



Case Summary

November 2013

Summary of the trial process in Baucau District Court November 2013

Introduction

Between the 4th and 7th November 2013 JSMP continued its monitoring of the trial process at the Baucau District Court.

During the aforementioned period JSMP monitored 9 cases that comprised 6 cases involving simple offences against physical integrity characterized by domestic violence, 1 case involving serious offences against physical integrity, 1 case of corruption and 1 case involving the serious maltreatment of a spouse.

From these 9 cases, 4 have been decided by the court, 3 cases are still ongoing and 2 cases have been adjourned because the parties did not respond to the summons issued by the court.

The information below outlines the hearings conducted:

1. Crime of simple offences against physical integrity – Case No. 188/Crm.S/2012/TDB

Composition of judges	: Single
Judge	: Hugo da Cruz Pui (trainee judge)
Public Prosecutor	: Aderito Tilman
Public Defender	: Gregório de Lima.
Conclusion	: Ongoing

On 4 November 2013 the Baucau District Court conducted a hearing involving the defendant MLS who committed the crime of simple offences against physical integrity characterized as domestic violence against his spouse FC. This case allegedly occurred on 1 July 2011 in Manatuto District.

The public prosecutor alleged that on 1 July 2011 the defendant argued with the victim about a problem that occurred in the past, then without a clear reason the defendant took a piece of wood

and hit the victim in the back and on her left arm. These acts caused the victim to suffer swelling and pain to her back and arm.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Article 35 (b) of the Law Against Domestic Violence.

Before the court the defendant admitted that all of the facts alleged by the public prosecutor were true, however the defendant stated that he regretted his actions, had reconciled with the victim and promised not to reoffend against the victim or any other person in the future.

Because the defendant admitted all of these facts the court did not hear testimony from the victim and witnesses and proceeded to hear the final recommendations of the parties.

In his final recommendations, the public prosecutor requested for the court to consider the mitigating factors and requested for the court to sentence the defendant to 3 month's jail, to be suspended for 6 months because the defendant admitted all of the facts alleged against him, expressed remorse for his actions and has reconciled with the victim.

Meanwhile the public defender requested for the court to acquit the defendant from this case because the defendant admitted all of the facts, regretted his actions, was a first time offender and has reconciled with the victim.

After hearing the recommendation of the parties, the court adjourned the trial until 13 November 2013, at 10.00 am, to announce its decision.

2. Crime of simple offences against physical integrity – Case No. 104/Crm.S/2013/TDB

Composition of judges	: Single
Judge	: José Gonçalves
Public Prosecutor	: Baltazar Ramos
Public Defender	: Jonas Henrique da Costa
Conclusion	: Ongoing

On 5 November 2013 the Baucau District Court conducted a hearing in a case involving simple offences against physical integrity characterized as domestic violence, involving the defendant JBSM who allegedly committed the offence against his wife. This case allegedly occurred on 14 October 2012 in Viqueque District.

The court adjourned the trial until 12 January 2014 because the defendant and the victim did not respond to the summons issued by the court.

3. Crime of misuse of authority and corruption – Case No. 127/Crm.C/2013/TDB

Composition of judges : Single
Judges : Afonso Carmona, Angela Faria Belo and Hugo da Cruz Pui
Public Prosecutor : Aderito Tilman
Public Defender : Benevides Correia Barros
Conclusion : Ongoing

On 5 November 2013 the Baucau District Court conducted a trial involving the defendant MFS who allegedly committed the crime of misuse of authority and corruption. This case allegedly occurred on 12 and 13 October 2012 in Manatuto District.

The public prosecutor alleged that on 13 October 2012 the defendant was an official with the Ministry of Agriculture and Fisheries and rented a work vehicle that he was using to JCD, a citizen of the Philippines, to travel to Soibada Sub-District. The vehicle was rented out to JCD for \$60 and 20 liters of fuel.

In relation to this act, the public prosecutor charged the defendant for violating Article 297 on the misuse of authority as well as Article 292 of the Penal Code on corruption.

