



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Press Release
Dili District Court
23 September 2014

Court hands down effective prison sentence in case of incest: JSMP believes that a special provision is necessary to deter such crimes

On 22 September 2014 the Dili District Court conducted a hearing to announce its decision and sentenced the defendant IS to 14 years in prison after he was found guilty of committing the crime of sexual abuse characterized as incest in Dili District.

The public prosecutor alleged that the defendant, who is the step-father of the victim, forced the victim to hold his genitals and he rubbed his genitals on the victim's genitals. These incidents started in 2013 and continued until 6 May 2014 and the defendant committed these acts five times against the victim. At the time the incidents took place the victim was 13 years old.

The public prosecutor charged the defendant with violating Article 177 of the Penal Code regarding the sexual abuse of a minor as well as Article 182 (d) on aggravation, in conjunction with Article 35 (b) of the Law Against Domestic Violence.

“Incest is very serious sexual violence because these acts violate the right of the child to be free from all forms of violence. Sexual abuse in the family is very damaging and deeply offends social values in the community. Therefore, a special mechanism is necessary to provide adequate deterrence to protect children in accordance with the social reality in Timor-Leste,” said the Executive Director of JSMP, Luis de Oliveira Sampaio.

The court found all of the alleged facts proven, based on the confession of the defendant, the statement of the victim and a medical report. The court accumulated the multiple crimes, because the defendant committed the offences on five occasions, and each crime was punished with 7 years in prison. The court also referred to the restrictive measures applied against the defendant, namely pre-trial detention, and the circumstances relating to this case, and the court decided to hand down a single sentence against the defendant of 14 years in prison.

JSMP commends the court for considering the defendant's actions in this case as constituting more than one crime and for considering the aggravating circumstances of abuse of family authority present in this case. However, JSMP is concerned that not all cases are as simple to prosecute as this case. Defendants do not always confess and in many cases the victim cannot obtain a medical report. It is also more difficult to prosecute cases of incest for victims who are over the age of 14 because these cases must rely on the crimes of rape (Article 172) or sexual coercion (Article 171) which require proof that force was used against the victim.

Because of this, JSMP believes the Penal Code should have a specific provision about incest which applies regardless of whether force is used and can apply to victims of any age. A separate provision for incest would recognise the very serious nature of these crimes and give better protection to victims of sexual violence.

This case was registered as Case No. 560/2013/TDD. Julio Gantes presided over the aforementioned hearing on behalf of the panel of judges. Felismino Cardoso represented the Public Prosecution Service and the defendant was represented by Public Defender Manuel Sarmento.

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