



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN SISTEMA JUDISIÁL

Case Summary

June 2013

Summary of the trial process at the Oecusse District Court during the third week of June 2013

Introduction

During the third week of June 2013, namely between the 17 -21 June 2013, JSMP observed 5 cases at the Oecusse District Court. These five cases involved simple offences against physical integrity characterized as Domestic Violence. From the 5 cases that were scheduled, 4 cases were tried by the court and 1 case was adjourned.

From the 4 cases tried by the court, 2 cases were settled by the court with the issuance of fines totaling \$ 15 and \$ 90 respectively. The defendant in one case was acquitted and in the other case the defendant was given a suspended prison sentence.

This Case Summary is quite short because JSMP was only able to visit the court for one week.

The following information provides a summary of the cases that were heard by the court:

1. Crime of simple offence against physical integrity – Case No.52/C.Ord /2013/TDO

Composition of judges	: Single
Judge	: João Ribeiro
Public Prosecutor	: Afonso Lopez
Public Defender	: Sebastião Amado de Almeida
Conclusion	: Acquitted

On 17 June 2013 the Oecusse District Court conducted a hearing in a case involving simple offences against physical integrity characterized as domestic violence. This case involved the defendant IDC who allegedly committed the crime against his wife MF. This case allegedly occurred on 17 February 2011 in Oecusse District.

The public prosecutor alleged that on 17 February 2011 the defendant struck the victim once on the back of the head and kicked her once in the back. This assault caused the victim to suffer pain. This case allegedly occurred because the defendant requested money to buy cigarettes but the victim did not give him any money.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code as well as Article 35 (b) of the Law Against Domestic Violence.

The defendant and the victim did not attend court. Previously the court had summoned the defendant and the victim twice, but they did not appear in court. Therefore, the court did not have sufficient evidence.

The witness MS who was present in the court testified that he heard about the incident from the victim who said that the defendant had punched and kicked her.

The public prosecutor in his final recommendations stated that the facts revealed during the trial were not sufficient, and therefore he requested for the court to acquit the defendant in this case. The public defender agreed with the final recommendations of the public prosecutor and requested for the court to acquit the defendant.

After hearing the recommendations of the parties, the court decided to acquit the defendant in this case.

2. Crime of simple offence against physical integrity – Case No.07/C.Ord/2013/TDO

Composition of judges	:Single
Judge	: João Ribeiro
Public Prosecutor	: Alfonso Lopez
Public Defender	: Sebastião Amado de Almeida (public defender)
Conclusion	: Ordered to pay a fine

On 17 June 2013 the Oecusse District Court conducted a hearing in a case involving a simple offence against physical integrity characterized as domestic violence that occurred on 29 January 2013 in Pante Macassar, Oecusse District.

The public prosecutor alleged that on the afternoon of 29 January 2013 the defendant was heavily intoxicated and was sleeping outside his house and the zip on his jeans was undone. Therefore, the victim became angry and said that the defendant was an old man and his children were all grown up but he could not even handle/control himself. The victim told the defendant that, as his wife, she felt embarrassed by his actions. In response to her statement the defendant then punched, kicked and slapped the victim until she fell to the ground and the defendant continued to kick the victim.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Articles 2, 3 and 35 (b) of the Law Against Domestic Violence.

The defendant in his testimony confirmed that it was true that he committed the aforementioned acts, however after the incident he regretted his actions. Considering that the defendant admitted all of the facts alleged against him, the court did not need to hear the testimony of the victim and proceeded to hear the final recommendations.

In his final recommendations the public prosecutor requested for the court to hand down a fair punishment against the defendant.

The public defender stated that the defendant had regretted his actions, and the defendant and the victim have reconciled, and he was a first time offender, therefore based on these mitigating circumstances the public defender requested for the court to hand down a fair punishment against the defendant.

Based on evidence obtained during the trial, the court decided to order the defendant to pay a fine of US\$ 90 to be paid in installments of US\$1 per day for 90 days.

3. Crime of simple offence against physical integrity – Case No.60/Cord/2011/TDO

Composition of judges	:Single
Judge	: João Ribeiro
Public Prosecutor	: Afonso Lopez
Public Defender	: Sebastião Amado de Almeida
Conclusion	: Ordered to pay a fine

On 17 June 2013 the Oecusse District Court conducted a hearing in a case involving a simple offence against physical integrity characterized as domestic violence. This case involved the defendant MF who allegedly committed the offence against his wife JE on 14 January 2011 in Nitibe, Oecusse District.

The public prosecutor alleged that on 14 January 2011 at lunch time the defendant slapped and punched the victim because the victim did not prepare any lunch.

During the trial the defendant admitted his guilt and therefore the court did not need to hear testimony from the witness and immediately asked for the final recommendations to be submitted orally.

In his final recommendations the public prosecutor requested for the court to order the defendant to pay a fine. The public defender said that the defendant admitted all of the facts, and also regretted his actions and the parties have reconciled. Therefore he asked for the court to hand down a fine in accordance with the social and economic circumstances of the defendant.

After examining all of the evidence and circumstances of the case, the court decided that a prison sentence was appropriate for the defendant. Therefore, the court sentenced the defendant to 6 months imprisonment; however the sentence was suspended for 1 year.

4. Crime of simple offence against physical integrity – Case No.41/C.Ord/2013/TDO

Composition of judges	: Single
Judge	: João Ribeiro
Public Prosecutor	: Mateus Nessi

Public Defender : Raimundo de Fatima (lawyer from FFSO)
Conclusion : Ordered to pay a fine

On 20 June 2013 the Oecusse District Court conducted a hearing in a case involving simple offences against physical integrity characterized as domestic violence. This case involved the defendant DT who allegedly committed the offence against his spouse AS on 3 October 2012 in Nitibe, Oecusse District.

The public prosecutor alleged that on the afternoon of 3 October 2012 the defendant threw a stone at the right leg of the victim and injured the victim.

This case allegedly occurred because the victim came home drunk and the defendant asked why the defendant did not bring back some grass to feed their buffalo. Therefore, the victim became angry but the defendant took a stone and threw it at the right leg of the victim.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code as well as Articles 2, 3 and 35 (b) of the Law Against Domestic Violence.

During the trial the defendant admitted his guilt; therefore the court did not need to hear the testimony of the victim and proceeded to hear the final recommendations of the public prosecutor.

In his final recommendations the public prosecutor requested for the court to hand down a fine against the defendant because the defendant was found guilty of committing the crime in accordance with the charges made against him.

The public defender stated that defendant had testified about the facts in the indictment but considering that he had expressed regret, was a first time offender and the parties have reconciled, the public defender requested for the court to hand down a fair punishment against the defendant.

Based on the examination of evidence during the trial, the actions of the defendant fulfilled the elements of the crime set out in Article 145.1 of the Penal Code regarding simple offences against physical integrity as well as Article 35 (b) of the Law Against Domestic Violence.

Based on the aforementioned facts the court decided that a fine would be an appropriate punishment for the defendant.

The court concluded the matter and ordered the defendant to pay US\$ 15 to be paid in installments of 50 cents a day for 30 days.

The court also handed down an alternative sentence of 20 days jail if the defendant does not pay the fine ordered by the court.

5. Crime of simple offence against physical integrity – Case No.61/C.Ord/2012/TDO

On 17 June 2013 the Oecusse District Court adjourned a hearing in a case involving simple offences against physical integrity characterized as domestic violence. This case involved the defendant LC who allegedly committed the crime against his wife BS.

Based on information compiled by JSMP, the trial of this case did not take place because the defendant and the victim were not present even though they had been summoned by the court.

For more information, please contact:

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