In the aforementioned hearing the defendant used his right to remain silent. The witness FOC, who was the Chief of Logistics at the Ministry of Agriculture, stated that he found out about this case after reading the Timor Post newspaper. The witness also knew that the Director had allowed the defendant to take his family in the car to Manatuto to take part in a traditional ceremony to end a mourning period.

The trial was adjourned until 26 November 2013 at 10.00 am to hear testimony from witnesses.

4. Crime of simple offences against physical integrity – Case No. 127/Crm.C/2013/TDB

Composition of judges : Single
Judge : Afonso Carmona
Public Prosecutor : Baltazar Ramos
Public Defender : Gregório de Lima
Conclusion : Trial adjourned

On 6 November 2013 the Baucau District Court adjourned a hearing in a case involving simple offences against physical integrity characterized as domestic violence without specifying a date to continue the trial.

This trial was adjourned because the court was unable to give notice to the defendant and the victim.

5. Crime of simple offences against physical integrity – Case No. 87/Crm.S/2013

Composition of judges : Single
Judge : Afonso Carmona
Public Prosecutor : Baltazar Ramos
Public Defender : Jonas Henrique da Costa
Conclusion : Ongoing

On 6 November 2013 the Baucau District Court tried the defendant JM who allegedly committed the crime of simple offences against physical integrity against the victim MP. This case allegedly occurred on 13 October 2012 in Lautem District.

The public prosecutor alleged that on 13 October 2012 the defendant argued with the victim about their plantation. Therefore, the defendant became angry and kicked the victim in the back, punched the victim in the forehead and threw him on the ground. These acts caused the victim to suffer an injury to his forehead and a sore back.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity.

The defendant stated that all of the facts alleged by the public prosecutor were true. The defendant regretted his actions and stated that the defendant tried to approach the victim to settle the matter in accordance with local custom, however the victim refused.

Before examining the evidence the court also tried to mediate reconciliation between the victim and the defendant, however the victim did not accept this and requested for the matter to proceed to trial.

After hearing the testimony of the defendant, the court then proceeded to hear the final recommendations. In his final recommendations the public prosecutor requested for the court to sentence the defendant to 3 month's imprisonment, to be suspended for 1 year, as well as pay compensation to the victim totaling \$ 30.

The public defender requested for the court to provide justice to the defendant, because the defendant had cooperated with the court and expressed regret for his actions.

After hearing the final recommendations from the parties the court adjourned the trial until 14 November 2013, at 10am to announce its final decision.

6. Crime of maltreatment against a spouse - Case No. 99/Crm.C/2013/TDB

Composition of judges : Single
Judge : Afonso Carmona
Public Prosecutor : Baltazar Ramos
Public Defender : Jonas Henrique da Costa
Conclusion : Sentenced to 3 years imprisonment, suspended for 3 years.

On 6 November 2013 the Baucau District Court conducted a hearing to announce its decision and sentenced the defendant MACX to 3 years imprisonment, suspended for 3 years, for committing the crime of maltreatment against a spouse. This case allegedly occurred on 16 January 2013 in Baucau District.

The public prosecutor charged the defendant for committing the crime of maltreatment of a spouse as provided for in Article 154 of the Penal Code.

Based on the facts revealed during the trial, the court found that the defendant had argued with the victim about \$ 800 that had gone missing from the victim's bag. Then the defendant punched the victim twice in the chest, choked her and threw her on the ground.

The public prosecutor also alleged that on an undisclosed date the defendant punched the victim in the head, pulled the victim's hair and threw her into a wall. The court also found that they were living together, and that the defendant had regularly beaten the victim.

The court considered all of the fact and also took into account the fact that the defendant coordinated with the court, regretted his actions and has reconciled with the victim, and the court decided to sentence the defendant to a suspended sentence of three years imprisonment. The court also ordered the defendant to pay court costs of US\$ 20.

7. Crime of simple offences against physical integrity – Case No. 175/Crm.S/2013/TDB

Composition of judges : Single
Judge : Afonso Carmona
Public Prosecutor : Baltazar Ramos
Public Defender : Jonas Henrique da Costa
Conclusion : Ordered to pay a fine

On 6 November 2013 the court read out its decision and found the defendant AS guilty of committing the crime of simple offences against physical integrity characterized as domestic violence against his wife and ordered him to pay a fine of US\$ 45.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity as well as the Law Against Domestic Violence.

