepared by the seven defendants.

The public prosecutor alleged that the seven defendants violated Article 252 of the Penal Code on aggravated larceny that carries a prison sentence of 2-8 years.

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, in accordance with Article 252.1(k) of the Penal Code. Based on this evidence, the court sentenced the defendant Agostinho Mauno Elu to 2 years in prison, suspended for 3 years. The defendants Yohanes Elu and Agnez Eco were given prison sentences of 3 years, suspended for 3 years and the defendants Serafim Elu,

³ In this case a written decision was issued, because the panel of judges could not be established, so therefore the decision was issued by the court in the form of a written notification issued by the court clerk. JSMP did not monitor the examination of evidence and the final recommendations of the parties because at that time the JSMP officer was in Dili.

Costancio Caba, Jacinto Punef and Ricardo Caba were acquitted because the four defendants were considered to be auxiliaries to the crime.

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