Based on the confession of the defendant, on 22 March 2013 the defendant poured vegetable soup on the victim and slashed her knee with a machete. This case allegedly occurred because their child was crying.

With reference to these facts, the court considered the surrounding circumstances and decided to sentence the defendant to a fine. The fine is to be paid in daily instalments of 50 cents for a period of 90 days.

In addition, the court also imposed an alternative penalty of 60 days imprisonment if the defendant does not pay the fine and also ordered the defendant to pay court costs of US\$ 10.

8. Crime of Serious Offences against Physical Integrity, Case No. 201/Crm.C/2012/TDB

Composition of judges	: Single
Judge	: António Fonseca Monteiro
Public Prosecutor	: Baltazar Ramos
Public Defender	: Gregório de Lima
Conclusion	: Sentenced to 3 years imprisonment, suspended for 3 years.

On 7 November 2013, the Baucau District Court conducted a hearing to read out its decision in a case of serious offences against physical integrity involving the defendant MSC who allegedly committed the crime against his wife. This case allegedly occurred on 2 April 2012 in Baucau District.

Previously the public prosecutor charged the defendant for violating Article 146 (e) of the Penal Code on simple offences against physical integrity as well as the Law Against Domestic Violence.

However after examining the evidence the court amended the charge from Article 146 (e) to subsection (b) of the Penal Code regarding “seriously or permanently disfiguring another person” as well as the Law Against Domestic Violence”.

Before the court the defendant also admitted that he threw a stone at the victim’s back and slashed her forehead with a machete. These acts caused the victim to suffer pain and swelling to her back and an injury requiring 20 stiches to her forehead.

The court also considered that the defendant has reconciled in accordance with local custom and has paid compensation in the form of \$200 and a pig.

With consideration to the mitigating factors, the court decided to impose a sentence of 3 years imprisonment against the defendant, suspended for 3 years.

9. Crime of simple offences against physical integrity – Case No. 65/Crm.S/2013/TDB

Composition of judges : Single
Judge : António Fonseca Monteiro
Public Prosecutor : Baltazar Ramos
Public Defender : Jonas Henrique da Costa
Conclusion : A suspended prison sentence was imposed

On 7 November 2013 the Baucau District Court conducted a hearing in a case involving simple offences against physical integrity characterized as domestic violence.

This case involved the defendant NCX who allegedly committed the offence against his wife GC and his baby boy on 30 April 2012 in Laga Sub-District, Baucau District.

The public prosecutor alleged that on 30 April 2012, at approximately 10.00 am, the defendant verbally abused the victim, pulled her hair, kicked her once in the back, punched her on the left side of the chest, punched her in the nose and also punched her in the face, but missed and struck her in the forehead after the victim took evasive action. At that time, the victim was holding her baby.

The actions of the defendant caused the victim to suffer bruising to the left side of her chest, nose and back, and their baby boy also suffered bruising to his forehead.

The incident occurred because the defendant gave \$50 to her daughter for school, however the victim asked for the money to buy some rice.

The defendant stated that all of the facts alleged by the public prosecutor were true. The defendant also expressed regret and stated that they have reconciled and he will not reoffend in the future.

After hearing the testimony of the defendant, the court then proceeded to hear the final recommendations. In his final recommendations the public prosecutor requested for the court to sentence the defendant to a fine, because he had been found guilty of punching his wife and child.

The public defender requested for the court to apply a penalty that does not restrict the freedom of the defendant because the defendant confessed, regretted his actions, has reconciled with the victim and is responsible for his family.

After hearing final recommendations, the court adjourned the trial for 5 minutes before reading out its final decision. In its decision the court found that the defendant had punched his wife and baby child.

Nevertheless, the court also considered all of the factors surrounding the crime and decided to sentence the defendant to 7 months imprisonment for the crime of maltreatment against his wife and 3 month's imprisonment for the crime committed against his child.

As a result of the accumulated penalties the defendant was sentenced to 10 months imprisonment, suspended for 1 year without having to pay court costs.

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